

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 951

Short Title: Charitable Bingo Regulations.

(Public)

Sponsors: Representatives Baker; Bowie, Carpenter, Clary, Culp, Culpepper, Dockham, Hiatt, Howard, H. Hunter, Kiser, McComas, McMahan, Mitchell, Morris, Redwine, Russell, Smith, Starnes, Tallent, Thompson, Weatherly, G. Wilson, and Wright.

Referred to: Judiciary II, if favorable, Finance.

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO REGULATE CHARITABLE BINGO.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-309.5 reads as rewritten:

"§ 14-309.5. Bingo.

(a) The purpose of the conduct of bingo is to insure a maximum availability of the net proceeds exclusively for application to the charitable, nonprofit causes and undertakings specified ~~herein; in this Part;~~ that the only justification for this Part is to support ~~such~~ these charitable, nonprofit causes; and ~~such~~ this purpose should be carried out to prevent the operation of bingo by professionals for profit, prevent commercialized gambling, prevent the disguise of bingo and other game forms or promotional schemes, prevent participation by criminal and other undesirable elements, and prevent the diversion of funds for the purpose herein authorized.

(b) It is lawful for an exempt organization to conduct bingo games in accordance with the provisions of this Part. Any licensed exempt organization who conducts a bingo game in violation of any provision of this Part shall be guilty of a Class 2 misdemeanor. Upon conviction ~~such~~ the licensed exempt organization and any person affiliated, in any way, with the licensed exempt organization shall not conduct a bingo game for a period

1 of one year. It is lawful to participate in a bingo game conducted pursuant to this Part. It
2 shall be a Class I felony for any person: (i) to operate a bingo game without a license; (ii)
3 to operate a bingo game while license is revoked or suspended; (iii) to willfully misuse or
4 misapply any moneys received in connection with any bingo game; or (iv) to contract
5 with or provide consulting services to any licensee. If the Department of Human
6 Resources finds that any licensed exempt organization who conducts a bingo game is in
7 violation of any provision of this Part, the Secretary, or his designee, may immediately
8 suspend that license for at least 30 days. Within 30 days, the licensed exempt
9 organization may initiate a contested case pursuant to Chapter 150B of the General
10 Statutes by which an administrative law judge may determine whether there was, in fact,
11 a violation of this Part and whether the Department's actions were proper. The
12 Department may initiate a contested case pursuant to Chapter 150B of the General
13 Statutes by which an administrative law judge may determine if grounds exist to extend
14 the suspension or to permanently revoke the license based on the evidence. It shall not
15 constitute a violation of any State law to advertise a bingo game conducted in accordance
16 with this Part."

17 Section 2. G.S. 14-309.6 reads as rewritten:

18 **"§ 14-309.6. Definitions.**

19 For purposes of this Part, the term:

- 20 (1) 'Exempt organization' means an organization that has been in
21 continuous existence in the county of operation of the bingo game for at
22 least one year and that is exempt from taxation under section 501(c)(3),
23 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal
24 Revenue Code and is exempt under similar provisions of the General
25 Statutes as a bona fide nonprofit charitable, civic, religious, fraternal,
26 patriotic or veterans' organization or as a nonprofit volunteer fire
27 department, or as a nonprofit volunteer rescue squad or a bona fide
28 homeowners' or property owners' association. (If the organization has
29 local branches or chapters, the term 'exempt organization' means the
30 local branch or chapter operating the bingo game);
- 31 (2) 'Bingo game' means a specific game of chance played with individual
32 cards having numbered squares ranging from one to 75, in which prizes
33 are awarded on the basis of designated numbers on ~~such the~~ cards
34 conforming to a predetermined pattern of numbers ~~(but shall not include~~
35 ~~"instant bingo" which is a game of chance played by the selection of one or~~
36 ~~more prepackaged cards, with winners determined by the appearance of a~~
37 ~~preselected designation on the card); numbers;~~
- 38 (3) Repealed by Session Laws 1983 (Regular Session 1984), c. 1107, s. 5.
- 39 (4) 'Local law-enforcement agency' means for any bingo game conducted
40 outside the corporate limits of a municipality or inside the corporate
41 limits of a municipality having no municipal police force:
- 42 a. The county police force; or

- 1 b. The county sheriff's office in a county with no county police
2 force;
- 3 (5) 'Local law-enforcement agency' means the municipal police for any
4 bingo game conducted within the corporate limits of a municipality
5 having a police force;
- 6 ~~(6) 'Beach bingo games' means bingo games which have prizes of ten
7 dollars (\$10.00) or less or merchandise that is not redeemable for cash
8 and that has a value of ten dollars (\$10.00) or less; and~~
- 9 (7) 'Licensed exempt organization' means an exempt organization which
10 possesses a currently valid ~~license~~-license; and
- 11 (8) 'Jackpot bingo game' means a type of bingo game which may be played
12 only once during any session of bingo in which a player must cover a
13 specified number of spaces to win.'

14 Section 3. G.S. 14-309.7 reads as rewritten:

15 **"§ 14-309.7. Licensing procedure.**

16 (a) An exempt organization may not operate a bingo game at a location without a
17 license. Application for a bingo license shall be made to the Department of Human
18 Resources on a form prescribed by the Department. The Department shall charge an
19 annual application fee of ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00) for a
20 Class A bingo license and three hundred dollars (\$300.00) for a Class B bingo license to
21 defray the cost of issuing bingo licenses and licenses, handling bingo audit reports-reports,
22 and regulating the operation of bingo games. The fees collected shall be ~~deposited in the~~
23 ~~General Fund of the State.~~ placed in a special fund known as the Bingo Regulation
24 Enforcement Fund to be used to implement this Part. ~~This~~ Each class of bingo license
25 shall expire one year after the granting of the license. ~~This~~ Each class of bingo license
26 may be renewed yearly, if the applicant pays the application fee and files an audit with
27 the Department pursuant to G.S. 14-309.11. A copy of the application and license shall
28 be furnished to the local law enforcement agency in the county or municipality in which
29 the licensee intends to operate before bingo is conducted by the licensee. The day or
30 days of the week and the time of day a session of bingo shall be operated by an exempt
31 organization shall appear on the face of the license. The license shall be posted in a
32 conspicuous location on the premises at all times when bingo is being played.

33 (b) Each application and renewal application for a Class A or B bingo license shall
34 contain the following information:

- 35 (1) The name and address of the applicant and if the applicant is a
36 corporation, association or other similar legal entity, the name and home
37 address of each of the officers of the organization as well as the name
38 and address of the directors, or other persons similarly situated, of the
39 organization.
- 40 (2) The name and home address of each of the members of the special
41 committee.
- 42 (3) A copy of the application for recognition of exemptions and a
43 determination letter from the Internal Revenue Service and the

1 Department of Revenue that indicates that the organization is an exempt
2 organization and stating the section under which that exemption is
3 granted; except that if the organization is a State or local branch, lodge,
4 post, or chapter of a national organization, a copy of the determination
5 letter of the national organization satisfies this requirement.

6 (4) The location at which the applicant will conduct the bingo games. If the
7 premises are leased, a copy of the lease or rental agreement.

8 (5) The day or days of the week on which the applicant will conduct the
9 bingo games.

10 (6) The time of day at which the applicant will begin a bingo game and the
11 time of day by which the bingo game will end.

12 (c) In order for an exempt organization to have a member familiar with the
13 operation of bingo present on the premises at all times when bingo is being played and
14 for this member to be responsible for the receiving, reporting and depositing of all
15 revenues received, the exempt organization may pay one member for conducting a bingo
16 game. ~~Such~~ This pay shall be on an hourly basis only for the time bingo is actually being
17 played and shall not exceed one and one-half times the existing minimum wage in North
18 Carolina. The member paid under this provision shall be a member in good standing of
19 the exempt organization for at least one year and shall not be the lessor or an employee or
20 agent of the lessor. No other person may be compensated for conducting a bingo game
21 from funds derived from any activities occurring in, or simultaneously with, the playing
22 of bingo, including funds derived from concessions. An exempt organization shall not
23 contract with any person for the purpose of conducting a bingo game. No person who
24 shall have been convicted of a felony that was designed or intended to obtain or dispose
25 of money or property through false pretenses, including fraud, embezzlement, theft, and
26 racketeering, or who shall have been convicted of or pleaded nolo contendere to any
27 illegal gambling activity or forfeited bond for not appearing while charged with any of
28 these offenses may participate in the operation or conduct of the bingo activities of an
29 exempt organization. Except as provided in subsection (e) of this section, an exempt
30 organization may hold a bingo game only in or on property owned (either legally or
31 equitably and the buildings ~~must~~ shall be of a permanent nature with approved plumbing
32 for bathrooms and not movable or of a temporary nature such as a tent or lean-to) or
33 leased by the organization from the owner or bona fide property management agent (no
34 subleasing is permitted) at a total monthly rental in an amount not to exceed one and ~~one~~
35 ~~quarter percent (1 1/4%)~~ one-half percent (1 1/2%) of the total assessed ad valorem tax
36 value of the portion of the building actually used for the bingo games and the land value
37 on which the building is located (not to exceed two acres) for all activities conducted
38 therein including the playing of bingo for a period of not less than one year and actually
39 occupied and used by that organization on a regular basis for purposes other than bingo
40 for at least six months before the game; and all equipment used by the exempt
41 organization in conducting the bingo game ~~must~~ shall be owned by the organization.
42 Unless the exempt organization leases the property in accordance with this subsection, an
43 exempt organization may conduct a bingo game only in or on property that is exempt

1 from property taxes levied under Subchapter II of Chapter 105 of the General Statutes, or
2 that is classified and not subject to any property taxes levied under Subchapter II of
3 Chapter 105 of the General Statutes. ~~It shall be unlawful for any person to operate beach~~
4 ~~bingo games at a location which is being used by any licensed exempt organization for the~~
5 ~~purpose of conducting bingo games.~~

6 (d) Conduct of a bingo game or raffle under this Part on ~~such~~that property shall
7 not operate to defeat an exemption or classification under Subchapter II of Chapter 105 of
8 the General Statutes.

9 (e) An exempt organization that wants to conduct only an annual or semiannual
10 bingo game may apply to the Department of Human Resources for a limited occasion
11 permit. The Department of Human Resources may require ~~such~~any information ~~as~~that is
12 reasonable and necessary to determine that the bingo game is conducted in accordance
13 with the provisions of this Part but may not require more information than previously
14 specified in this section for application of a regular license. The application shall be made
15 to the Department on prescribed forms at least 30 days prior to the scheduled date of the
16 bingo game. The Department shall charge an application fee of one hundred dollars
17 (\$100.00) to defray the cost of issuing the permit, handling the bingo report, and
18 regulating the operation of bingo games. In lieu of the reporting requirements of G.S. 14-
19 309.11(b) the exempt organization shall file with the licensing agency and local law
20 enforcement a report on prescribed forms no later than 30 days following the conduct of
21 the bingo game for which the permit was obtained. ~~Such~~The report may require ~~such~~any
22 information ~~as~~that is reasonable and necessary to determine that the bingo game was
23 conducted in accordance with the provisions of this Part but may not require more
24 information than specified in G.S. 14-309.11(b). Any licensed exempt organization may
25 donate or loan its equipment or use of its premises to an exempt organization which has
26 secured a limited occasion permit provided ~~such~~that the arrangement is disclosed in the
27 limited occasion permit application and is approved by the Department of Human
28 Resources. Except as stated above, all provisions of this Part shall apply to any exempt
29 organization operating a bingo game under this provision."

30 Section 4. G.S. 14-309.8 reads as rewritten:

31 "**§ 14-309.8. Limit on sessions.**

32 (a) The number of sessions of bingo conducted ~~or sponsored~~ by an exempt
33 organization shall be limited to one session per week for those exempt organizations
34 operating with a Class A bingo license and two sessions per week for those exempt
35 organizations operating with a Class B bingo license and ~~such~~these sessions ~~must~~shall
36 not exceed a period of ~~five~~six hours each per session. No two sessions of bingo shall be
37 held within a ~~48-hour~~15-hour period of time. No more than two sessions of bingo shall be
38 operated or conducted in any one building, hall or structure during any one calendar week
39 and if two sessions are held, they ~~must~~shall be held by the same exempt organization.
40 An exempt organization operating with a Class A bingo license may conduct a bingo
41 session only on the day of the week and at the time of day selected by that exempt
42 organization in its application for a Class A bingo license and listed on the face of the
43 Class A bingo license issued by the Department. An exempt organization operating with

1 a Class B bingo license may conduct bingo sessions only on one or more of the two days
2 and at the time of day selected by that exempt organization in its application for a Class B
3 bingo license and listed on the face of the Class B bingo license issued by the
4 Department. Upon 10 days' prior notice to the Department of Human Resources, a
5 licensed exempt organization holding either class of bingo license may conduct a session
6 of bingo on a day other than that which appears on the face of the bingo license, provided
7 that the conduct of the bingo session would not cause that exempt organization to exceed
8 the session limits during any one calendar week set forth in this section for the class of
9 bingo license held by that exempt organization or to violate any other provision of this
10 Part. A separate notice shall be required by the Department of Human Resources for
11 each session which will be conducted on a day other than that which appears on the face
12 of the bingo license. ~~This section shall not apply to bingo games conducted at a fair or other
13 exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.~~

14 (b) This section shall not apply to bingo games conducted at a fair or other
15 exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes."

16 Section 5. G.S. 14-309.9 reads as rewritten:

17 "**§ 14-309.9. Bingo prizes.**

18 (a) The maximum prize in cash or merchandise that may be offered or paid for any
19 one game of ~~bingo~~ bingo, ~~excluding a once-per-session jackpot bingo game,~~ is five
20 hundred dollars (\$500.00). The maximum aggregate amount of prizes, in cash and/or
21 merchandise, that may be offered or paid at any one session of bingo is ~~one thousand five
22 hundred dollars (\$1,500).~~ three thousand five hundred dollars (\$3,500). Prizes in cash or
23 merchandise that may be offered or paid for a jackpot bingo game shall be excluded from
24 this maximum aggregate amount. ~~Provided, however, that if an exempt organization holds
25 only one session of bingo during a calendar week, the maximum aggregate amount of prizes, in
26 cash and/or merchandise, that may be offered or paid at any one session is two thousand five
27 hundred dollars (\$2,500).~~

28 (b) Repealed by Session Laws 1983 (Regular Session 1984), c. 1107, s. 8.

29 (c) This section shall not apply to bingo games conducted at a fair or other
30 exhibition conducted pursuant to Article 45 of Chapter 106 of the General Statutes.

31 (d) The maximum prize in cash or merchandise that may be offered or paid for any
32 one jackpot bingo game at any one session of bingo is two thousand five hundred dollars
33 (\$2,500). One jackpot bingo game may be held by a licensed exempt organization at
34 each session of bingo. If a jackpot bingo game is not won and a prize is not awarded at a
35 particular bingo session, the jackpot bingo game may be carried over to the next bingo
36 session and increased in value, provided that the maximum prize in cash or merchandise
37 that may be offered or paid never exceeds two thousand five hundred dollars (\$2,500) at
38 any one session of bingo."

39 Section 6. G.S. 14-309.11 reads as rewritten:

40 "**§ 14-309.11. ~~Accounting~~ Accounting, enforcement, and use of proceeds.**

41 (a) All funds received in connection with a bingo game shall be placed in a
42 separate bank account. No funds may be disbursed from this account except the exempt
43 organization may expend proceeds for prizes, advertising, utilities, and the purchase of

1 supplies and equipment used in playing bingo, taxes and license fees related to bingo and
2 the payment of compensation as authorized by G.S. 14-309.7(c) and for the purposes set
3 forth below for the remaining proceeds. ~~Such~~ These payments shall be made by
4 consecutively numbered checks. Any proceeds available in the account after payment of
5 the above expenses shall inure to the exempt organization to be used for religious,
6 charitable, civic, scientific, testing, public safety, literary, or educational purposes or for
7 purchasing, constructing, maintaining, operating or using equipment or land or a building
8 or improvements thereto owned by and for the exempt organization and used for civic
9 purposes or made available by the exempt organization for use by the general public from
10 time to time, or to foster amateur sports competition, or for the prevention of cruelty to
11 children or animals, provided that no proceeds shall be used or expended for social
12 functions for the members of the exempt organization.

13 (b) An audit of the account required by subsection (a) of this section shall be
14 prepared annually for the period of January 1 through December 31 or otherwise as
15 directed by the Department of Human Resources and shall be filed with the Department
16 of Human Resources ~~and the local law enforcement agency~~ at a time directed by the
17 Department of Human Resources. The audit shall be prepared on a form approved by the
18 Department of Human Resources and shall include the following information:

- 19 (1) The number of bingo games conducted ~~or sponsored~~ by the exempt
20 organization;
- 21 (2) The location and date at which each bingo game was conducted and the
22 prize awarded;
- 23 (3) The gross receipts of each bingo game;
- 24 (4) The cost or amount of any prize given at each bingo game;
- 25 (5) The amount paid in prizes at each ~~session~~; session of bingo;
- 26 (6) The net return to the exempt organization; and
- 27 (7) The disbursements from the separate account and the purpose of those
28 disbursements, including the date of each transaction and the name and
29 address of each payee.

30 (c) Any person who shall willfully furnish, supply, or otherwise give false
31 information in any audit or statement filed pursuant to this section shall be guilty of a
32 Class 2 misdemeanor.

33 (d) All books, papers, records and documents relevant to determining whether an
34 organization has acted or is acting in compliance with this section shall be maintained by
35 an exempt organization for three years and shall be open to inspection by the law-
36 enforcement agency or its designee, or the district attorney or his designee, or the
37 Department of Human Resources at reasonable times and during reasonable hours. The
38 Department of Human Resources, any district attorney or his designee, or the Attorney
39 General, or any local law-enforcement agency may conduct inspections of premises
40 where bingo is conducted or bingo equipment and supplies are stored and inspect the
41 records of any registrant to ensure compliance with this section."

42 Section 7. G.S. 14-309.12 reads as rewritten:

43 "**§ 14-309.12. Violation is gambling.**

1 A bingo game conducted otherwise than in accordance with the provisions of this Part
2 is 'gambling' within the meaning of G.S. 19-1 et seq., and proceedings against ~~such~~that
3 bingo game may be instituted as provided for in Chapter 19 of the General Statutes."

4 Section 8. G.S. 14-309.13 reads as rewritten:

5 "**§ 14-309.13. Public sessions.**

6 Any exempt organization operating a bingo game which is open to persons other than
7 members of the exempt organization, their spouses, and their children shall make ~~such~~
8 that bingo game open to the general public."

9 Section 9. G.S. 14-309.14 is repealed.

10 Section 10. To implement the transition in regulating charitable bingo from
11 the prior law to the statutes made effective by this act, the Department of Human
12 Resources shall issue transitional rules providing for the conversion of the licenses issued
13 under the prior applicable laws and the new licenses required by this act. The rules shall
14 provide that exempt organizations licensed on the effective date of this act may
15 immediately apply for new licenses that shall expire when the licenses held on the
16 effective date of this act would have expired, provide for the staggered expiration of
17 licenses issued pursuant to this act, and provide for prorated payment of the new fees
18 required by this act based on the expiration date of the license held on the effective date
19 of this act. The Department of Human Resources shall develop and issue the rules prior
20 to October 1, 1997.

21 Section 11. Sections 10 and 11 of this act become effective when they become
22 law. The remaining sections of this act become effective December 1, 1997.