

By: Averitt

S.B. No. 1256

A BILL TO BE ENTITLED

1 AN ACT

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

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2001.059, Occupations Code, is amended
6 by amending Subsection (a) and adding Subsection (g) to read as
7 follows:

8 (a) An officer, primary operator, or business
9 representative of a license holder or an attorney, accountant, or
10 bookkeeper employed or retained by a license holder [~~A person~~] may
11 request from the commission an advisory opinion regarding
12 compliance with this chapter and the rules of the commission.

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

16 SECTION 2. Subchapter B, Chapter 2001, Occupations Code, is
17 amended by adding Section 2001.060 to read as follows:

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

1 (1) the total amount of adjusted gross receipts
2 reported by licensed authorized organizations from their bingo
3 operations;

4 (2) the total amount of net proceeds reported by
5 licensed authorized organizations from their bingo operations; and

6 (3) a comparison of the amounts reported under
7 Subdivisions (1) and (2), including the percentage that the net
8 proceeds represents of the adjusted gross receipts.

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

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

18 SECTION 3. Section 2001.102(b), Occupations Code, is
19 amended to read as follows:

20 (b) The application must include:

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

22 (2) the names and addresses of the applicant's
23 officers and directors;

24 (3) the address of the premises where and the time when
25 the applicant intends to conduct bingo under the license sought;

26 (4) the name and address of the licensed commercial
27 lessor of the premises, if the applicant intends to lease premises

1 to conduct bingo from a person other than an authorized
2 organization;

3 (5) ~~[(6)] the capacity or potential capacity for public~~
4 ~~assembly in any premises owned or occupied by the applicant;~~

5 ~~[(6)]~~ the amount of rent to be paid or other
6 consideration to be given, directly or indirectly, for each
7 occasion for use of the premises of another licensed authorized
8 organization or for use of the premises of a licensed commercial
9 lessor;

10 (6) ~~[(7)]~~ all other items of expense intended to be
11 incurred or paid in connection with conducting, promoting, and
12 administering bingo and the names and addresses of the persons to
13 whom, and the purposes for which, the expenses are to be paid;

14 (7) ~~[(8)]~~ the specific purposes to and the manner in
15 which the net proceeds of bingo are to be devoted;

16 (8) ~~[(9)]~~ a statement that the net proceeds of bingo
17 will go to one or more of the authorized charitable purposes under
18 this chapter;

19 (9) ~~[(10)]~~ a designation of one or more active members
20 of the applicant organization under whom bingo will be conducted
21 accompanied by a statement signed by each designated member stating
22 that the member will be responsible for the conduct of bingo under
23 the terms of the license and this chapter; and

24 (10) ~~[(11)] a statement that a copy of the application~~
25 ~~has been sent to the appropriate governing body;~~

26 ~~[(12)] the name and address of each person who will work~~
27 ~~at the proposed bingo occasion, the nature of the work to be~~

1 ~~performed, and a statement as to whether the person has been~~
2 ~~convicted of a felony, a gambling offense, criminal fraud, or a~~
3 ~~crime of moral turpitude; and~~

4 ~~[(13)]~~ sufficient facts relating to the applicant's
5 incorporation and organization to enable the commission to
6 determine whether the applicant is an authorized organization.

7 SECTION 4. Section 2001.105(b), Occupations Code, is
8 amended to read as follows:

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

16 SECTION 5. Section 2001.106, Occupations Code, is amended
17 to read as follows:

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

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

21 (2) the names and addresses of the member or members of
22 the license holder under whom the bingo will be conducted; and

23 (3) an indication of the premises where and the time
24 when bingo is to be conducted[+]

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

27 ~~[(5) a statement of whether a prize is to be offered~~

1 ~~and the amount of any authorized prize].~~

2 SECTION 6. Section 2001.154(a), Occupations Code, is
3 amended to read as follows:

4 (a) The commission may not issue a commercial lessor license
5 to or renew a commercial lessor license of:

6 (1) a person convicted of a felony, criminal fraud, a
7 gambling or gambling-related offense, or a crime of moral turpitude
8 if less than 10 years has elapsed since termination of a sentence,
9 parole, mandatory supervision, or community supervision served for
10 the offense;

11 (2) a public officer who receives any consideration,
12 direct or indirect, as owner or lessor of premises offered for
13 conducting bingo;

14 (3) a person who extends credit to, loans money to, or
15 pays or provides for the payment of license fees for an authorized
16 organization;

17 (4) a distributor or manufacturer; or

18 (5) a person in which a person covered by Subdivision
19 (1), (2), (3), or (4) or a person married or related in the first
20 degree by consanguinity or affinity, as determined under Chapter
21 573, Government Code, to one of those persons has greater than a 10
22 percent proprietary, equitable, or credit interest or in which one
23 of those persons is active or employed[+]

24 [~~(6) a foreign corporation or other foreign legal~~
25 ~~entity,~~

26 [~~(7) an individual who is not a resident of this state,~~

27 [~~(8) a corporation or other legal entity owned or~~

1 controlled by:

2 [~~(A) a foreign corporation, or~~

3 [~~(B) an individual who is not a resident of this~~
4 ~~state, or~~

5 [~~(9) a corporation or other legal entity:~~

6 [~~(A) whose shares are publicly traded, or~~

7 [~~(B) owned or controlled by a corporation whose~~
8 ~~shares are publicly traded].~~

9 SECTION 7. Section 2001.306(c), Occupations Code, is
10 amended to read as follows:

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

13 [~~(1) surrendered its original license, and~~

14 [~~(2)] received an amended license for the new
15 location.~~

16 SECTION 8. Section 2001.313, Occupations Code, is amended
17 by amending Subsection (d) and adding Subsection (h) to read as
18 follows:

19 (d) Except as provided by Subsection (h), a [A] person who
20 is not listed on the registry established by this section may not
21 act as an operator, manager, cashier, usher, caller, or salesperson
22 for a licensed authorized organization.

23 (h) A licensed authorized organization may employ a person
24 who is not on the registry established by this section as an
25 operator, manager, cashier, usher, caller, or salesperson on a
26 provisional basis for a period not to exceed 14 days if the person
27 is awaiting the results of a background check by the commission. A

1 person who has been removed from the registry under Subsection (e)
2 and has not subsequently been listed on the registry under
3 Subsection (g) may not be employed under this subsection.

4 SECTION 9. Section 2001.451, Occupations Code, is amended
5 by amending Subsections (a), (c), (d), and (e) and adding
6 Subsections (g), (h), (i), and (j) to read as follows:

7 (a) A licensed authorized organization shall establish and
8 maintain one regular checking account designated as the
9 organization's "bingo account." [~~The organization may also~~
10 ~~maintain an interest-bearing savings account designated as the~~
11 ~~bingo savings account."~~]

12 (c) A licensed authorized organization may transfer [~~lend~~]
13 money from its general fund or other account to the organization's
14 [~~its~~] bingo account or to the bingo account of a unit of which the
15 organization is a member under Subchapter I-1, if applicable, if:

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

19 (2) the organization notifies [~~requests and receives~~
20 ~~the prior approval of~~] the commission of the transfer not later than
21 the 10th working day after the date of the transfer. [~~Except as~~
22 ~~provided by this section, no other funds may be deposited in the~~
23 ~~bingo account.~~]

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

27 (e) Except as permitted by Subsection (c) of this section

1 and by Section 2001.453(2), a [~~Sections 2001.453(a)(2) and (3),~~
2 ~~the~~] licensed authorized organization may not transfer gross
3 receipts derived from the conduct of bingo to another account
4 maintained by the organization.

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

7 (1) result in net proceeds over the organization's
8 license period; or

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

12 (h) Except as provided by Subsection (i), a licensed
13 authorized organization or a unit of licensed authorized
14 organizations may retain operating capital in the organization's or
15 unit's bingo account in an amount that:

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

19 (2) does not exceed a total of \$50,000 for a single
20 organization or \$50,000 for each member of a unit.

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

25 (1) has conducted bingo for less than one year;

26 (2) experiences circumstances beyond the control of
27 the organization, including force majeure, that necessitate an

1 increase in operating capital; or

2 (3) provides to the commission a credible business
3 plan for the conduct of bingo or for the organization's existing or
4 planned charitable purposes that an increase in operating capital
5 will reasonably further.

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

13 (1) credible evidence of circumstances beyond the
14 control of the organization, including force majeure; or

15 (2) a credible business plan for the organization's
16 conduct of bingo or the organization's existing or planned
17 charitable purposes.

18 SECTION 10. Section 2001.452(c), Occupations Code, is
19 amended to read as follows:

20 (c) A licensed authorized organization shall ~~[keep and]~~
21 account for all checks and withdrawal slips, including voided
22 checks and withdrawal slips.

23 SECTION 11. Section 2001.453, Occupations Code, is amended
24 to read as follows:

25 Sec. 2001.453. AUTHORIZED USES OF BINGO ACCOUNT. ~~[(a)]~~ A
26 licensed authorized organization may draw a check on its bingo
27 account only for:

1 (1) the payment of necessary and reasonable bona fide
2 expenses, including compensation of personnel, as permitted under
3 Section 2001.458 incurred and paid in connection with the conduct
4 of bingo; or

5 (2) the disbursement of net proceeds derived from the
6 conduct of bingo as provided by this subchapter [~~to charitable~~
7 ~~purposes; or~~

8 [~~(3) the transfer of net proceeds derived from the~~
9 ~~conduct of bingo to the organization's bingo savings account~~
10 ~~pending a disbursement to a charitable purpose.~~

11 [~~(b) A licensed authorized organization must make the~~
12 ~~disbursement of net proceeds on deposit in the bingo savings~~
13 ~~account to a charitable purpose by transferring the intended~~
14 ~~disbursement back into the organization's bingo account and then~~
15 ~~withdrawing an amount by a check drawn on the bingo account].~~

16 SECTION 12. Sections 2001.457(a), (b), and (c), Occupations
17 Code, are amended to read as follows:

18 (a) Before the end of each quarter, a licensed authorized
19 organization shall disburse all [~~for charitable purposes an amount~~
20 ~~not less than 35 percent~~] of the organization's net proceeds
21 [~~adjusted gross receipts~~] from the preceding quarter, other than
22 amounts retained under Section 2001.451, as provided by this
23 subchapter [~~less the amount of authorized expenses not to exceed~~
24 ~~six percent of the gross receipts~~].

25 (b) If a licensed authorized organization fails to meet the
26 requirements of Subsection (a) [~~this section~~] for a quarter, the
27 commission in applying appropriate sanctions shall [~~may~~] consider

1 whether, taking into account the amount required to be disbursed
2 [~~distributed~~] during that quarter and the three preceding quarters
3 [~~and the charitable distributions for each of those quarters~~], the
4 organization has disbursed [~~distributed~~] a total amount sufficient
5 to have met the disbursement [~~35 percent~~] requirement for that
6 quarter and the three preceding quarters combined.

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

13 SECTION 13. Section 2001.502, Occupations Code, is amended
14 to read as follows:

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

17 (1) collect from a person who wins a bingo prize of
18 more than \$5 a fee in the amount of five percent of the amount or
19 value of the prize; and

20 (2) remit to the commission a fee in the amount of five
21 percent of the amount or value of all bingo prizes awarded.

22 SECTION 14. Sections 2001.505(a) and (b), Occupations Code,
23 are amended to read as follows:

24 (a) A licensed authorized organization conducting bingo
25 shall submit quarterly to the commission [~~and to the comptroller~~] a
26 report under oath stating:

27 (1) the amount of the gross receipts derived from

1 bingo;

2 (2) each item of expense incurred or paid;

3 (3) each item of expenditure made or to be made, the
4 name and address of each person to whom each item has been paid or is
5 to be paid, and a detailed description of the merchandise purchased
6 or the services rendered;

7 (4) the net proceeds derived from bingo;

8 (5) the use to which the proceeds have been or are to
9 be applied; and

10 (6) a list of prizes offered and given, with their
11 respective values.

12 (b) A license holder shall ~~+~~

13 ~~[(1)]~~ maintain records to substantiate the contents of
14 each report ~~+, and~~

15 ~~[(2) furnish a copy of each report to the appropriate~~
16 ~~governing body].~~

17 SECTION 15. Section 2001.514(b), Occupations Code, is
18 amended to read as follows:

19 (b) The commission shall set the amount of the bond or other
20 security, taking into consideration the amount of money that has or
21 is expected to become due from the license holder. The amount
22 required by the commission may not exceed ~~[three times]~~ the amount
23 due according to the license holder's average quarterly reports.

24 SECTION 16. The following provisions of Chapter 2001,
25 Occupations Code, are repealed:

26 (1) Section 2001.002(10);

27 (2) Section 2001.152(c);

- 1 (3) Section 2001.406(c);
- 2 (4) Sections 2001.410(b) and (d);
- 3 (5) Section 2001.417;
- 4 (6) Section 2001.457(d); and
- 5 (7) Section 2001.505(c).

6 SECTION 17. The Texas Lottery Commission shall adopt rules
7 as required by Section 2001.451, Occupations Code, as amended by
8 this Act, not later than April 1, 2008.

9 SECTION 18. (a) If on or after the effective date of this
10 Act a licensed authorized organization has a balance in its bingo
11 account of more than the maximum amount of operating capital
12 allowed by Chapter 2001, Occupations Code, as amended by this Act,
13 the organization shall distribute the funds in excess of the
14 organization's maximum operating capital allowed by Chapter 2001,
15 Occupations Code, as amended by this Act, not later than:

16 (1) the first anniversary of the effective date of
17 this Act if the excess amount is less than 200 percent of the
18 maximum amount of operating capital;

19 (2) the second anniversary of the effective date of
20 this Act if the excess amount is 200 percent or more but less than
21 300 percent of the maximum amount of operating capital; or

22 (3) the third anniversary of the effective date of
23 this Act if the excess amount is 300 percent or more of the maximum
24 amount of operating capital.

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

1 (c) This section expires January 1, 2011.

2 SECTION 19. This Act takes effect October 1, 2007.