

House Bill 963

By: Representatives Smyre of the 135th, Pezold of the 133rd, Smith of the 134th, Hugley of the 136th, Buckner of the 137th, and others

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 other offenses, so as to define certain terms; to provide that certain
3 veterans organizations may sell certain pull tab games of chance; to transfer the
4 responsibility for regulation of bingo games and issuance of bingo licenses from the Georgia
5 Bureau of Investigation to the Department of Revenue; to amend Article 2 of Chapter 4 of
6 Title 38 of the Official Code of Georgia Annotated, relating to veterans benefits, so as to
7 provide for certain bingo for veterans; to provide for definitions; to provide for licensing
8 required to operate bingo games; to provide for the procedure for licensing, fees, and
9 renewals; to provide for revocation of licenses; to provide for certification of tax-exempt
10 status of veterans organizations; to provide for restrictions as to ownership of premises used
11 for bingo and age restrictions; to provide for an annual report to be filed with the
12 commissioner of revenue; to provide for rules and regulations; to provide for penalties; to
13 provide for related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
16 gambling and other offenses, is amended by adding a new Code section to read as follows:

17 "16-12-63.

18 (a) As used in this Code section, the term:

19 (1) 'Pull tab games' means multilayered paper tickets containing symbols hidden behind
20 perforated tabs with two sides, with one side listing the winning combination of symbols,
21 the cash payout for each combination, the total number of tickets that contain each
22 winning combination, and the total number of tickets in the game. This information may
23 also be posted in a printed sheet called a flare. The other side of the ticket contains the
24 perforated tabs which, upon purchase, the player pulls to reveal his or her winnings, if
25 any. Winnings are limited to \$500.00 per person per 24 hour time period.

26 (2) 'Veterans organization' means any organization or association chartered by the
 27 Congress of the United States which is exempt from federal income taxes but only if such
 28 organization is a post or organization of past or present members of the armed forces of
 29 the United States organized in the State of Georgia with at least 75 percent of the
 30 members of which are past or present members of the armed forces of the United States,
 31 and where no part of the net earnings of which inures to the benefit of any private
 32 shareholder or individual.
 33 (b) Any veterans organization shall be authorized to sell pull tab games, and such sale shall
 34 be exempt from the laws of this state proscribing gambling."

35 **SECTION 2.**

36 Said article is further amended by replacing "Director" with "Commissioner" and "director"
 37 with "commissioner" wherever the former word occurs in:

- 38 (1) Code Section 16-12-51, relating to definitions pertaining to bingo;
 39 (2) Code Section 16-12-52, relating to license required to operate bingo game and
 40 recreational bingo exception;
 41 (3) Code Section 16-12-53, relating to bingo licensing procedures, fees, and renewals;
 42 (4) Code Section 16-12-54, relating to revocation of licenses and access to premises by law
 43 enforcement agencies;
 44 (5) Code Section 16-12-55, relating to certification of tax-exempt status of organization,
 45 issuance of certificate of licensure, and evidentiary nature of certificate;
 46 (6) Code Section 16-12-56, relating to issuance of annual one-day license to nonprofit,
 47 tax-exempt school and application;
 48 (7) Code Section 16-12-59, relating to annual report to be filed with the director;
 49 (8) Code Section 16-12-61, relating to promulgation of necessary rules and regulations by
 50 director authorized; and
 51 (9) Code Section 16-12-62, relating to penalties.

52 **SECTION 3.**

53 Said article is further amended by replacing "Georgia Bureau of Investigation" with
 54 "Department of Revenue" wherever the former words occur in:

- 55 (1) Code Section 16-12-51, relating to definitions pertaining to bingo; and
 56 (2) Code Section 16-12-53, relating to bingo licensing procedures, fees, and renewals.

57 **SECTION 4.**

58 Article 2 of Chapter 4 of Title 38 of the Official Code of Georgia Annotated, relating to
 59 veterans benefits, is amended by adding a new Part 1A to read as follows:

"Part 1A

60

61 38-4-40.62 As used in this part, the term:63 (1) 'Bingo game' means:64 (A) A game of chance played on cards with numbered squares in which counters or
65 indicators are placed on numbers chosen by lot and won by covering a previously
66 specified number or order of numbered squares; and67 (B) A game of chance played on cards with numbered sections listing winning
68 combinations of letters and number symbols and containing hidden letter and number
69 symbols where each participant receives one or more cards which afford a participant
70 an opportunity to win something of value by opening, detaching, or otherwise removing
71 one or more covers from the card to reveal a set of number and letter symbols.72 A bingo game may be played manually or with an electronic or computer device that
73 stores the numbers from a player's card or cards, tracks the numbers chosen by lot when
74 such numbers are entered by the player, and notifies the player of a winning combination.75 (2) 'Bingo session' means a time period during which bingo games are played.76 (3) 'Commissioner' means the commissioner of revenue.77 (4) 'Operate,' 'operated,' or 'operating' means the direction, supervision, management,
78 operation, control, or guidance of activity.79 (5) 'Veterans organization' means any organization or association chartered by the
80 Congress of the United States which is exempt from federal income taxes and exempt
81 from state income tax laws under Code Section 48-7-25 but only if such organization is
82 a post or organization of past or present members of the armed forces of the United States
83 organized in the State of Georgia of which at least 75 percent of the members are past or
84 present members of the armed forces of the United States and of which no part of its net
85 earnings inures to the benefit of any private shareholder or individual.86 38-4-41.87 Any other law to the contrary notwithstanding, no veterans organization shall be permitted
88 to operate a bingo game until the commissioner issues a license to such organization
89 authorizing it to do so. In the event of any controversy concerning whether or not a certain
90 activity constitutes a bingo game for which a license may be issued, the decision of the
91 commissioner shall control. The license described in this Code section shall be in addition
92 to and not in lieu of any other licenses which may be required by this state or any political
93 subdivision thereof, and no bingo game shall be operated until such time as all requisite
94 licenses have been obtained.

95 38-4-42.

96 (a) Any veterans organization desiring to obtain a license to operate bingo games shall
97 make application to the commissioner on forms prescribed by the Department of Revenue
98 and shall pay an annual fee of \$100.00. No license shall be issued to any veterans
99 organization unless the organization has been in existence for 12 months immediately prior
100 to the issuance of the license. The license shall expire at 12:00 Midnight on December 31
101 following the granting of the license. Renewal applications for each calendar year shall be
102 filed with the commissioner prior to January 1 of each year and shall be on a form
103 prescribed by the Department of Revenue.

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

106 (1) The name and home address of the applicant and, if the applicant is an organization
107 or association or other similar legal entity, the names and home addresses of each of the
108 officers of the organization as well as the names and addresses of the directors, or other
109 persons similarly situated, of the organization;

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

112 (3) The names and home addresses of any persons, organizations, or other legal entities
113 that will act as surety for the applicant or to which the applicant is financially indebted
114 or to which any financial obligation is owed by the applicant;

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

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

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

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

125 (8) Any other necessary and reasonable information which the commissioner may
126 require.

127 (c) The commissioner shall refuse to grant a bingo license to any applicant who fails to
128 provide fully the information required by this Code section.

129 (d) When a veterans organization which operates or intends to operate bingo games for
130 residents and patients of a retirement home, nursing home, or hospital operated by that
131 veterans organization at which gross receipts are or will be limited to \$100.00 or less

132 during each bingo session and pays or will pay prizes having a value of \$100.00 or less
133 during each bingo session, then, notwithstanding any other provision of this part or any rule
134 or regulation promulgated by the commissioner pursuant to the provisions of subsection (j)
135 of Code Section 38-4-48, neither the applicant nor any of the persons whose names and
136 addresses are required under paragraphs (1) and (2) of subsection (b) of this Code section
137 shall be required to submit or provide fingerprints or photographs as a condition of being
138 granted a license.

139 (e) If the commissioner determines that a veterans organization has one or more
140 auxiliaries, the members of any such auxiliary may assist in such veterans organization's
141 bingo operations, even if such auxiliary holds a license under this part, and the members
142 of the main veterans organization may assist in the bingo operations of any such licensed
143 auxiliary.

144 38-4-43.

145 (a) The commissioner shall have the specific authority to suspend or revoke any license
146 for any violation of this part or for any violation of any rule or regulation promulgated
147 under this part. Any licensee accused of violating any provision of this part or of any rule
148 or regulation promulgated hereunder shall be entitled, unless waived, to a hearing on the
149 matter of the alleged violation conducted in accordance with Chapter 13 of Title 50, the
150 'Georgia Administrative Procedure Act.'

151 (b) By making application for a license under this part, every applicant consents that the
152 commissioner, as well as any of his or her agents, together with any prosecuting attorney,
153 as well as any of his or her agents, may come upon the premises of any licensee or upon
154 any premises on which any licensee is conducting a bingo game for the purpose of
155 examining the accounts and records of the licensee to determine if a violation of this part
156 has occurred.

157 38-4-44.

158 The commissioner shall upon the request of any prosecuting attorney or his or her designee
159 certify the status of any veterans organization as to that veterans organization's exemption
160 from payment of state income taxes as a nonprofit veterans organization. The
161 commissioner shall also upon request issue a certificate indicating whether any particular
162 veterans organization holds a currently valid license to operate a bingo game. Such
163 certificates properly executed shall be admissible in evidence in any prosecution and shall
164 be subject to disclosure notwithstanding Code Section 48-7-60, relative to the disclosure
165 of income tax information, and shall not apply to the furnishing of such certificate.

166 38-4-45.

167 Bingo games shall be operated only on premises owned by the veterans organization
168 operating the bingo game, or on any property leased or rented by the veterans organization.
169 The veterans organization shall notify the commissioner of all locations at which the
170 veterans organization conducts bingo games.

171 38-4-46.

172 No person under the age of 18 years shall be permitted to play any bingo game conducted
173 pursuant to any license issued under this part unless accompanied by an adult. No person
174 under the age of 18 years shall be permitted to conduct or assist in the conducting of any
175 bingo game conducted pursuant to any license issued under this part.

176 38-4-47.

177 On or before April 15 of each year, every veterans organization engaged in operating bingo
178 games shall file with the commissioner a report disclosing all receipts and expenditures
179 relating to the operation of bingo games in the previous year. The report shall be in
180 addition to all other reports required by law. The report shall be prepared and signed by
181 a certified public accountant competent to prepare such a report and shall be deemed a
182 public record subject to public inspection.

183 38-4-48.

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

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

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

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

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

195 (5) A record of the number of persons who participate in any bingo session conducted
196 by the licensee.

197 (b) A licensee shall:

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

- 199 (2) Display its bingo license conspicuously at the location where the bingo game is
200 conducted;
- 201 (3) Conduct bingo games only at the single location specified in the licensee's
202 application; and
- 203 (4) Not conduct more than one bingo session during any one calendar day, which bingo
204 session shall not exceed five hours.
- 205 (c) No veterans organization shall enter into any contract with any individual, firm,
206 association, or corporation to have such individual, firm, association, or corporation operate
207 bingo games or concessions on behalf of the veterans organization.
- 208 (d) A veterans organization shall not lend its name nor allow its identity to be used by any
209 individual, firm, association, or corporation in the operating or advertising of a bingo game
210 in which such veterans organization is not directly and solely operating the bingo game.
- 211 (e) It shall be unlawful for two or more veterans organizations which are properly licensed
212 pursuant to this part to operate bingo games jointly or to operate bingo games upon the
213 same premises during any 18 hour period.
- 214 (f) It shall be unlawful for any veterans organization to award prizes in excess of
215 \$7,500.00 in cash during any calendar day or \$15,000.00 in cash during any calendar week.
216 It shall be unlawful to exceed such cash limits at any combination of locations operated by
217 a single licensee or such licensee's agents or employees. It shall be unlawful for two or
218 more licensees to pyramid the valuation of cash prizes in such manner as to exceed the
219 limits contained in this Code section. Noncash prizes shall be permitted in bingo games,
220 as defined in subparagraphs (A) and (B) of paragraph (1) of Code Section 38-4-40, and
221 shall be subject to all applicable state sales and other taxes as provided by law.
- 222 (g) No person or organization by whatever name or composition thereof shall take any
223 salary, expense money, or fees for the operation of any bingo game, except that not more
224 than \$75.00 per day may be paid to one or more individuals for assisting in the conduct of
225 such games on such day.
- 226 (h) No person shall pay consulting fees to any person for any services performed in
227 relation to the operation or conducting of a bingo game.
- 228 (i) A person who is a member of more than one veterans organization shall be permitted
229 to participate in the bingo operations of the veterans organizations of which such person
230 is a member; provided, however, that such person shall not receive more than \$75.00 per
231 day for assisting in the conduct of bingo games regardless of whether such person assists
232 both veterans organizations in the same day.
- 233 (j) The commissioner is authorized to promulgate rules and regulations which he or she
234 deems necessary for the proper administration and enforcement of this part.

235 38-4-49.
236 Any person who operates a bingo game for which a license is required without a valid
237 license issued by the commissioner as provided in this part commits the offense of
238 commercial gambling as defined in Code Section 16-12-22 and, upon conviction thereof,
239 shall be punished accordingly. Any person who knowingly aids, abets, or otherwise assists
240 in the operation of a bingo game for which a license is required and has not been obtained
241 as provided in this part similarly commits the offense of commercial gambling. Any
242 person who violates any other provision of this part shall be guilty of a misdemeanor of a
243 high and aggravated nature. Any person who commits any such violation after having
244 previously been convicted of any violation of this part shall be guilty of a felony and, upon
245 conviction thereof, shall be punished by imprisonment for not less than one nor more than
246 five years or by a fine not to exceed \$10,000.00, or both."

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SECTION 5.

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