WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

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ENROLLED
Com. Sub. for
HOUSE BILL No. 1179

(By Mr. Brenda & Mr. Droyich)

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Passed April 11, 1981
In Effect August 15, 1981
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1179
(By Mr. Brenda and Mr. Gvoyich)


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 the people of West Virginia receive from playing bingo and of the need charitable and public service organizations have for a practicable way of raising funds, declares its intent to grant the privilege of holding bingo games to those organizations which qualify for a license as provided below.

§47-20-2. Definitions.

1 For purposes of this article, unless specified otherwise:

(a) "Bingo" means the game wherein participants pay
consideration for the use of one or more cards bearing several rows of numbers no two of which cards played in any one game contain the same sequence or pattern. When the game commences, numbers are selected by chance, one by one, and announced. The players cover or mark those numbers announced as they appear on the card or cards which they are using. The player who first announces that he has covered a predetermined sequence or pattern which had been predetermined for that game is, upon verification of such, declared the winner of that game.

(b) “Bingo occasion” or “occasion” means a single gathering or session at which a series of one or more successive bingo games is played.

(c) “Charitable or public service activity or endeavor” means any bona fide activity or endeavor which directly benefits a number of people by:

(1) Assisting them to establish themselves in life as contributing members of society through education or religion; or

(2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty; or

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

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

(5) By lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or

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

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

d) “Charitable or public service organization” means a
bona fide, not for profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary incorporated or unincorporated association or organization; or a volunteer fire department, rescue unit or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any candidate for public office.

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

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

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

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

(h) "Expend net proceeds for charitable or public service purposes" means to devote the net proceeds of a bingo oc-
casion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to section fifteen of this article.

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

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

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

(l) "Patron" means any individual who attends a bingo occasion other than an individual who is participating in the conduct of the occasion or in the operation of any concession, whether or not the individual is charged an entrance fee or plays any bingo games.

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

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

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

Application for a bingo license shall be made to the tax
commissioner and shall be on a form which shall be supplied by him. The application shall contain the information required by section seven of this article and any other information which the commissioner considers necessary. An application shall be filed not less than sixty days before the date when the applicant intends to hold its first bingo occasion: Provided, That for the first six months after the effective date of this article, an application for an annual or limited occasion license shall be filed not less than ninety days before such date, and an application for a state fair bingo license shall be filed not less than thirty days before such date. An application which is not denied within thirty days after filing is considered approved and the commissioner shall, within five days after the expiration of the said thirty days, send to the applicant its license: Provided, That for the first six months after the effective date of this article, an application which is not denied within sixty days after filing is considered approved and the commissioner shall, within ten days after expiration of the said sixty days, send to the applicant its license.

For purposes of this article, any application for an annual license or a limited occasion license received prior to the effective date of this article is considered filed on said effective date and any application for a state fair bingo license is considered filed on the date of its receipt by the tax commissioner.

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

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

A charitable or public service organization or any of its auxiliaries or other organizations otherwise affiliated with it may apply for an annual license. Only one license per year in the aggregate may be granted to a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it: Provided, That, for purposes of this section the various branches, chapters or lodges of any national association or organization or local churches of a nationally organized church are not
considered affiliates or auxiliaries of each other. The com-
missioner shall by regulation provide for the manner for
determining to which organization, whether the parent organi-
ization, an affiliate or an auxiliary, the one license allowed
under this section is granted. An annual license is valid for
one year from the date of issuance and entitles only the
licensee to hold no more than two bingo occasions per week.
No two or more organizations may hold a joint bingo occasion
under any annual licenses. No bingo occasion held pursuant to
an annual license may exceed six hours duration.

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

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

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

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

Only three limited occasion licenses per year in the aggre-
gate may be granted to a charitable or public service organiza-
tion and all of its auxiliaries or other associations or organ-
izations otherwise affiliated with it, none of which hold an
annual license. For purposes of this section the various
branches, chapters or lodges of any national association or
organization or local churches of a nationally organized church
are not considered affiliates or auxiliaries of each other. The
commissioner shall by regulation provide the manner for
determining to which organization, whether the parent organ-
ization, an affiliate or an auxiliary, the three licenses allowed
under this section are granted.

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

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

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

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

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

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

An application for a bingo license shall include the
following information:
(a) Name of the applicant and name and headquarter's address of any state or national organization of which it is a local branch or lodge;

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

(c) For a limited occasion license, the names and addresses of two or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's bingo operations, at least one of whom shall be present at all times bingo is conducted; and the names and addresses of the highest elected officer of the licensee and his officially appointed designee, one of whom shall be present at all times bingo is conducted; an annual license, the name, addresses and telephone numbers of three or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's bingo operations, at least one of whom shall be present at all times bingo is conducted; and the names and addresses and telephone numbers of the highest elected officer of the licensee and his officially appointed designee, one of whom shall be present at all times bingo is conducted;

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

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

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

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

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

(g) The name of the owner of the premises where the bingo occasions are to be held and a copy of all rental
(h) A statement as to whether the applicant has ever had a previous application for any bingo license refused, or whether any previous license has been revoked or suspended;

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

(j) A statement or statements to the effect that the individuals specified in subdivision (c) of this section and the officers of the applicant understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct any part of the bingo games or concessions operated in conjunction therewith;

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

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

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

(l) A list and description of estimated expenses to be incurred in connection with the holding of the bingo occasions and any concessions operated and the name and address of each payee. If a concession is operated in accordance with the provisions of section thirteen of this article, a copy of any written agreement or an explanation of any oral agreement providing for any type of remuneration to be received by the concession operator shall be attached to the application;

(m) A list of the names and address of all officers and members of the board of directors, governors or trustees, if any, of the applicant organization; and
§47-20-8. Amendment of license.

If circumstances beyond the control of the licensee organization prohibit it from holding any bingo occasion in accordance with the information provided by it in its license application form, the licensee organization may request approval by the commissioner to:

(a) Modify the holding of one or more bingo occasions held pursuant to an annual license if the changes are temporary; or

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

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

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

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

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

§47-20-10. Limits on prizes awarded.

Except as provided otherwise in section twenty-two of this article, the total prizes awarded by a licensee during the period of a license may not exceed in value twenty-five percent of the gross proceeds collected during said period or one hundred thousand dollars, whichever amount shall be less. The
total prizes awarded by a licensee, or in the aggregate by two or more limited occasion licensees holding a joint bingo game, for any bingo occasion held pursuant to an annual or limited occasion license may not exceed in value one thousand dollars. Prizes may be money or merchandise other than beer, nonintoxicating beer, wine, spirits or alcoholic liquor as defined in section five, article one of chapter sixty of this code. If the prizes are merchandise, the value assigned to them is their fair market value at the time they are won.


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


Except as provided otherwise in sections thirteen and twenty-two of this article, no individual who participates in any manner in the conduct of a bingo occasion or the operation of a concession in conjunction with a bingo occasion may receive or accept any commission, wage, salary, reward, tip, donation, gratuity or other form of compensation or remuneration whether directly or indirectly, regardless of the source, for his work, labor or services.

§47-20-13. Concessions exception.

A licensee may allow any individual, firm, partnership or corporation to operate concessions in conjunction with bingo occasions, and to be compensated for such operation, in accordance with the following provisions:

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

(b) The concession to be operated at the bingo occasion is operated regularly at such meetings or functions; and
(c) The individual, firm or corporation which operates the concession at such regular meetings or functions is the same which operates the concession at the bingo occasion; and

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

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

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

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

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

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

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

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

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

10 (2) The cost of custodial services;

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

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


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

(c) The cost of any refreshments, souvenirs or any other item sold or otherwise provided through any concession to the patrons may not be paid for out of the proceeds from the bingo occasion. The licensee shall expend all net bingo proceeds and any interest earned thereon for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the bingo occasions were held. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for a bingo license or as pro-
vided in subsection (e) of this section for permission to apply
any or all of its net bingo proceeds to directly support a
charitable or public service activity or endeavor which it
sponsors.

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

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

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

Any licensee which holds a bingo occasion as provided by
this article shall maintain a separate account and separate
bookkeeping procedure for its bingo operations. All records
required by this article shall be maintained for at least
three years and shall be open to the commissioner for rea-
sonable inspection. Whenever the commissioner has reason-
able cause to believe a licensee has violated any of the pro-
visions of this article, he may perform or cause to be per-
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 reasonably necessary to promote the occasion.

§47-20-18. Fraud; penalties.

1 In addition to any other offense set forth in this code, any person who or licensee which knowingly conducts or participates in a fraudulently or deceptively conducted bingo game with intent to defraud is guilty of a felony and, upon conviction thereof, shall be fined not less than five hundred nor more than ten thousand dollars, or imprisoned in the penitentiary not less than one, nor more than five years, 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 individual, association, organization or corporation which knowingly obtains or assists another in obtaining a bingo license under false, deceptive or fraudulent pretenses is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not 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 article other than sections eighteen and nineteen is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars.

Any individual who knowingly violates the provisions of this article other than sections eighteen and nineteen is guilty of a misdemeanor and, upon a second or subsequent conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars or imprisoned not more than one year or both fined and imprisoned.


1 The Legislature declares that the net proceeds of any bingo game which accrue to the West Virginia state fair are considered used for charitable or public service purposes as defined in section two of this article. Any proceeds allowed by
the state fair board to be paid to or retained by the licensee are deemed to be expenses incurred by the state fair board.

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

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

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

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

(b) The commissioner shall deny an application for a license if he finds that the issuance thereof would be in violation of the provisions of this article.

(c) The commissioner may revoke, suspend or refuse to renew a license if the licensee or any member of a licensee organization has been convicted pursuant to section eighteen or nineteen of this article and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: Provided, That before revoking or suspending a license issued under the authority of this article, the commissioner shall give at least ten days, three days for a limited occasion or state fair license, notice to the licensee. Notice shall be in writing, shall state the reason for revocation or suspension and shall designate a time and place when the licensee may show cause why
the license should not be revoked or suspended. Notice shall be sent by certified mail to the address of the licensee or served by certified mail or by personal or substituted service on the person who applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, produce evidence in its behalf and be represented by counsel. A decision of the commissioner revoking or suspending a license is subject to judicial review upon the appeal of a licensee.

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

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

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

(g) The burden of proof in any administrative or court proceeding is on the applicant to show cause why a bingo license should be issued or renewed and on the licensee to show cause why its license should not be revoked or suspended.

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

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

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

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

(c) Such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare.
(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action. This order shall be served by personal or substituted service on the licensee or the person who applied for the license on behalf of the licensee.

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

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

§47-20-24. Filing of reports.

Each licensee holding an annual license shall file with the tax commissioner quarterly and an annual financial reports summarizing its bingo operations for the time period covered by the report. Each quarterly report shall be filed within twenty days after the end of the quarter which it covers. The annual report shall be filed within thirty days after the expiration of the license under which the operations covered by the report were held.

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

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

Whenever a license is granted pursuant to this article, the commissioner shall cause a copy of the license to be filed and recorded with the clerk of the county commission of 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:

PETITION ON LOCAL OPTION ELECTION
RESPECTING THE CONDUCT OF
BINGO GAMES FOR
CHARITABLE PURPOSES
IN _________________________ COUNTY,
WEST VIRGINIA

15 Each of the undersigned certifies that he or she is a per-
16 son residing in _________________________ county, West Virginia, and
17 is duly qualified to vote in that county under the laws of
18 the state, and that his or her name, address, and the date
19 of signing this petition are correctly set forth below.

20 The undersigned petition the county commission to call
21 and hold a local option election at (1) a special or (2) the
22 next primary, general or special election (the petition shall
23 specify (1) or (2)) upon the following question: Shall the pro-
24 visions of article twenty, chapter forty-seven of the code of
25 West Virginia, one thousand nine hundred thirty-one, as
26 amended, continue in effect in _________________________ county, West
27 Virginia?
Upon the filing of a petition for a local option election in accordance with the provisions of this section, the county commission shall enter an order calling a local option election as specified in the petition. The county commission shall give notice of such local option election by publication thereof as a class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication is the county. The notice shall be so published within fourteen consecutive days next preceding the election.

Each person qualified to vote in the county at any primary, general or special election shall likewise be qualified to vote at the local option election. The election officers appointed and qualified to serve as such at any primary, general or special election shall conduct the local option election. If the local option election is to be held at the same time as a primary, general or other special election, it shall be held in connection with and as a part of that primary, general or special election. The ballots in the local option election shall be counted and returns made by the election officers and the results certified by the commissioners of election to said county commission which shall canvass the ballots, all in accordance with the laws of the state of West Virginia relating to primary and general elections insofar as the same are applicable. The county commission shall, without delay, canvass the ballots cast at said local option election and certify the result thereof.

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

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

☐ Yes ☐ No

(Place a cross mark in the square opposite your choice.)"
If a majority of the voters voting at any local option election vote no on the foregoing question, the provisions of article twenty, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, no longer continue in effect in said county.

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

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

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


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

§47-20-29. Effective date.

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

§47-20-30. Severability

If, for any reason, any section, sentence, clause, phrase or provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, sentences, clauses, phrases or provisions or their application to any other person or circumstance, and to this end each and every article, section, sentence, clause, phrase or provision of 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

Tony E. Whitlow  
Chairman House Committee

Originated in the House.

Takes effect August 15, 1981.

Joe C. Willis  
Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor