

House Bill 410 (AS PASSED HOUSE AND SENATE)

By: Representatives Lumsden of the 12th, Hitchens of the 161st, Collins of the 68th, Scoggins of the 14th, and Jackson of the 128th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia
2 Annotated, relating to bingo, so as to transfer regulatory authority over bingo from the
3 director of the Georgia Bureau of Investigation to the Secretary of State; to revise definitions;
4 to provide for transfer of authority and continuity of regulations; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 2 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
9 relating to bingo, is amended by revising Code Section 16-12-51, relating to definitions, as
10 follows:

11 "16-12-51.

12 As used in this part, the term:

13 (1) 'Bingo game' or 'nonprofit bingo game' means a game of chance played on cards with
14 numbered squares in which counters or indicators are placed on numbers chosen by lot
15 and won by covering a previously specified number or order of numbered squares. A
16 bingo game may be played manually or with an electronic or computer device that stores

17 the numbers from a player's card or cards, tracks the numbers chosen by lot when such
18 numbers are entered by the player, and notifies the player of a winning combination;
19 provided, however, that the numbers chosen by lot shall be chosen by a natural person
20 who is physically located on the premises or property described in Code Section 16-12-57
21 on which the game is operated. Such words, terms, or phrases, as used in this paragraph,
22 shall be strictly construed to include only the series of acts generally defined as bingo and
23 shall exclude all other activity.

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

25 (3) ~~'Director' means the director of the Georgia Bureau of Investigation:~~

26 ~~(3.1)~~ 'Nonprofit, tax-exempt organization' means an organization, association,
27 corporation, or other legal entity which has been determined by the federal Internal
28 Revenue Service to be exempt from taxation under federal tax law and which is exempt
29 from taxation under the income tax laws of this state under Code Section 48-7-25; which
30 is organized or incorporated in this state or authorized to do business in this state; and
31 which uses the proceeds from any bingo games conducted by such organization solely
32 within this state.

33 (4) 'Operate,' 'operated,' or 'operating' means the direction, supervision, management,
34 operation, control, or guidance of activity.

35 (5) 'Recreational bingo' means a bingo session operated by any person or entity at no
36 charge to participants in which the prizes for each bingo game during the bingo session
37 shall be noncash prizes and the total of such prizes for each such game shall not exceed
38 the amount established pursuant to regulations established by the ~~director~~ Secretary of
39 State. No such noncash prize awarded in recreational bingo shall be exchanged or
40 redeemed for money or for any other prize with a value in excess of the amount
41 established pursuant to regulations established by the ~~director~~ Secretary of State.
42 Recreational bingo shall also include a bingo session operated by a nonprofit, tax-exempt
43 licensed operator of bingo games at no charge to participants in which the participants are

44 senior citizens attending a function at a facility of the tax-exempt licensed organization
45 or are residents of nursing homes, retirement homes, senior centers, or hospitals and in
46 which the prizes for each bingo game during the bingo session shall be nominal cash
47 prizes not to exceed \$5.00 for any single prize and the total of such prizes for each such
48 game shall not exceed the amount established pursuant to regulations established by the
49 ~~director~~ Secretary of State. Recreational bingo shall also include a bingo session operated
50 by an employer with ten or more full-time employees for the purposes of providing a safe
51 workplace incentive and in which the prizes are determined by the employer; provided,
52 however, that no monetary consideration is required by any participant other than the
53 employer and the employer expressly prohibits any monetary consideration from any
54 employee. Recreational bingo shall not be considered a lottery as defined in paragraph
55 (4) of Code Section 16-12-20 or a form of gambling as defined in Code Section
56 16-12-21."

57 **SECTION 2.**

58 Said part is further amended by revising Code Section 16-12-52, relating to license required
59 to operate bingo game and recreational bingo exception, as follows:

60 "16-12-52.

61 (a) Any other law to the contrary notwithstanding except for subsection (b) of this Code
62 section, no nonprofit, tax-exempt organization shall be permitted to operate a bingo game
63 until the ~~director~~ Secretary of State issues a license to the organization authorizing it to do
64 so. In the event of any controversy concerning whether or not certain activity constitutes
65 bingo for which a license may be issued, the decision of the ~~director~~ Secretary of State shall
66 control. The license described in this Code section is in addition to and not in lieu of any
67 other licenses which may be required by this state or any political subdivision thereof, and
68 no bingo game shall be operated until such time as all requisite licenses have been
69 obtained.

70 (b) Recreational bingo is a nonprofit bingo game or a bingo game operated by an employer
71 with ten or more full-time employees for the purpose of providing a safe workplace
72 incentive and shall not be subject to the licensing requirements and regulations provided
73 in this part applicable to bingo games not considered recreational bingo and operated by
74 nonprofit, tax-exempt organizations."

75 **SECTION 3.**

76 Said part is further amended by revising Code Section 16-12-53, relating to licensing
77 procedure, fee, and renewal, as follows:

78 "16-12-53.

79 (a) Any nonprofit, tax-exempt organization desiring to obtain a license to operate bingo
80 games shall make application to the ~~director~~ Secretary of State on forms prescribed by the
81 ~~Georgia Bureau of Investigation~~ Secretary of State and shall pay an annual fee of \$100.00.
82 No license shall be issued to any nonprofit, tax-exempt organization unless the organization
83 has been in existence for 12 months immediately prior to the issuance of the license. The
84 license will expire at 12:00 Midnight on December 31 following the granting of the license.
85 Renewal applications for each calendar year shall be filed with the ~~director~~ Secretary of
86 State prior to January 1 of each year and shall be on a form prescribed by the ~~Georgia~~
87 ~~Bureau of Investigation~~ Secretary of State.

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

90 (1) The name and home address of the applicant and, if the applicant is a corporation,
91 association, or other similar legal entity, the names and home addresses of each of the
92 officers of the organization as well as the names and addresses of the directors, or other
93 persons similarly situated, of the organization;

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

- 96 (3) The names and home addresses of any persons, organizations, or other legal entities
97 that will act as surety for the applicant or to which the applicant is financially indebted
98 or to which any financial obligation is owed by the applicant;
- 99 (4) A determination letter from the Internal Revenue Service certifying that the applicant
100 is an organization exempt under federal tax law;
- 101 (5) A statement affirming that the applicant is exempt under the income tax laws of this
102 state under Code Section 48-7-25;
- 103 (6) The location at which the applicant will conduct the bingo games and, if the premises
104 on which the games are to be conducted is to be leased, a copy of the lease or rental
105 agreement;
- 106 (7) A statement showing the convictions, if any, for criminal offenses other than minor
107 traffic offenses of each of the persons listed in paragraphs (1), (2), and (3) of this
108 subsection; and
- 109 (8) Any other necessary and reasonable information which the ~~director~~ Secretary of State
110 may require.
- 111 (c) The ~~director~~ Secretary of State shall refuse to grant a bingo license to any applicant
112 who fails to provide fully the information required by this Code section.
- 113 (d) When a nonprofit, tax-exempt organization which operates or intends to operate bingo
114 games for residents and patients of a retirement home, nursing home, or hospital operated
115 by that organization at which gross receipts are or will be limited to \$100.00 or less during
116 each bingo session and pays or will pay prizes having a value of \$100.00 or less during
117 each bingo session, then, notwithstanding any other provision of this part or any rule or
118 regulation promulgated by the ~~director~~ Secretary of State pursuant to the provisions of
119 Code Section 16-12-61, neither the applicant nor any of the persons whose names and
120 addresses are required under paragraphs (1) and (2) of subsection (b) of this Code section
121 shall be required to submit or provide fingerprints or photographs as a condition of being
122 granted a license.

123 (e) If the ~~director~~ Secretary of State determines that an organization has one or more
124 auxiliaries, the members of any such auxiliary may assist in such organization's bingo
125 operations, even if such auxiliary holds a license under this part, and the members of the
126 main organization may assist in the bingo operations of any such licensed auxiliary."

127 **SECTION 4.**

128 Said part is further amended by revising Code Section 16-12-54, relating to revocation of
129 licenses and access to premises by law enforcement agencies, as follows:

130 "16-12-54.

131 (a) The ~~director~~ Secretary of State shall have the specific authority to suspend or revoke
132 any license for any violation of this part or for any violation of any rule or regulation
133 promulgated under this part. Any licensee accused of violating any provision of this part
134 or of any rule or regulation promulgated hereunder shall be entitled, unless waived, to a
135 hearing on the matter of the alleged violation conducted in accordance with Chapter 13 of
136 Title 50, the 'Georgia Administrative Procedure Act.'

137 (b) By making application for a license under this part, every applicant consents that the
138 ~~director~~ Secretary of State, as well as any of his or her agents, together with any
139 prosecuting attorney, as well as any of his or her agents, may come upon the premises of
140 any licensee or upon any premises on which any licensee is conducting a bingo game for
141 the purpose of examining the accounts and records of the licensee to determine if a
142 violation of this part has occurred."

143 **SECTION 5.**

144 Said part is further amended by revising Code Section 16-12-55, relating to certification of
145 tax-exempt status of organization and issuance of certificate of licensure, as follows:

146 "16-12-55.
147 The ~~director~~ Secretary of State shall upon the request of any prosecuting attorney or his or
148 her designee certify the status of any organization as to that organization's exemption from
149 payment of state income taxes as a nonprofit organization. The ~~director~~ Secretary of State
150 shall also upon request issue a certificate indicating whether any particular organization
151 holds a currently valid license to operate a bingo game. Code Section 48-7-60, relative to
152 the disclosure of income tax information, shall not apply to the furnishing of such
153 certificate."

154 **SECTION 6.**

155 Said part is further amended by revising Code Section 16-12-56, relating to issuance of
156 annual one-day license to nonprofit, tax-exempt school and application, as follows:

157 "16-12-56.

158 Notwithstanding the other provisions of this part, the ~~director~~ Secretary of State upon
159 receiving written application therefor shall be authorized to issue a one-time license to a
160 nonprofit, tax-exempt school which will allow it to operate a bingo game one day annually.

161 In such cases, the ~~director~~ Secretary of State shall have the power to waive the license fee
162 provided for in Code Section 16-12-53, to waive the annual report provided for in Code
163 Section 16-12-59, and otherwise promulgate rules and regulations to carry out this Code
164 section."

165 **SECTION 7.**

166 Said part is further amended by revising Code Section 16-12-59, relating to annual report to
167 be filed with the director, as follows:

168 "16-12-59.

169 On or before April 15 of each year, every nonprofit, tax-exempt organization engaged in
170 operating bingo games shall file with the ~~director~~ Secretary of State a report disclosing all

171 receipts and expenditures relating to the operation of bingo games in the previous year.
172 The report shall be in addition to all other reports required by law. The report shall be
173 prepared and signed by a certified public accountant competent to prepare such a report and
174 shall be deemed a public record subject to public inspection."

175 **SECTION 8.**

176 Said part is further amended by revising Code Section 16-12-61, relating to promulgation of
177 necessary rules and regulations by director authorized, as follows:

178 "16-12-61.

179 The ~~director~~ Secretary of State is authorized to promulgate rules and regulations which he
180 or she deems necessary for the proper administration and enforcement of this part."

181 **SECTION 9.**

182 Said part is further amended by revising Code Section 16-12-62, relating to penalties, as
183 follows:

184 "16-12-62.

185 Any person who operates a bingo game for which a license is required without a valid
186 license issued by the ~~director~~ Secretary of State as provided in this part commits the offense
187 of commercial gambling as defined in Code Section 16-12-22 and, upon conviction thereof,
188 shall be punished accordingly. Any person who knowingly aids, abets, or otherwise assists
189 in the operation of a bingo game for which a license is required and has not been obtained
190 as provided in this part similarly commits the offense of commercial gambling. Any
191 person who violates any other provision of this part, including the provisions relating to
192 recreational bingo, shall be guilty of a misdemeanor of a high and aggravated nature. Any
193 person who commits any such violation after having previously been convicted of any
194 violations of this part shall be guilty of a felony and, upon conviction thereof, shall be

195 punished by imprisonment for not less than one nor more than five years or by a fine not
196 to exceed \$10,000.00, or both."

197 **SECTION 10.**

198 Said part is further amended by adding a new Code section to read as follows:

199 "16-12-63.

200 (a) The Secretary of State shall succeed to all rules, regulations, policies, procedures, and
201 pending and finalized administrative orders of the director of the Georgia Bureau of
202 Investigation applicable to regulation of bingo games and recreational bingo under this part
203 which are in effect on June 30, 2021. Such rules, regulations, policies, procedures, and
204 orders shall remain in effect until amended, repealed, superseded, or nullified by the
205 Secretary of State.

206 (b) All valid agreements, contracts, licenses, permits, certificates, and similar
207 authorizations previously issued by the director of the Georgia Bureau of Investigation with
208 respect to any function transferred to the Secretary of State under this part shall continue
209 in effect until the same expire by their terms unless they are suspended, revoked, or
210 otherwise made ineffective, as provided by law.

211 (c) Effective July 1, 2021, the Secretary of State shall carry out all of the functions and
212 obligations and exercise all of the powers provided in this part which were formerly held
213 by the director of the Georgia Bureau of Investigation. All records in possession of the
214 director of the Georgia Bureau of Investigation which are exclusively used for the
215 regulation of bingo games and recreational bingo under this part shall be transferred to the
216 Secretary of State on July 1, 2021."

217 **SECTION 11.**

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