

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 51:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to gambling and related offenses, so as to transfer the responsibility for regulation
3 of bingo games and issuance of bingo licenses from the Georgia Bureau of Investigation to
4 the Department of Revenue; to provide for related matters; to provide an effective date; to
5 provide for applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
9 gambling and related offenses, is amended by revising Part 2, relating to bingo, as follows:

10 **"Part 2**

11 16-12-50.

12 It is the intention of the General Assembly that, except for recreational bingo by an
13 employer, only nonprofit, tax-exempt organizations which are properly licensed pursuant
14 to this part shall be allowed to operate bingo games.

15 16-12-51.

16 As used in this part, the term:

17 (1) 'Bingo game' or '~~nonprofit bingo game~~' means a game of chance played on cards with
18 numbered squares in which counters or indicators are placed on numbers chosen by lot
19 and won by covering a previously specified number or order of numbered squares. A
20 bingo game may be played manually or with an electronic or computer device that stores
21 the numbers from a player's card or cards, tracks the numbers chosen by lot when such
22 numbers are entered by the player, and notifies the player of a winning combination.
23 Such words, terms, or phrases, as used in this paragraph, shall be strictly construed to

24 include only the series of acts generally defined as bingo and shall exclude all other
25 activity.

26 (2) 'Bingo session' means a time period during which bingo games are played.

27 (3) 'Commissioner' '~~Director~~' means the ~~director of the Georgia Bureau of Investigation~~
28 state revenue commissioner of the Department of Revenue.

29 (3.1) 'Nonprofit, tax-exempt organization' means an organization, association,
30 corporation, or other legal entity which has been determined by the federal Internal
31 Revenue Service to be exempt from taxation under federal tax law and which is exempt
32 from taxation under the income tax laws of this state under Code Section 48-7-25; which
33 is organized or incorporated in this state or authorized to do business in this state; and
34 which uses the proceeds from any bingo games conducted by such organization solely
35 within this state.

36 (4) 'Nonrecreational bingo session' means any bingo session operated by a licensed
37 nonprofit tax exempt organization that:

38 (A) Awards cash prizes greater than five dollars;

39 (B) Charges participants;

40 (C) Awards prizes for each game valued at more than fifteen dollars; or

41 (D) Does not qualify as a recreational bingo session.

42 ~~(4)~~(5) 'Operate,' 'operated,' or 'operating' means the direction, supervision, management,
43 operation, control, or guidance of activity.

44 ~~(5)~~(6) 'Recreational bingo session' means a bingo session operated by ~~any person or~~
45 ~~entity at no charge to participants in which the prizes for each bingo game during the~~
46 ~~bingo session shall be noncash prizes and the total of such prizes for each such game shall~~
47 ~~not exceed the amount established pursuant to regulations established by the director. No~~
48 ~~such noncash prize awarded in recreational bingo shall be exchanged or redeemed for~~
49 ~~money or for any other prize with a value in excess of the amount established pursuant~~
50 ~~to regulations established by the director. Recreational bingo shall also include a bingo~~
51 ~~session operated by a nonprofit, tax-exempt licensed operator of bingo games at no~~
52 ~~charge to participants in which the participants are senior citizens attending a function at~~
53 ~~a facility of the tax-exempt licensed organization or are residents of nursing homes,~~
54 ~~retirement homes, senior centers, or hospitals and in which the prizes for each bingo~~
55 ~~game during the bingo session shall be nominal cash prizes not to exceed \$5.00 for any~~
56 ~~single prize and the total of such prizes for each such game shall not exceed the amount~~
57 ~~established pursuant to regulations established by the director. Recreational bingo shall~~
58 ~~also include a bingo session operated by an employer with ten or more full-time~~
59 ~~employees for the purposes of providing a safe workplace incentive and in which the~~
60 ~~prizes are determined by the employer, provided, however, that no monetary~~

61 consideration is required by any participant other than the employer and the employer
 62 expressly prohibits any monetary consideration from any employee. Recreational bingo
 63 shall not be considered a lottery as defined in paragraph (4) of Code Section 16-12-20 or
 64 a form of gambling as defined in Code Section 16-12-21. a person or entity at no charge
 65 to participants and is a bingo session:

66 (A) In which the prizes for each bingo game during the bingo session shall be noncash
 67 prizes, and the total value of the prize for each bingo game shall not exceed the
 68 monetary value established by the commissioner or be exchanged or redeemed for
 69 money or other prize with a value in excess of the total value established by the
 70 commissioner;

71 (B) Operated by a nonprofit, tax-exempt licensed operator of bingo games in which the
 72 participants are seniors citizens or disabled persons and are residents of a nursing home,
 73 retirement home, senior center, or hospital attending a function at a facility of the
 74 tax-exempt licensed organization, and the prize value for each bingo game during a
 75 bingo session shall not exceed \$5.00 for any single prize or the prize value established
 76 by the commissioner for the total prizes; or

77 (C) Operated by an employer with ten or more full-time employees for the purposes
 78 of providing a workplace incentive and where the prizes are determined by the
 79 employer, no consideration is required to participate, and the employer notifies the
 80 employees that consideration is not required to participate; provided, however, that no
 81 monetary consideration is required by any participant other than the employer, and the
 82 employer expressly prohibits any monetary consideration from any employee.

83 Recreational bingo session shall not be considered a lottery as defined in paragraph (4)
 84 of Code Section 16-12-20 or a form of gambling as defined in Code Section 16-12-21.

85 16-12-52.

86 (a) Any other law to the contrary notwithstanding except for subsection (b) of this Code
 87 section, no nonprofit, tax-exempt organization shall be permitted to operate a bingo game
 88 until the ~~director~~ commissioner issues a license to the organization authorizing it to do so.
 89 In the event of any controversy concerning whether or not certain activity constitutes bingo
 90 for which a license may be issued, the decision of the ~~director~~ commissioner shall control.
 91 The license described in this Code section is in addition to and not in lieu of any other
 92 licenses which may be required by this state or any political subdivision thereof, ~~and no~~
 93 No bingo game shall be operated until such time as all requisite licenses have been
 94 obtained.

95 (b) A recreational bingo session as defined by subparagraph (C) of paragraph (6) of Code
 96 Section 16-12-51 shall not be subject to the licensing requirements of this Code section.

97 ~~Recreational bingo is a nonprofit bingo game or a bingo game operated by an employer~~
 98 ~~with ten or more full-time employees for the purpose of providing a safe workplace~~
 99 ~~incentive and shall not be subject to the licensing requirements and regulations provided~~
 100 ~~in this part applicable to bingo games not considered recreational bingo and operated by~~
 101 ~~nonprofit, tax-exempt organizations.~~

102 16-12-53.

103 (a) Any nonprofit, tax-exempt organization desiring to obtain a license to operate bingo
 104 games shall make application to the ~~director~~ commissioner on forms prescribed by the
 105 ~~Georgia Bureau of Investigation~~ commissioner and shall pay an annual fee of \$100.00. No
 106 license shall be issued to any nonprofit, tax-exempt organization unless the organization
 107 has been in existence for 12 months immediately prior to the issuance of the license. The
 108 license ~~will~~ shall expire at 12:00 Midnight on December 31 following the granting of the
 109 license. Renewal applications for each calendar year shall be filed with the ~~director~~
 110 commissioner prior to ~~January~~ November 1 of each year and shall be on a form prescribed
 111 by the ~~Georgia Bureau of Investigation~~ commissioner.

112 (b) Each application for a license and each application for renewal of a license shall
 113 contain the following information:

114 (1) The name and home address of the applicant and, if the applicant is a corporation,
 115 association, or other similar legal entity, the names and home addresses of each of the
 116 officers of the organization as well as the names and addresses of the directors, or other
 117 persons ~~similarly situated~~ of like position or authority, of the organization;

118 (2) The names and home addresses of each of the persons who will be operating,
 119 advertising, or promoting the bingo game;

120 (3) The names, business addresses, and home addresses of any persons, organizations,
 121 or other legal entities that will act as surety for the applicant or to which the applicant is
 122 financially indebted or to which any financial obligation is owed by the applicant and the
 123 type of indebtedness;

124 (4) A determination letter from the Internal Revenue Service certifying that the applicant
 125 is an organization exempt under federal tax law;

126 (5) A statement affirming that the applicant is exempt under the income tax laws of this
 127 state under Code Section 48-7-25;

128 (6) The location at which the applicant will conduct the bingo games and, if the premises
 129 on which the games are to be conducted is to be leased, a copy of the lease or rental
 130 agreement;

131 (7) A statement showing the convictions, if any, for criminal offenses other than minor
 132 traffic offenses of each of the persons listed in paragraphs (1), (2), and (3) of this
 133 subsection; and

134 (8) Any other necessary and reasonable information which the ~~director~~ commissioner
 135 may require.

136 (c) The ~~director~~ commissioner shall refuse to grant a bingo license to any applicant who
 137 fails to provide fully the information required by this Code section or who has failed to file
 138 a state tax return or pay all state taxes that are due and owing.

139 (d) When a nonprofit, tax-exempt organization which operates or intends to operate bingo
 140 games for residents and patients of a retirement home, nursing home, or hospital operated
 141 by that organization ~~at which, and during each bingo session, the gross receipts to the~~
 142 nonprofit, tax-exempt organization are ~~or will be~~ limited to \$100.00 or less during each
 143 such bingo session, and the nonprofit, tax-exempt organization pays or will pay prizes
 144 having a total value of \$100.00 or less ~~during each bingo session~~, then, notwithstanding any
 145 other provision of this part or any rule or regulation promulgated by the ~~director~~
 146 commissioner pursuant to the provisions of Code Section 16-12-61, neither the applicant
 147 nor any of the persons whose names and addresses are required under paragraphs (1) and
 148 (2) of subsection (b) of this Code section shall be required to submit or provide fingerprints
 149 or photographs as a condition of being granted a license.

150 (e) If the ~~director~~ commissioner determines that an organization has one or more
 151 auxiliaries, the members of any such auxiliary may assist in such organization's bingo
 152 operations, even if such auxiliary holds a license under this part, and the members of the
 153 main organization may assist in the bingo operations of any such licensed auxiliary.

154 16-12-54.

155 (a) The ~~director~~ commissioner shall have the specific authority to suspend or revoke any
 156 license for any violation of this part or for any violation of any rule or regulation
 157 promulgated under this part. Any licensee accused of violating any provision of this part
 158 or of any rule or regulation promulgated hereunder shall be entitled, unless waived, to a
 159 hearing on the matter of the alleged violation conducted in accordance with Chapter 13 of
 160 Title 50, the 'Georgia Administrative Procedure Act.'

161 (b) By making application for a license under this part, every applicant consents that the
 162 ~~director~~ commissioner, as well as any of his or her agents, together with any prosecuting
 163 attorney, as well as any of his or her agents, may ~~come upon~~ enter the premises of any
 164 licensee or upon any premises on which any licensee is conducting a bingo game for the
 165 purpose of examining the accounts and records of the licensee to determine if a violation
 166 of this part has occurred.

167 (c) The failure to fully cooperate during an inspection or hindering or interfering with an
 168 agent in the performance of his or her duties by any licensee or an employee or other
 169 person acting on behalf of or with the approval of a licensee, regardless of whether such
 170 person is receiving compensation from the licensee, shall be a violation of this part.
 171 Interference or hindrance of an agent shall include, but shall not be limited to, disorderly
 172 conduct and threatening or appearing to threaten an agent or member of the public.

173 16-12-55.

174 The ~~director~~ commissioner shall upon the request of any prosecuting attorney or his or her
 175 designee certify the status of any organization as to that organization's exemption from
 176 payment of state income taxes as a nonprofit organization. The ~~director~~ commissioner
 177 shall also upon request issue a certificate indicating whether any particular organization
 178 holds a ~~currently~~ valid license to operate a bingo game. Such certificates properly executed
 179 shall be admissible in evidence in any prosecution, and Code Section 48-7-60, relative to
 180 the disclosure of income tax information, shall not apply to the furnishing of such
 181 certificate.

182 16-12-56.

183 Notwithstanding the other provisions of this part, the ~~director~~ commissioner, upon
 184 receiving written application ~~therefor~~ and determining the applicant eligible, shall be
 185 authorized to issue a ~~one-time~~ temporary license to a nonprofit, tax-exempt school which
 186 will allow it to operate a bingo game session for one day annually for each calendar year.
 187 In such cases, the ~~director~~ commissioner shall have the power to waive the license fee
 188 provided for in Code Section 16-12-53, to waive the annual report provided for in Code
 189 Section 16-12-59, and otherwise promulgate rules and regulations to carry out this Code
 190 section.

191 16-12-57.

192 Bingo games shall be operated only on premises ~~owned~~:

193 (1) Owned by the nonprofit, tax-exempt organization operating the bingo game, ~~on~~
 194 ~~property leased;~~

195 (2) Leased by the nonprofit, tax-exempt organization operating the bingo game and used
 196 regularly by that organization for purposes other than the operation of a bingo game; ~~or~~
 197 ~~on property leased~~

198 (3) Leased by the nonprofit, tax-exempt organization operating the bingo game from
 199 another nonprofit, tax-exempt organization.

200 16-12-58.

201 No person under the age of 18 years shall be permitted to play any ~~game or~~ games of bingo
202 conducted pursuant to any license issued under this part unless accompanied by ~~an adult~~
203 a person 18 years of age or older. No person under the age of 18 years shall be permitted
204 to conduct or assist in the conducting of any game of bingo conducted pursuant to any
205 license issued under this part.

206 16-12-59.

207 On or before April 15 of each year, every nonprofit, tax-exempt organization engaged in
208 operating bingo games shall file with the ~~director~~ commissioner a report disclosing all
209 receipts and expenditures relating to the operation of bingo games in the previous year.
210 The report shall be in addition to all other reports required by law. The report shall be
211 prepared and signed by a certified public accountant competent to prepare such a report and
212 shall be deemed a public record subject to public inspection.

213 16-12-60.

214 (a) A licensee that conducts or operates a bingo session shall maintain the following
215 records for at least three years from the date on which the bingo session is conducted:

216 (1) An itemized list of the gross receipts for each bingo session;

217 (2) An itemized list of all expenses other than prizes that are incurred in the conducting
218 of ~~the~~ each bingo session as well as the name of each person to whom the expenses are
219 paid and a copy of the receipt for all of the expenses;

220 (3) A list of all prizes awarded during ~~the~~ each bingo session and the name and address
221 of all persons who are winners of prizes of \$50.00 or more in value;

222 (4) An itemized list of the recipients other than the licensee of the proceeds of the bingo
223 game, including the name and address of each recipient to whom such funds are
224 distributed; and

225 (5) A record of the number of persons who ~~participate~~ participated in any bingo session
226 ~~conducted by the licensee~~.

227 (b) A licensee shall:

228 (1) Own all the equipment used to conduct a bingo game or lease such equipment;

229 (2) Display its bingo license conspicuously at the location where the bingo game is
230 conducted;

231 (3) Conduct bingo games only at the single location specified in the licensee's
232 application; and

233 (4) Not conduct more than one bingo session during any one calendar day, which session
234 shall not exceed five hours.

235 (c) No nonprofit, tax-exempt organization shall enter into any contract with any individual,
 236 firm, association, or corporation to have such individual, firm, association, or corporation
 237 operate bingo games or concessions on behalf of the nonprofit, tax-exempt organization.

238 (d) A nonprofit, tax-exempt organization shall not lend its name nor allow its identity to
 239 be used by any individual, firm, association, or corporation in the operating or advertising
 240 of a bingo game in which said nonprofit, tax-exempt organization is not directly and solely
 241 operating the bingo game.

242 (e) It shall be unlawful for two or more nonprofit, tax-exempt organizations which are
 243 properly licensed pursuant to this part to operate bingo games jointly or to operate bingo
 244 games upon the same premises ~~during any 18 hour period~~ at the same time.

245 (f) It shall be unlawful:

246 (1) ~~To~~ to award prizes in excess of \$1,500.00 in cash or gifts of equivalent value during
 247 any calendar day or \$3,000.00 in cash or gifts of equivalent value during any calendar
 248 week-;

249 (2) ~~To~~ ~~It shall be unlawful to~~ exceed such limits at any combination of locations operated
 250 by a single licensee or such licensee's agents or employees-; and

251 (3) ~~For~~ ~~It shall be unlawful for~~ two or more licensees to pyramid the valuation of prizes
 252 in such manner as to exceed the limits contained in this Code section.

253 For purposes of this subsection, the ~~The~~ term 'equivalent value' ~~shall mean~~ means the fair
 254 market value of the gift on the date the gift is given as the prize in a bingo game.

255 (g) No person or organization by whatever name or composition thereof shall take any
 256 salary, expense money, or fees for the operation of any bingo game, except that not more
 257 than \$30.00 per day may be paid to one or more individuals for assisting in the conduct of
 258 such bingo games on such day.

259 (h) No person or organization shall pay consulting fees to any person for any services
 260 performed in relation to the operation or conduct of a bingo game.

261 (i) A person who is a member of more than one nonprofit, tax-exempt organization shall
 262 be permitted to participate in the bingo operations of only two organizations of which such
 263 person is a member; provided, however, that such person shall not receive more than
 264 \$30.00 per day for assisting in the conduct of bingo games regardless of whether such
 265 person assists both organizations in the same day.

266 16-12-61.

267 (a) The ~~director~~ commissioner is authorized to promulgate rules and regulations which he
 268 or she deems necessary for the proper administration and enforcement of this part.

269 (b) The commissioner may prescribe forms as he or she deems necessary for the
 270 administration and enforcement of this part or any law which it is his or her duty to
 271 administer.

272 (c) Rules and regulations previously adopted by the Georgia Bureau of Investigation which
 273 relate to functions performed by the Georgia Department of Revenue under this part shall
 274 remain of full force and effect as rules and regulations of the Department of Revenue until
 275 amended, repealed, or superseded by rules or regulations adopted by the commissioner.

276 (d) All valid licenses, permits, certificates, and similar authorizations previously issued by
 277 the Georgia Bureau of Investigation with respect to any function transferred to the Georgia
 278 Department of Revenue as provided in this part shall continue in effect until the same
 279 expire by their terms unless they are suspended, revoked, or otherwise made ineffective as
 280 provided by law.

281 16-12-62.

282 Any person who operates a bingo game for which a license is required without a valid
 283 license issued by the ~~director~~ commissioner as provided in this part commits the offense
 284 of commercial gambling as defined in Code Section 16-12-22 and, upon conviction thereof,
 285 shall be punished accordingly. Any person who knowingly aids, abets, or otherwise assists
 286 in the operation of a bingo game for which a license is required and has not been obtained
 287 as provided in this part similarly commits the offense of commercial gambling. Any
 288 person who violates any other provision of this part, including the provisions relating to
 289 recreational bingo, shall be guilty of a misdemeanor of a high and aggravated nature. Any
 290 person who commits any such violation after having previously been convicted of any
 291 violations of this part shall be guilty of a felony and, upon conviction thereof, shall be
 292 punished by imprisonment for not less than one nor more than five years or by a fine not
 293 to exceed \$10,000.00, or both."

294 **SECTION 2.**

295 This Act shall become effective upon its approval by the Governor or upon its becoming law
 296 without such approval.

297 **SECTION 3.**

298 All laws and parts of laws in conflict with this Act are repealed.