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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"16-12-51. As used in this part, the term:
(1) 'Bingo game' or 'nonprofit bingo game' means a game of chance played on cards with numbered squares in which counters or indicators are placed on numbers chosen by lot and won by covering a previously specified number or order of numbered squares. A bingo game may be played manually or with an electronic or computer device that stores

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

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

(3) 'Director' means the director of the Georgia Bureau of Investigation.

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

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

(5) 'Recreational bingo' means a bingo session operated by any person or entity at no
charge to participants in which the prizes for each bingo game during the bingo session
shall be noncash prizes and the total of such prizes for each such game shall not exceed
the amount established pursuant to regulations established by the director Secretary of
State. No such noncash prize awarded in recreational bingo shall be exchanged or
redeemed for money or for any other prize with a value in excess of the amount
established pursuant to regulations established by the director Secretary of State.
Recreational bingo shall also include a bingo session operated by a nonprofit, tax-exempt
licensed operator of bingo games at no charge to participants in which the participants are
senior citizens attending a function at a facility of the tax-exempt licensed organization or are residents of nursing homes, retirement homes, senior centers, or hospitals and in which the prizes for each bingo game during the bingo session shall be nominal cash prizes not to exceed $5.00 for any single prize and the total of such prizes for each such game shall not exceed the amount established pursuant to regulations established by the director Secretary of State. Recreational bingo shall also include a bingo session operated by an employer with ten or more full-time employees for the purposes of providing a safe workplace incentive and in which the prizes are determined by the employer; provided, however, that no monetary consideration is required by any participant other than the employer and the employer expressly prohibits any monetary consideration from any employee. Recreational bingo shall not be considered a lottery as defined in paragraph (4) of Code Section 16-12-20 or a form of gambling as defined in Code Section 16-12-21.”

SECTION 2.
Said part is further amended by revising Code Section 16-12-52, relating to license required to operate bingo game and recreational bingo exception, as follows:
"16-12-52.
(a) Any other law to the contrary notwithstanding except for subsection (b) of this Code section, no nonprofit, tax-exempt organization shall be permitted to operate a bingo game until the director Secretary of State issues a license to the organization authorizing it to do so. In the event of any controversy concerning whether or not certain activity constitutes bingo for which a license may be issued, the decision of the director Secretary of State shall control. The license described in this Code section is in addition to and not in lieu of any other licenses which may be required by this state or any political subdivision thereof, and no bingo game shall be operated until such time as all requisite licenses have been obtained.

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

SECTION 3.

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

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

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

1. The name and home address of the applicant and, if the applicant is a corporation, association, or other similar legal entity, the names and home addresses of each of the officers of the organization as well as the names and addresses of the directors, or other persons similarly situated, of the organization;
2. The names and home addresses of each of the persons who will be operating, advertising, or promoting the bingo game;
(3) The names and home addresses of any persons, organizations, or other legal entities that will act as surety for the applicant or to which the applicant is financially indebted or to which any financial obligation is owed by the applicant;

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

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

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

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

(8) Any other necessary and reasonable information which the director Secretary of State may require.

(c) The director Secretary of State shall refuse to grant a bingo license to any applicant who fails to provide fully the information required by this Code section.

(d) When a nonprofit, tax-exempt organization which operates or intends to operate bingo games for residents and patients of a retirement home, nursing home, or hospital operated by that organization at which gross receipts are or will be limited to $100.00 or less during each bingo session and pays or will pay prizes having a value of $100.00 or less during each bingo session, then, notwithstanding any other provision of this part or any rule or regulation promulgated by the director Secretary of State pursuant to the provisions of Code Section 16-12-61, neither the applicant nor any of the persons whose names and addresses are required under paragraphs (1) and (2) of subsection (b) of this Code section shall be required to submit or provide fingerprints or photographs as a condition of being granted a license.
(e) If the director Secretary of State determines that an organization has one or more auxiliaries, the members of any such auxiliary may assist in such organization's bingo operations, even if such auxiliary holds a license under this part, and the members of the main organization may assist in the bingo operations of any such licensed auxiliary."

SECTION 4.

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

"16-12-54.

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

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

SECTION 5.

Said part is further amended by revising Code Section 16-12-55, relating to certification of tax-exempt status of organization and issuance of certificate of licensure, as follows:
The director Secretary of State shall upon the request of any prosecuting attorney or his or her designee certify the status of any organization as to that organization's exemption from payment of state income taxes as a nonprofit organization. The director Secretary of State shall also upon request issue a certificate indicating whether any particular organization holds a currently valid license to operate a bingo game. Code Section 48-7-60, relative to the disclosure of income tax information, shall not apply to the furnishing of such certificate."

SECTION 6.

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

Notwithstanding the other provisions of this part, the director Secretary of State upon receiving written application therefor shall be authorized to issue a one-time license to a nonprofit, tax-exempt school which will allow it to operate a bingo game one day annually. In such cases, the director Secretary of State shall have the power to waive the license fee provided for in Code Section 16-12-53, to waive the annual report provided for in Code Section 16-12-59, and otherwise promulgate rules and regulations to carry out this Code section."
receipts and expenditures relating to the operation of bingo games in the previous year. The report shall be in addition to all other reports required by law. The report shall be prepared and signed by a certified public accountant competent to prepare such a report and shall be deemed a public record subject to public inspection."

SECTION 8.

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

"16-12-61. The director Secretary of State is authorized to promulgate rules and regulations which he or she deems necessary for the proper administration and enforcement of this part."

SECTION 9.

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

"16-12-62. Any person who operates a bingo game for which a license is required without a valid license issued by the director Secretary of State as provided in this part commits the offense of commercial gambling as defined in Code Section 16-12-22 and, upon conviction thereof, shall be punished accordingly. Any person who knowingly aids, abets, or otherwise assists in the operation of a bingo game for which a license is required and has not been obtained as provided in this part similarly commits the offense of commercial gambling. Any person who violates any other provision of this part, including the provisions relating to recreational bingo, shall be guilty of a misdemeanor of a high and aggravated nature. Any person who commits any such violation after having previously been convicted of any violations of this part shall be guilty of a felony and, upon conviction thereof, shall be...
punished by imprisonment for not less than one nor more than five years or by a fine not
to exceed $10,000.00, or both."

SECTION 10.

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

"16-12-63.

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

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

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

SECTION 11.

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