

The House Committee on Rules offers the following substitute to HB 674:

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 define certain terms relating to bingo; to remove the limits
5 on the amounts of prizes which may be awarded in bingo games operated by nonprofit
6 organizations; to provide for related matters; to provide an effective date; to provide for
7 applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

12 **"Part 2**

13 16-12-50.

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

17 16-12-51.

18 As used in this part, the term:

19 (1) 'Bingo game' ~~or 'nonprofit bingo game'~~ means a game of chance played on cards with
20 numbered squares in which counters or indicators are placed on numbers chosen by lot
21 and won by covering a previously specified number or order of numbered squares and a
22 game of chance played on cards with numbered sections listing winning combinations of
23 letters and number symbols and containing hidden letter and number symbols where each

24 participant receives one or more cards which afford a participant an opportunity to win
 25 something of value by opening, detaching, or otherwise removing one or more covers
 26 from the card to reveal a set of number and letter symbols. A bingo game may be played
 27 manually or with an electronic or computer device that stores the numbers from a player's
 28 card or cards, tracks the numbers chosen by lot when such numbers are entered by the
 29 player, and notifies the player of a winning combination. Such words, terms, or phrases,
 30 as used in this paragraph, shall be strictly construed to include only the series of acts
 31 generally defined as bingo and shall exclude all other activity.

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

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

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

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

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

45 (B) Charges participants;

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

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

48 ~~(4)(5)~~ 'Operate,' 'operated,' or 'operating' means the direction, supervision, management,
 49 operation, control, or guidance of activity.

50 ~~(5)(6)~~ 'Recreational bingo session' means a bingo session operated by ~~any person or~~
 51 ~~entity at no charge to participants in which the prizes for each bingo game during the~~
 52 ~~bingo session shall be noncash prizes and the total of such prizes for each such game shall~~
 53 ~~not exceed the amount established pursuant to regulations established by the director. No~~
 54 ~~such noncash prize awarded in recreational bingo shall be exchanged or redeemed for~~
 55 ~~money or for any other prize with a value in excess of the amount established pursuant~~
 56 ~~to regulations established by the director. Recreational bingo shall also include a bingo~~
 57 ~~session operated by a nonprofit, tax-exempt licensed operator of bingo games at no~~
 58 ~~charge to participants in which the participants are senior citizens attending a function at~~
 59 ~~a facility of the tax-exempt licensed organization or are residents of nursing homes,~~
 60 ~~retirement homes, senior centers, or hospitals and in which the prizes for each bingo~~

61 ~~game during the bingo session shall be nominal cash prizes not to exceed \$5.00 for any~~
 62 ~~single prize and the total of such prizes for each such game shall not exceed the amount~~
 63 ~~established pursuant to regulations established by the director. Recreational bingo shall~~
 64 ~~also include a bingo session operated by an employer with ten or more full-time~~
 65 ~~employees for the purposes of providing a safe workplace incentive and in which the~~
 66 ~~prizes are determined by the employer; provided, however, that no monetary~~
 67 ~~consideration is required by any participant other than the employer and the employer~~
 68 ~~expressly prohibits any monetary consideration from any employee. Recreational bingo~~
 69 ~~shall not be considered a lottery as defined in paragraph (4) of Code Section 16-12-20 or~~
 70 ~~a form of gambling as defined in Code Section 16-12-21. a person or entity at no charge~~
 71 ~~to participants and is a bingo session:~~

72 (A) In which the prizes for each bingo game during the bingo session shall be noncash
 73 prizes, and the total value of the prize for each bingo game shall not exceed the
 74 monetary value established by the commissioner or be exchanged or redeemed for
 75 money or other prize with a value in excess of the total value established by the
 76 commissioner;

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

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

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

91 16-12-52.

92 (a) Any other law to the contrary notwithstanding except for subsection (b) of this Code
 93 section, no nonprofit, tax-exempt organization shall be permitted to operate a bingo game
 94 until the ~~director~~ commissioner issues a license to the organization authorizing it to do so.
 95 In the event of any controversy concerning whether or not certain activity constitutes bingo
 96 for which a license may be issued, the decision of the ~~director~~ commissioner shall control.

97 The license described in this Code section is in addition to and not in lieu of any other
 98 licenses which may be required by this state or any political subdivision thereof, ~~and no.~~
 99 No bingo game shall be operated until such time as all requisite licenses have been
 100 obtained.

101 (b) A recreational bingo session as defined by subparagraph (C) of paragraph (6) of Code
 102 Section 16-12-51 shall not be subject to the licensing requirements of this Code section.
 103 ~~Recreational bingo is a nonprofit bingo game or a bingo game operated by an employer~~
 104 ~~with ten or more full-time employees for the purpose of providing a safe workplace~~
 105 ~~incentive and shall not be subject to the licensing requirements and regulations provided~~
 106 ~~in this part applicable to bingo games not considered recreational bingo and operated by~~
 107 ~~nonprofit, tax-exempt organizations.~~

108 16-12-53.

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

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

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

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

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

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

- 132 (5) A statement affirming that the applicant is exempt under the income tax laws of this
 133 state under Code Section 48-7-25;
- 134 (6) The location at which the applicant will conduct the bingo games and, if the premises
 135 on which the games are to be conducted is to be leased, a copy of the lease or rental
 136 agreement;
- 137 (7) A statement showing the convictions, if any, for criminal offenses other than minor
 138 traffic offenses of each of the persons listed in paragraphs (1), (2), and (3) of this
 139 subsection; and
- 140 (8) Any other necessary and reasonable information which the ~~director~~ commissioner
 141 may require.
- 142 (c) The ~~director~~ commissioner shall refuse to grant a bingo license to any applicant who
 143 fails to provide fully the information required by this Code section or who has failed to file
 144 a state tax return or pay all state taxes that are due and owing.
- 145 (d) When a nonprofit, tax-exempt organization which operates or intends to operate bingo
 146 games for residents and patients of a retirement home, nursing home, or hospital operated
 147 by that organization ~~at which, and during each bingo session, the~~ gross receipts to the
 148 nonprofit, tax-exempt organization are ~~or will be~~ limited to \$100.00 or less during each
 149 such bingo session, and the nonprofit, tax-exempt organization pays or will pay prizes
 150 having a total value of \$100.00 or less ~~during each bingo session~~, then, notwithstanding any
 151 other provision of this part or any rule or regulation promulgated by the ~~director~~
 152 commissioner pursuant to the provisions of Code Section 16-12-61, neither the applicant
 153 nor any of the persons whose names and addresses are required under paragraphs (1) and
 154 (2) of subsection (b) of this Code section shall be required to submit or provide fingerprints
 155 or photographs as a condition of being granted a license.
- 156 (e) If the ~~director~~ commissioner determines that an organization has one or more
 157 auxiliaries, the members of any such auxiliary may assist in such organization's bingo
 158 operations, even if such auxiliary holds a license under this part, and the members of the
 159 main organization may assist in the bingo operations of any such licensed auxiliary.
- 160 16-12-54.
- 161 (a) The ~~director~~ commissioner shall have the specific authority to suspend or revoke any
 162 license for any violation of this part or for any violation of any rule or regulation
 163 promulgated under this part. Any licensee accused of violating any provision of this part
 164 or of any rule or regulation promulgated hereunder shall be entitled, unless waived, to a
 165 hearing on the matter of the alleged violation conducted in accordance with Chapter 13 of
 166 Title 50, the 'Georgia Administrative Procedure Act.'

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

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

179 16-12-55.

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

188 16-12-56.

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

197 16-12-57.

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

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

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

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

206 16-12-58.

207 No person under the age of 18 years shall be permitted to play any ~~game or~~ games of bingo
 208 conducted pursuant to any license issued under this part unless accompanied by ~~an adult~~
 209 a person 18 years of age or older. No person under the age of 18 years shall be permitted
 210 to conduct or assist in the conducting of any game of bingo conducted pursuant to any
 211 license issued under this part.

212 16-12-59.

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

219 16-12-60.

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

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

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

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

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

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

233 (b) A licensee shall:

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

- 235 (2) Display its bingo license conspicuously at the location where the bingo game is
236 conducted;
- 237 (3) Conduct bingo games only at the single location specified in the licensee's
238 application; and
- 239 (4) Not conduct more than one bingo session during any one calendar day, which session
240 shall not exceed five hours.
- 241 (c) No nonprofit, tax-exempt organization shall enter into any contract with any individual,
242 firm, association, or corporation to have such individual, firm, association, or corporation
243 operate bingo games or concessions on behalf of the nonprofit, tax-exempt organization.
- 244 (d) A nonprofit, tax-exempt organization shall not lend its name nor allow its identity to
245 be used by any individual, firm, association, or corporation in the operating or advertising
246 of a bingo game in which said nonprofit, tax-exempt organization is not directly and solely
247 operating the bingo game.
- 248 (e) It shall be unlawful for two or more nonprofit, tax-exempt organizations which are
249 properly licensed pursuant to this part to operate bingo games jointly or to operate bingo
250 games upon the same premises ~~during any 18 hour period~~ at the same time.
- 251 (f) Reserved. ~~It shall be unlawful to award prizes in excess of \$1,500.00 in cash or gifts~~
252 ~~of equivalent value during any calendar day or \$3,000.00 in cash or gifts of equivalent~~
253 ~~value during any calendar week. It shall be unlawful to exceed such limits at any~~
254 ~~combination of locations operated by a single licensee or such licensee's agents or~~
255 ~~employees. It shall be unlawful for two or more licensees to pyramid the valuation of prizes~~
256 ~~in such manner as to exceed the limits contained in this Code section. The term "equivalent~~
257 ~~value" shall mean the fair market value of the gift on the date the gift is given as the prize~~
258 ~~in a bingo game.~~
- 259 (g) No person or organization by whatever name or composition thereof shall take any
260 salary, expense money, or fees for the operation of any bingo game, except that not more
261 than \$30.00 per day may be paid to one or more individuals for assisting in the conduct of
262 such bingo games on such day.
- 263 (h) No person or organization shall pay consulting fees to any person for any services
264 performed in relation to the operation or conduct of a bingo game.
- 265 (i) A person who is a member of more than one nonprofit, tax-exempt organization shall
266 be permitted to participate in the bingo operations of only two organizations of which such
267 person is a member; provided, however, that such person shall not receive more than
268 \$30.00 per day for assisting in the conduct of bingo games regardless of whether such
269 person assists both organizations in the same day.

270 16-12-61.

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

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

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

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

285 16-12-62.

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

298 **SECTION 2.**

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

301 **SECTION 3.**

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