

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time _____

Mo: 1179

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

Com. Sub. for
HOUSE BILL No. 1179

(By Mr. Brenda + Mr. Goyich)



Passed April 11, 1981

In Effect August 15, 1981 ~~Passage~~



ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1179

(By MR. BRENDA and MR. GVOYICH)

[Passed April 11, 1981; in effect August 15, 1981.]

AN ACT to amend chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty, relating to the regulation of trade and the holding of bingo games by licensed charitable or public service organizations; establishing a legislative intent; defining terms; providing for applications for bingo licenses and qualifications of applicants; providing for annual, limited occasion, and state fair bingo licenses; providing for collection and application of certain fees; establishing exemption from certain imposition of certain taxes and fees; specifying information to be included in application; providing for amendment of license under specified circumstances; permitting licensee to adopt rules and regulations governing conduct of games; limiting prizes to be awarded; providing for certain bingo game operator or concessionaire requirements; providing for exceptions to concessionaire requirements; establishing limitations on payment of rent for premises for conduct of bingo; providing for a limit upon bingo expenses payable from gross receipts; providing limitations on dispersement of proceeds and time period for said dispersement; allowing for changes in dispersement and extension of such time period; prohibiting payment from gross receipts of certain expenses; allowing only certain individuals to conduct games; prohibiting

payment of compensation for conducting games; requiring the keeping of records for a three-year period; permitting audit of records; permitting advertisement of bingo occasions; requiring the filing of financial reports by licensee; declaring proceeds accruing to state fair board to be for charitable or public service purposes; empowering state fair board to promulgate rules and regulations for the conduct of bingo games at the state fair; exempting state fair bingo licensee from certain provisions; requiring filing of copy of licenses with county commission and making license application available for public inspection; providing for administration of article by tax commissioner; establishing provisions for suspension, denial, revocation of or refusal to renew license by commissioner in accordance with chapter twenty-nine-a of this code, including emergency suspension; requiring commissioner to promulgate rules and regulations; establishing procedure for and effect of local option election; prohibiting certain acts by convicted persons; establishing requirements concerning use of bingo equipment; establishing effective date of article; providing for severability of any provision declared invalid; and providing for criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty, to read as follows:

ARTICLE 20. CHARITABLE BINGO.

§47-20-1. Legislative intent.

1 The Legislature, in recognition of the recreational enjoyment
2 the people of West Virginia receive from playing bingo and
3 of the need charitable and public service organizations have for
4 a practicable way of raising funds, declares its intent to grant
5 the privilege of holding bingo games to those organizations
6 which qualify for a license as provided below.

§47-20-2. Definitions.

1 For purposes of this article, unless specified otherwise:
2 (a) "Bingo" means the game wherein participants pay

3 consideration for the use of one or more cards bearing several
4 rows of numbers no two of which cards played in any one
5 game contain the same sequence or pattern. When the game
6 commences, numbers are selected by chance, one by one, and
7 announced. The players cover or mark those numbers an-
8 nounced as they appear on the card or cards which they are
9 using. The player who first announces that he has covered a
10 predetermined sequence or pattern which had been prean-
11 nounced for that game is, upon verification of such, declared
12 the winner of that game.

13 (b) "Bingo occasion" or "occasion" means a single gather-
14 ing or session at which a series of one or more successive bingo
15 games is played.

16 (c) "Charitable or public service activity or endeavor"
17 means any bona fide activity or endeavor which directly
18 benefits a number of people by:

19 (1) Assisting them to establish themselves in life as con-
20 tributing members of society through education or religion; or

21 (2) Relieving them from disease, distress, suffering, con-
22 straint, or the effects of poverty; or

23 (3) Increasing their comprehension of and devotion to
24 the principles upon which this nation was founded and to the
25 principles of good citizenship; or

26 (4) Making them aware of or educating them about issues
27 of public concern so long as the activity or endeavor is not
28 aimed at influencing legislation or supporting or participat-
29 ing in the campaign of any candidate for public office; or

30 (5) By lessening the burdens borne by government or volun-
31 tarily supporting, augmenting or supplementing services which
32 government would normally render to the people; or

33 (6) Providing or supporting nonprofit community activities
34 for youth, senior citizens or the disabled; or

35 (7) Providing or supporting nonprofit cultural or artistic
36 activities.

37 (d) "Charitable or public service organization" means a

38 bona fide, not for profit, tax-exempt, benevolent, educational,
39 philanthropic, humane, patriotic, civic, religious, fraternal, or
40 eleemosynary incorporated or unincorporated association or
41 organization; or a volunteer fire department, rescue unit or
42 other similar volunteer community service organization or
43 association; but does not include any nonprofit association
44 or organization, whether incorporated or not, which is organ-
45 ized primarily for the purposes of influencing legislation or
46 supporting or promoting the campaign of any candidate for
47 public office.

48 An organization or association is tax-exempt if it is, and
49 has received from the Internal Revenue Service a determination
50 letter that is currently in effect stating that the organization
51 is, exempt from federal income taxation under subsection
52 501(a) and described in subsection 501(c)(3), 501(c)(4),
53 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal
54 Revenue Code.

55 (e) "Commissioner" means the state tax commissioner.

56 (f) "Concession" means any stand, booth, cart, counter or
57 other facility, whether stationary or movable, where beverages,
58 both alcoholic and nonalcoholic, food, snacks, cigarettes or
59 other tobacco products, newspapers, souvenirs or any other
60 items are sold to patrons by an individual operating the
61 facility. Notwithstanding anything contained in subdivision
62 (2), subsection (a), section twelve, article seven of chapter
63 sixty of this code to the contrary, "concession" includes
64 beverages which are regulated by and shall be subject to the
65 provisions of chapter sixty of this code: *Provided*, That in
66 no case may the sale or the consumption of alcoholic beverages
67 or nonintoxicating beer be permitted in any area where
68 bingo is being played.

69 (g) "Conduct" means to direct the actual playing of a bingo
70 game by activities including, but not limited to, handing
71 out bingo cards, collecting fees, drawing the numbers, an-
72 nouncing the numbers, posting the numbers, verifying winners
73 and awarding prizes.

74 (h) "Expend net proceeds for charitable or public service
75 purposes" means to devote the net proceeds of a bingo oc-

76 casion or occasions to a qualified recipient organization or as
77 otherwise provided by this article and approved by the com-
78 missioner pursuant to section fifteen of this article.

79 (i) "Licensee" means any organization or association
80 granted an annual, limited occasion or state fair bingo license
81 purusant to the provisions of this article.

82 (j) "Net proceeds" means the proceeds from all the bingo
83 occasions held by a licensee during a license period after pay-
84 ment of expenses authorized by sections ten, thirteen, fifteen
85 and twenty-two of this article.

86 (k) "Person" means any individual, association, society,
87 incorporated or unincorporated organization, firm, partnership
88 or other nongovernmental entity or institution.

89 (l) "Patron" means any individual who attends a bingo
90 occasion other than an individual who is participating in
91 the conduct of the occasion or in the operation of any con-
92 cession, whether or not the individual is charged an entrance
93 fee or plays any bingo games.

94 (m) "Qualified recipient organization" means any bona
95 fide, not for profit, tax-exempt, as defined in subdivision (d)
96 of this section, incorporated or unincorporated association
97 or organization which is organized and functions exclusively
98 to directly benefit a number of people as provided in sub-
99 paragraphs (1) through (7), subdivision (c) of this section.
100 "Qualified recipient organization" includes without limitation
101 any licensee which is organized and functions exclusively as
102 provided in this subdivision.

**§47-20-3. Who may hold bingo games; application for license;
licenses not transferable.**

1 Any charitable or public service organization which has
2 been in existence in this state two years prior to filing an
3 application for a bingo license issued pursuant to section
4 four or five of this article may hold bingo occasions in
5 accordance with the provisions of this article during such
6 time as it holds a valid license.

7 Application for a bingo license shall be made to the tax

8 commissioner and shall be on a form which shall be supplied
9 by him. The application shall contain the information required
10 by section seven of this article and any other information
11 which the commissioner considers necessary. An application
12 shall be filed not less than sixty days before the date when the
13 applicant intends to hold its first bingo occasion: *Provided,*
14 That for the first six months after the effective date of this
15 article, an application for an annual or limited occasion license
16 shall be filed not less than ninety days before such date, and
17 an application for a state fair bingo license shall be filed
18 not less than thirty days before such date. An application
19 which is not denied within thirty days after filing is con-
20 sidered approved and the commissioner shall, within five
21 days after the expiration of the said thirty days, send to the
22 applicant its license: *Provided,* That for the first six months
23 after the effective date of this article, an application which
24 is not denied within sixty days after filing is considered ap-
25 proved and the commissioner shall, within ten days after
26 expiration of the said sixty days, send to the applicant its
27 license.

28 For purposes of this article, any application for an annual
29 license or a limited occasion license received prior to the
30 effective date of this article is considered filed on said effective
31 date and any application for a state fair bingo license is
32 considered filed on the date of its receipt by the tax commis-
33 sioner.

34 No bingo license issued pursuant to this article may be
35 transferred.

§47-20-4. Annual license; conditions on holding of games.

1 A charitable or public service organization or any of its
2 auxiliaries or other organizations otherwise affiliated with it
3 may apply for an annual license. Only one license per year
4 in the aggregate may be granted to a charitable or public
5 service organization and all of its auxiliaries or other associa-
6 tions or organizations otherwise affiliated with it: *Provided,*
7 That, for purposes of this section the various branches, chap-
8 ters or lodges of any national association or organization
9 or local churches of a nationally organized church are not

10 considered affiliates or auxiliaries of each other. The com-
11 missioner shall by regulation provide for the manner for
12 determining to which organization, whether the parent organi-
13 zation, an affiliate or an auxiliary, the one license allowed
14 under this section is granted. An annual license is valid for
15 one year from the date of issuance and entitles only the
16 licensee to hold no more than two bingo occasions per week.
17 No two or more organizations may hold a joint bingo occasion
18 under any annual licenses. No bingo occasion held pursuant to
19 an annual license may exceed six hours duration.

20 A licensee shall display its annual bingo license con-
21 spicuously at the location where the bingo occasion is held.

22 All bingo occasions shall be open to the general public.
23 No person under eighteen years of age may participate as a
24 player in any bingo game.

§47-20-5. Limited occasion license; conditions on holding of games.

1 A limited occasion license is valid only for the time
2 period specified in the application and entitles only the
3 licensee to hold a bingo occasion once every twenty-four
4 hours for a time period not to exceed two weeks. Two or
5 more organizations may hold a joint bingo occasion provided
6 each participating organization has been granted a limited
7 occasion bingo license for such jointly held occasion. No
8 bingo occasion held pursuant to a limited occasion license
9 may exceed twelve hours in duration. Each charitable or
10 public service organization which desires to hold bingo
11 occasions pursuant to this section, or any of its auxiliaries or
12 other organizations otherwise affiliated with it shall obtain a
13 limited occasion license notwithstanding the fact that it holds
14 a valid annual license: *Provided*, That no licensee which holds
15 an annual license may obtain more than one limited occasion
16 license.

17 Only three limited occasion licenses per year in the aggre-
18 gate may be granted to a charitable or public service organiza-
19 tion and all of its auxiliaries or other associations or organ-
20 izations otherwise affiliated with it, none of which hold an
21 annual license. For purposes of this section the various
22 branches, chapters or lodges of any national association or

23 organization or local churches of a nationally organized church
24 are not considered affiliates or auxiliaries of each other. The
25 commissioner shall by regulation provide the manner for
26 determining to which organization, whether the parent organ-
27 ization, an affiliate or an auxiliary, the three licenses allowed
28 under this section are granted.

29 A licensee shall display its limited occasion license con-
30 spicuously at the location where the bingo occasion is held.

31 All bingo occasions shall be open to the general public.
32 No person under eighteen years of age may participate as a
33 player in any bingo games.

§47-20-6. License fee and exemption from taxes.

1 (a) A license fee shall be paid to the tax commissioner
2 for annual licenses in the amount of one hundred
3 dollars, except that for bona fide senior citizen organizations the
4 fee is fifty dollars. A license fee shall be paid to the tax
5 commissioner for a limited occasion license in the amount of
6 twenty-five dollars. A license fee of four thousand dollars
7 shall be paid to the tax commissioner for a state fair license
8 as provided in section twenty-two of this article. The license
9 fee imposed by this section is in lieu of all other license or
10 franchise taxes or fees of this state, and no county or munici-
11 pality or other political subdivision of this state is em-
12 powered to impose a license or franchise tax or fee.

13 (b) The gross proceeds derived from the conduct of a
14 bingo occasion are exempt from state and local business and
15 occupation taxes, income taxes, excise taxes and all special
16 taxes. The licensee is exempt from payment of consumers
17 sales and service taxes and use taxes on all purchases for
18 use or consumption in the conduct of a bingo occasion and is
19 exempt from collecting consumers sales taxes on any admis-
20 sion fees and sales of bingo cards: *Provided*, That the exemp-
21 tion provided in this subsection does not apply to state fair
22 bingo proceeds.

§47-20-7. Information required in application.

1 An application for a bingo license shall include the
2 following information:

3 (a) Name of the applicant and name and headquarter's
4 address of any state or national organization of which it is
5 a local branch or lodge;

6 (b) The address and telephone number of the applicant
7 organization, if any. If the applicant organization has no tele-
8 phone, then the address and telephone number of the person
9 applying on behalf of such organization shall be supplied;

10 (c) For a limited occasion license, the names and addresses
11 of two or more bona fide active members of the applicant or-
12 ganization who are charged with overall responsibility for the
13 applicant's bingo operations, at least one of whom shall be pre-
14 sent at all times bingo is conducted; and the names and
15 addresses of the highest elected officer of the licensee and
16 his officially appointed designee, one of whom shall be
17 present at all times bingo is conducted; ~~or~~ ^{OK} ^{CAB} ^{E.N.} an annual license,
18 the name, addresses and telephone numbers of three or more
19 bona fide active members of the applicant organization who
20 are charged with overall responsibility for the applicant's bingo
21 operations, at least one of whom shall be present at all times
22 bingo is conducted; and the names and addresses and tele-
23 phone numbers of the highest elected officer of the licensee
24 and his officially appointed designee, one of whom shall be
25 present at all times bingo is conducted;

26 (d) The address or location of the premises where licensed
27 bingo games are to be held;

28 (e) Information as may be required by the commissioner
29 to satisfy him that the applicant meets the requirements of:

30 (1) Being a charitable or public service organization as
31 required by this article; and

32 (2) Being in existence in this state two years prior to
33 filing an application for a bingo license.

34 (f) The day or days of the week, and the time or times
35 when the bingo occasions will be held;

36 (g) The name of the owner of the premises where the
37 bingo occasions are to be held and a copy of all rental

38 agreements involved if leased or subleased by the applicant
39 from the owner or lessee;

40 (h) A statement as to whether the applicant has ever had
41 a previous application for any bingo license refused, or
42 whether any previous license has been revoked or suspended;

43 (i) A statement of the charitable or public service purpose
44 or purposes for which the bingo proceeds will be expended;

45 (j) A statement or statements to the effect that the in-
46 dividuals specified in subdivision (c) of this section and
47 the officers of the applicant understand:

48 (1) That it is a violation of this article to allow any
49 persons other than those authorized by this article to con-
50 duct any part of the bingo games or concessions operated in
51 conjunction therewith;

52 (2) That it is required to file the reports and keep the
53 records as provided by this article; and

54 (3) That it is a crime to violate the provisions of this
55 article and, in addition, that a violation may result in sus-
56 pension or revocation of its license and denial of applications
57 for subsequent licenses.

58 (k) A sworn statement by an authorized representative of
59 the applicant that the information contained in the application
60 is true to the best of his knoweldge;

61 (l) A list and description of estimated expenses to be
62 incurred in connection with the holding of the bingo oc-
63 casions and any concessions operated and the name and
64 address of each payee. If a concession is operated in accord-
65 ance with the provisions of section thirteen of this article, a
66 copy of any written agreement or an explanation of any
67 oral agreement providing for any type of remuneration to
68 be received by the concession operator shall be attached to
69 the application;

70 (m) A list of the names and address of all officers and
71 members of the board of directors, governors or trustees,
72 if any, of the applicant organization; and

73 (n) Any other necessary and reasonable information which
74 the commissioner may require.

§47-20-8. Amendment of license.

1 If circumstances beyond the control of the licensee organi-
2 zation prohibit it from holding any bingo occasion in accord-
3 ance with the information provided by it in its license appli-
4 cation form, the licensee organization may request approval
5 by the commissioner to:

6 (a) Modify the holding of one or more bingo occasions
7 held pursuant to an annual license if the changes are tempo-
8 rary; or

9 (b) Modify the holding of one or more bingo occasions
10 held pursuant to a limited occasion license if the changes
11 affect fewer than one third the occasions to be held under
12 the license; or

13 (c) Amend its original license if the changes to the holding
14 of occasions pursuant to an annual license are permanent or
15 if the changes affect one-third or more of the occasions to be
16 held under a limited occasion license.

§47-20-9. Licensee rules and regulations.

1 Each licensee may adopt rules and regulations, not incon-
2 sistent with or in violation of the provisions of this article, or
3 rules or regulations promulgated hereunder, to govern the
4 conduct of bingo occasions, except that no licensee may allow
5 an individual not present to play any bingo games.

6 Any rules and regulations adopted by the licensee shall
7 be made available for inspection at all bingo occasions held.
8 Any such rules and regulations adopted are a part of the
9 records required to be kept by section sixteen of this article.

§47-20-10. Limits on prizes awarded.

1 Except as provided otherwise in section twenty-two of this
2 article, the total prizes awarded by a licensee during the period
3 of a license may not exceed in value twenty-five percent of the
4 gross proceeds collected during said period or one hundred
5 thousand dollars, whichever amount shall be less. The

6 total prizes awarded by a licensee, or in the aggregate by
7 two or more limited occasion licensees holding a joint
8 bingo game, for any bingo occasion held pursuant to an
9 annual or limited occasion license may not exceed in value
10 one thousand dollars. Prizes may be money or merchandise
11 other than beer, nonintoxicating beer, wine, spirits or alcoholic
12 liquor as defined in section five, article one of chapter sixty
13 of this code. If the prizes are merchandise, the value assigned
14 to them is their fair market value at the time they are won.

§47-20-11. Operator of bingo games and related concessions.

1 Except as provided in sections thirteen and twenty-two of
2 this article, only individuals who are active members of the
3 licensee organization or its authorized auxiliary organization
4 may participate in any manner in the conduct of any bingo
5 game or operate any concession in conjunction with a bingo
6 occasion: *Provided*, That notwithstanding anything contained
7 in this article to the contrary, no individual under the age of
8 eighteen years may directly or indirectly participate in the con-
9 duct of a bingo game.

§47-20-12. Compensation.

1 Except as provided otherwise in sections thirteen and
2 twenty-two of this article, no individual who participates in
3 any manner in the conduct of a bingo occasion or the opera-
4 tion of a concession in conjunction with a bingo occasion may
5 receive or accept any commission, wage, salary, reward, tip,
6 donation, gratuity or other form of compensation or remun-
7 eration whether directly or indirectly, regardless of the source,
8 for his work, labor or services.

§47-20-13. Concessions exception.

1 A licensee may allow any individual, firm, partnership or
2 corporation to operate concessions in conjunction with bingo
3 occasions, and to be compensated for such operation, in ac-
4 cordance with the following provisions:

5 (a) The licensee organization is one which meets or holds
6 functions other than bingo occasions on a regular basis; and

7 (b) The concession to be operated at the bingo occasion is
8 operated regularly at such meetings or functions; and

9 (c) The individual, firm or corporation which operates the
10 concession at such regular meetings or functions is the same
11 which operates the concession at the bingo occasion; and

12 (d) The terms of the agreement under which the individual,
13 firm, partnership or corporation operates the concession at
14 the bingo occasion are the same terms under which the
15 concession is operated at the regular meetings or functions:
16 *Provided*, That a copy of such agreement is filed at the time
17 the application is made and any changes thereto are filed
18 within ten days of being made.

19 In addition, any charitable or public service organization
20 as defined by section two of this article may operate a conces-
21 sion at any bingo occasions held by a licensee provided
22 that the net proceeds it receives from that concession are
23 used solely for the charitable or public service purposes of
24 that organization.

**§47-20-14. Rent or other fee received by nonlicensee for use of
premises; rent or other fee received by licensee pro-
hibited; reimbursement of expenses.**

1 (a) No owner or lessee, including his agent, of premises
2 on which bingo occasions are held by one or more licensees
3 holding annual bingo licenses may receive rent or other fee
4 in any amount for the holding of more than two bingo
5 occasions per week on his premises. No owner or lessee,
6 including his agent, of premises on which bingo occasions
7 are held by one or more licensees holding limited occasion
8 licenses may receive rent or other fee in any amount for the
9 holding of more than forty-two bingo occasions per year on
10 his premises: *Provided, however*, That the total number of
11 bingo occasions for which any owner or lessee, including his
12 agent, may receive rent or other fee in any one year may
13 not exceed one hundred and four.

14 (b) No licensee may receive, either directly or indirectly,
15 rent or other fee in any amount for permitting its premises
16 to be used by any person, including any auxiliaries or other
17 organizations or entities otherwise associated with the licensee,
18 to hold a bingo occasion.

19 (c) Nothing in this section may prevent such owners,
20 lessees or licensees from being reimbursed, by any licensee
21 who does not pay rent or other fee to use the premises to
22 conduct a bingo occasion, for the reasonable, necessary and
23 actual expenses incurred by such use, not to exceed fifty
24 dollars.

§47-20-15. Payment of reasonable expenses from proceeds; net proceeds disbursement.

1 (a) The reasonable, necessary and actual expenses incurred
2 in connection with the holding of bingo occasions, not to
3 exceed ten percent of the gross receipts collected during a
4 license period, may be paid out of the proceeds of the conduct
5 of bingo, including, but not limited to:

6 (1) Rent paid for the use of the premises, provided that
7 a copy of the rental agreement was filed with the bingo license
8 application and any changes thereto were filed within ten days
9 of being made;

10 (2) The cost of custodial services;

11 (3) The cost to the licensee organization for equipment and
12 supplies used to hold the bingo occasion;

13 (4) The cost to the licensee organization for advertising
14 the bingo occasion; and

15 (5) The cost of hiring security personnel.

16 (b) The actual cost of the licensee for prizes, not to exceed
17 the amounts as specified in section ten of this article, may be
18 paid out of the proceeds of the conduct of bingo.

19 (c) The cost of any refreshments, souvenirs or any
20 other item sold or otherwise provided through any concession
21 to the patrons may not be paid for out of the proceeds from
22 the bingo occasion. The licensee shall expend all net bingo
23 proceeds and any interest earned thereon for the charitable
24 or public service purposes stated in the application within
25 one year after the expiration of the license under which the
26 bingo occasions were held. A licensee which does not qualify
27 as a qualified recipient organization may apply to the com-
28 missioner at the time it applies for a bingo license or as pro-

29 vided in subsection (e) of this section for permission to apply
30 any or all of its net bingo proceeds to directly support a
31 charitable or public service activity or endeavor which it
32 sponsors.

33 (d) No proceeds from any bingo operation may be devoted
34 or in any manner used by any licensee or qualified recipient
35 organization for the construction, acquisition, improvement,
36 maintenance or repair of real or personal property except
37 that which is used exclusively for one or more charitable or
38 public service purposes or as provided in subdivision (3),
39 subsection (a) of this section.

40 (e) Any licensee which, in good faith, finds itself unable
41 to comply with the requirements of this provision shall apply
42 to the commissioner for permission to expend its net proceeds
43 for one or more charitable or public service purposes other
44 than that stated in its license application or for permission
45 to expend its net proceeds later than the one-year time period
46 specified in this section. The application shall be on a form
47 furnished by the commissioner and shall include the par-
48 ticulars of the requested changes and the reasons for the
49 changes. The application shall be filed no later than sixty
50 days before the end of the one-year period specified in this
51 section. In the case of an application to extend the time in
52 which the net proceeds are to be expended for a charitable or
53 public service purpose, the licensee shall file such periodic
54 reports with the commissioner as the commissioner directs
55 until the proceeds are so expended.

§47-20-16. Records; commissioner audit.

1 Any licensee which holds a bingo occasion as provided by
2 this article shall maintain a separate account and separate
3 bookkeeping procedure for its bingo operations. All records
4 required by this article shall be maintained for at least
5 three years and shall be open to the commissioner for rea-
6 sonable inspection. Whenever the commissioner has reason-
7 able cause to believe a licensee has violated any of the pro-
8 visions of this article, he may perform or cause to be per-
9 formed an audit of the licensee's books and records.

§47-20-17. Advertising.

1 A licensee may advertise its bingo occasions in a manner
2 reasonably necessary to promote the occasion.

§47-20-18. Fraud; penalties.

1 In addition to any other offense set forth in this code,
2 any person who or licensee which knowingly conducts or
3 participates in a fraudulently or deceptively conducted bingo
4 game with intent to defraud is guilty of a felony and, upon
5 conviction thereof, shall be fined not less than five hundred
6 nor more than ten thousand dollars, or imprisoned in the
7 penitentiary not less than one, nor more than five years,
8 or both fined and imprisoned.

§47-20-19. Obtaining license fraudulently; penalty.

1 In addition to any other offense set forth in this code, any
2 individual, association, organization or corporation which
3 knowingly obtains or assists another in obtaining a bingo license
4 under false, deceptive or fraudulent pretenses is guilty of a
5 misdemeanor, and, upon conviction thereof, shall be fined not
6 less than five hundred nor more than ten thousand dollars.

§47-20-20. Violation of provisions; penalties.

1 Any person who knowingly violates the provisions of this
2 article other than sections eighteen and nineteen is guilty of
3 a misdemeanor, and, upon conviction thereof, shall be fined
4 not less than one hundred nor more than one thousand dollars.
5 Any individual who knowingly violates the provisions of this
6 article other than sections eighteen and nineteen is guilty of
7 a misdemeanor and, upon a second or subsequent conviction
8 thereof, shall be fined not less than one hundred nor more
9 than one thousand dollars or imprisoned not more than one
10 year or both fined and imprisoned.

§47-20-21. Proceeds of state fair.

1 The Legislature declares that the net proceeds of any bingo
2 game which accrue to the West Virginia state fair are con-
3 sidered used for charitable or public service purposes as de-
4 fined in section two of this article. Any proceeds allowed by

5 the state fair board to be paid to or retained by the licensee
6 are deemed to be expenses incurred by the state fair board.

§47-20-22. State fair; state fair board rules and regulations.

1 Any person who has held bingo games on a regular basis
2 for at least two years prior to the filing of an application may
3 apply to the tax commissioner for a state fair bingo license to
4 hold bingo occasions at the West Virginia state fair. A license
5 fee of four thousand dollars shall be paid to the commissioner
6 for a state fair bingo license. The provisions of sections ten,
7 eleven, twelve and fifteen of this article do not apply to a
8 state fair bingo license. No state fair bingo license may be
9 issued unless the application includes a copy of any lease
10 or agreement entered into between the state fair board and
11 the applicant, or the applicant and the state fair board's
12 lessee. The state fair board may adopt reasonable rules and
13 regulations, not inconsistent with or in violation of the pro-
14 visions of this article, to govern the holding of bingo games
15 at the state fair.

§47-20-23. Administration; rules and regulations.

1 (a) The tax commissioner shall administer the provisions of
2 this article in accordance with the provisions of chapter twenty-
3 nine-a of this code.

4 (b) The commissioner shall deny an application for a
5 license if he finds that the issuance thereof would be in viola-
6 tion of the provisions of this article.

7 (c) The commissioner may revoke, suspend or refuse to
8 renew a license if the licensee or any member of a licensee
9 organization has been convicted pursuant to section eighteen
10 or nineteen of this article and the commissioner finds that
11 it would be in the public interest to do so; or if the licensee
12 has violated any of the provisions of this article: *Provided*,
13 That before revoking or suspending a license issued under
14 the authority of this article, the commissioner shall give at
15 least ten days, three days for a limited occasion or state fair
16 license, notice to the licensee. Notice shall be in writing, shall
17 state the reason for revocation or suspension and shall desig-
18 nate a time and place when the licensee may show cause why

19 the license should not be revoked or suspended. Notice shall
20 be sent by certified mail to the address of the licensee or
21 served by certified mail or by personal or substituted service
22 on the person who applied for the license on behalf of the
23 licensee. The licensee may, at the time designated for the
24 hearing, produce evidence in its behalf and be represented
25 by counsel. A decision of the commissioner revoking or
26 suspending a license is subject to judicial review upon the
27 appeal of a licensee.

28 (d) The commissioner may suspend, revoke or refuse to
29 renew any license issued hereunder for a material failure to
30 maintain the records or file the reports required by this
31 article if the commissioner finds that said failure will sub-
32 stantially impair the commissioner's ability to administer the
33 provisions of this article with regard to said licensee.

34 (e) The commissioner shall promulgate reasonable rules
35 and regulations necessary to the administration of this article.

36 (f) The provisions of article five, chapter twenty-nine-a
37 of this code apply to the denial, revocation, suspension of
38 or refusal to renew a license hereunder.

39 (g) The burden of proof in any administrative or court
40 proceeding is on the applicant to show cause why a bingo
41 license should be issued or renewed and on the licensee to
42 show cause why its license should not be revoked or sus-
43 pended.

44 (h) Notwithstanding any other provision of this article,
45 the commissioner may issue an emergency order suspending a
46 bingo license in the following manner:

47 (1) An emergency order may be issued only when the
48 commissioner believes that:

49 (a) There has been a criminal violation of this article;

50 (b) Such action is necessary to prevent a criminal violation
51 of this article; or

52 (c) Such action is necessary for the immediate preservation
53 of the public peace, health, safety, morals, good order or
54 general welfare.

55 (2) The emergency order shall set forth the grounds upon
56 which it is issued, including a statement of facts constituting
57 the alleged emergency necessitating such action. This order
58 shall be served by personal or substituted service on the licensee
59 or the person who applied for the license on behalf of the
60 licensee.

61 (3) The emergency order is effective immediately upon
62 issuance and service upon the licensee.

63 (4) Within five days after issuance of an emergency order,
64 the commissioner shall set a time and place for a hearing
65 wherein the licensee may appear and show cause why its
66 license should not be revoked.

§47-20-24. Filing of reports.

1 Each licensee holding an annual license shall file with
2 the tax commissioner quarterly and an annual financial re-
3 ports summarizing its bingo operations for the time period
4 covered by the report. Each quarterly report shall be filed
5 within twenty days after the end of the quarter which it
6 covers. The annual report shall be filed within thirty days
7 after the expiration of the license under which the operations
8 covered by the report were held.

9 Each licensee holding a limited occasion license or state
10 fair license shall file with the tax commissioner a financial
11 report summarizing its bingo operations for the license period
12 within thirty days after the expiration of the license under
13 which the operations covered by the report are held. The
14 reports shall contain the name, address and social security
15 number of any individual who receives during the course of
16 a bingo occasion prizes the aggregate value of which exceeds
17 one hundred dollars, and other information required by the
18 commissioner

§47-20-25. Filing of copy of license; application open to public inspection.

1 Whenever a license is granted pursuant to this article, the
2 commissioner shall cause a copy of the license to be filed
3 and recorded with the clerk of the county commission of
4 the county in which the bingo occasions are to be held. A

5 copy of the application shall be made available for public
6 inspection in the office of the commissioner.

**§47-20-26. County option election; petition; election procedure;
form of ballot; effect of such election.**

1 The county commission of any county is authorized to
2 call a local option election for the purpose of determining
3 the will of the voters as to whether the provisions of this
4 article shall continue in effect in said county: *Provided,*
5 That no local option election may be called to disapprove
6 the playing of bingo games at the state fair in accordance
7 with the provisions of this article.

8 A petition for local option election shall be in the form
9 specified in this section and shall be signed by qualified
10 voters residing within said county equal to at least ten percent
11 of the persons qualified to vote within said county at the
12 last general election. The petition may be in any number
13 of counterparts and is sufficient if substantially in the fol-
14 lowing form:

15 PETITION ON LOCAL OPTION ELECTION
16 RESPECTING THE CONDUCT OF
17 BINGO GAMES FOR
18 CHARITABLE PURPOSES
19 IN COUNTY,
20 WEST VIRGINIA

21 Each of the undersigned certifies that he or she is a per-
22 son residing in county, West Virginia, and
23 is duly qualified to vote in that county under the laws of
24 the state, and that his or her name, address, and the date
25 of signing this petition are correctly set forth below.

26 The undersigned petition the county commission to call
27 and hold a local option election at (1) a special or (2) the
28 next primary, general or special election (the petition shall
29 specify (1) or (2)) upon the following question: Shall the pro-
30 visions of article twenty, chapter forty-seven of the code of
31 West Virginia, one thousand nine hundred thirty-one, as
32 amended, continue in effect in county, West
33 Virginia?

34 Name Address Date
 35 ----- ----- -----
 36 (Each person signing must specify either his post-office address
 37 or his street number.)

38 Upon the filing of a petition for a local option election
 39 in accordance with the provisions of this section, the county
 40 commission shall enter an order calling a local option election
 41 as specified in the petition. The county commission shall give
 42 notice of such local option election by publication thereof as a
 43 class II-0 legal advertisement in compliance with the provisions
 44 of article three, chapter fifty-nine of this code, and the publica-
 45 tion area for such publication is the county. The notice shall
 46 be so published within fourteen consecutive days next pre-
 47 ceding the election.

48 Each person qualified to vote in the county at any pri-
 49 mary, general or special election shall likewise be qualified
 50 to vote at the local option election. The election officers
 51 appointed and qualified to serve as such at any primary,
 52 general or special election shall conduct the local option
 53 election. If the local option election is to be held at the
 54 same time as a primary, general or other special election, it
 55 shall be held in connection with and as a part of that primary,
 56 general or special election. The ballots in the local option
 57 election shall be counted and returns made by the election
 58 officers and the results certified by the commissioners of
 59 election to said county commission which shall canvass the
 60 ballots, all in accordance with the laws of the state of West
 61 Virginia relating to primary and general elections insofar as
 62 the same are applicable. The county commission shall, without
 63 delay, canvass the ballots cast at said local option election
 64 and certify the result thereof.

65 The ballot to be used in said local option election shall have
 66 printed thereon substantially the following:

67 “Shall the playing of bingo to raise money for charitable
 68 or public service organizations continue in effect in _____
 69 county of West Virginia?

70 Yes No

71 (Place a cross mark in the square opposite your choice.)”

72 If a majority of the voters voting at any local option
73 election vote no on the foregoing question, the provisions
74 of article twenty, chapter forty-seven of the code of West
75 Virginia, one thousand nine hundred thirty-one, as amended,
76 no longer continue in effect in said county.

77 No local option election may be called in a county to
78 resubmit said question to the voters of that county, whether
79 the question was approved or disapproved at the previous
80 local option election, sooner than five years after the last
81 local option election.

§47-20-27. Prohibited acts by convicted individuals and corporations.

1 Any individual, organization, association or corporation
2 convicted of any felony, or a misdemeanor for a gambling
3 offense, is prohibited from directly or indirectly obtaining a
4 bingo license, conducting a bingo game, operating a concession,
5 or leasing or providing to a licensee organization any premises
6 where bingo occasions may be held within ten years from
7 said conviction.

§47-20-28. Restrictions on use of bingo equipment.

1 A licensee may use only bingo equipment which it owns
2 or which it borrows without compensation, or leases for a
3 reasonable and customary amount, from another licensee.

§47-20-29. Effective date.

1 The effective date of this article is the fifteenth day of
2 August, one thousand nine hundred eighty-one.

§47-20-30. Severability

1 If, for any reason, any section, sentence, clause, phrase or
2 provision of this article or the application thereof to any per-
3 son or circumstance is held unconstitutional or invalid, such
4 unconstitutionality or invalidity shall not affect other sections,
5 sentences, clauses, phrases or provisions or their application
6 to any other person or circumstance, and to this end each and
7 every article, section, sentence, clause, phrase or provision of
8 this article is hereby declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Baylor
Chairman Senate Committee

Jonny E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect August 15, 1981.

Judd C. Willis
Clerk of the Senate

C. J. Blankenship
Clerk of the House of Delegates

Montgomery
President of the Senate

Walter M. Lee, Jr.
Speaker House of Delegates

The within *is approved* this the *28*
day of *April*, 1981.

John R. Rhyne
Governor

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OFFICE OF THE GOVERNOR

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OFFICE
SECY. OF STATE