



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

August 16, 1989

Honorable David Counts
State Representative
P. O. Box 2910, Capitol Station
Austin, Texas 78768-2910

LO-89-63

Dear Representative Counts:

You have asked us to provide guidelines to be used in determining reasonableness in regard to calculating net proceeds for purposes of the Bingo Enabling Act, article 179d, V.T.C.S.

The act defines "net proceeds" in section 2(10):

'Net proceeds' means:

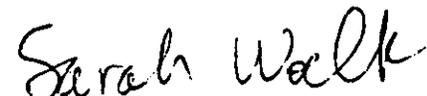
(A) in relation to the gross receipts from one or more occasions of bingo, the amount that remains after deducting the reasonable sums necessarily and actually expended for advertising, security, repairs to premises and equipment, bingo supplies and equipment, prizes, stated rental, or mortgage and insurance expenses, if any, bookkeeping or accounting services, fees for personnel as permitted under Subsection (c) of Section 19 of this Act, janitorial services and utility supplies and services, if any, license fees, and the gross receipts tax; and

(B) in relation to the gross rent or other consideration received by an organization licensed to conduct bingo for the use of its premises, fixtures, or equipment by another licensee, the amount that remains after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable to the use of the premises, fixtures, or equipment, if any. (Emphasis added.)

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Determination of reasonableness of expenses is a fact question. We cannot resolve fact questions in the opinion process. The question of reasonableness of expenses for purposes of determining net proceeds would generally arise in the licensing process. In that case, reasonableness would be a question to be determined, in the first instance, by the comptroller's office. (Please note that effective January 1, 1990, the comptroller's duties in regard to bingo will be transferred to the Alcoholic Beverage Commission. H.B. 2260, Acts 1989, 71st Leg., Ch. 238, at 1107. If the question arose in litigation, the issue of reasonableness of expenses would be one for the finder of fact in that litigation.

Yours very truly,



Sarah Woelk
Letter Opinion Section
Opinion Committee

SW/lcd

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