



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

May 24, 1988

Honorable Bob Bullock
Comptroller of Public Accounts
LBJ State Office Building
Austin, Texas 78774

LO-88-61

Dear Mr. Bullock:

You ask about your ability to revoke or suspend an organization's bingo license. Specifically, you ask:

1. May I refuse to renew an organization's license to conduct bingo if I determine the licensee's expenses exceed income and for one (1) or more calendar quarters, the licensee has been unable to generate proceeds from the conduct of bingo to pay its bingo expenses and/or make charitable distributions?

2. If I make the same finding set out in (1) prior to the expiration of the organization's license to conduct bingo, may I revoke or suspend the license?

Under the Bingo Enabling Act, article 179d, V.T.C.S., only religious societies, certain nonprofit organizations, and volunteer fire departments may be licensed to conduct bingo. V.T.C.S. art 179d, §§ 12, 2(11). Section 11(d) of the act provides that the net proceeds from bingo games or rental of premises for bingo "shall be exclusively devoted to the charitable purposes of the organization permitted to conduct the game." See V.T.C.S. art. 179d, § 2(9) (defining "charitable purpose").

The comptroller of public accounts is authorized to issue and renew licenses for the conduct of bingo. Id. § 13(c). Before the comptroller may issue or renew a license, he must make several determinations, one of which is that "the applicant has made and can demonstrate significant progress toward the accomplishment of the purposes of the organization during the 12-month period

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preceding the date of application for a license or license renewal. Id. § 13(c)(6). Your first question is whether you may make that determination for purposes of license renewal based on the fact that during one or more quarters a licensee's expenditures on bingo have exceeded its income.

The act requires you to make a determination about progress during a 12-month period. Clearly, then, making a determination based on financial reports for a period of less than 12 months would not comply with the act. Also, the fact that an organization's expenditures exceeded its receipts over a 12-month period would not necessarily show that the organization had not made "significant progress" toward accomplishment of its purposes. To determine whether or not an organization has made progress, you should look at all relevant factors.

Your second question is, in essence, whether you may suspend or revoke an organization's license before it expires if you find that the organization has not made significant progress toward accomplishment of its purposes. Failure to make such progress during a 12-month period is not a violation of the act. See V.T.C.S. art. 179d, § 16b (comptroller may suspend or revoke license for failure to comply with the act). Rather, it is a basis for nonrenewal. Id. § 13(c); see also id. § 13(c)(b) (license is effective for one year).

Very truly yours,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/bc

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