



WEST VIRGINIA CHARITABLE BINGO HANDBOOK

Revised February 2024

DISCLAIMER

The information contained in this Handbook is intended as a plain-English summary of West Virginia's Charitable Bingo laws to be used as a reference guide for licensed operators of charitable bingo in the State of West Virginia. It is not intended as a substitute for the law, and if any conflict or inconsistency arises as between this Handbook and the West Virginia Code or Legislative Rules, the Code or Rules will be determinative. Bingo operators should familiarize themselves with the provisions of the West Virginia Code and the West Virginia Code of State Rules.

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WHO MAY HOLD CHARITABLE BINGO OCCASIONS

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 may hold bingo occasions during the time it holds a valid license. W. Va. Code § 47-20-3. Typically, this means that the organization must have a business registration certificate from the West Virginia Tax Division and be registered as a business organization with the West Virginia Secretary of State.

Organizations may also be required to register as charities under the Solicitation of Charitable Funds Act. For information, call the Secretary of State, Charities Division, at: (304) 558-8000 or charities@wvsos.com.

The applicant **MUST** be a "charitable or public service organization." The West Virginia Code defines a "charitable or public service organization" as:

"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.

W. Va. Code §47-20-2(d)

To qualify as a "charitable or public service organization" under state law, the applicant **MUST** be:

- (1) Bona Fide - "Bona Fide" means legitimate. The organization must legally exist under State law.
- (2) Not for profit - "Not for profit" means that the organization **MUST** not realize a profit for itself from its activities.
- (3) Tax exempt - An organization or association is tax exempt if it is, and has received a determination letter from the IRS stating that the organization is exempt from federal income tax under subsection 501(a), and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), and 501(d) of the Internal Revenue Code.
 - 501(c)(3) Organizations that are organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes; to foster national or international amateur sports competition; or for the prevention of cruelty to children or animals.
 - 501(c)(4) Civic leagues, social welfare organizations, and local associations of employees.

501(c)(8) Fraternal beneficiary societies, orders or associations.

501(c)(10) Domestic fraternal societies, orders or associations.

501(c)(19) Veterans' organizations.

501(d) Religious and apostolic associations.

Additionally, volunteer fire departments, rescue units, other similar volunteer community service organizations or associations, churches, or government subdivisions are eligible to apply for a charitable bingo license, even though they may not be required to have an I.R.S. exemption letter. W.Va. Code § 47-20-2(7)(d)

HOW TO OBTAIN A CHARITABLE BINGO LICENSE

An application shall be filed not less than 60 days before the date when the applicant intends to hold its first bingo occasion. The date the application is received by the Tax Commissioner shall begin the sixty day filing period. No bingo occasion may be held until an application has been approved by the Tax Commissioner and the bingo license has been received W. Va. Code § 47-20-3.

Renewals are not subject to the sixty-day filing period but should be filed prior to the expiration of the current license in order to avoid an interruption in the licensee's bingo activities.

An application for a charitable bingo license can be downloaded from the State Tax Division website at tax.wv.gov/Business/BusinessRegistration/Pages/BusinessRegistration.aspx or by contacting the West Virginia Tax Division at (304) 558-3333.

INSTRUCTIONS FOR COMPLETING A CHARITABLE BINGO LICENSE APPLICATION

No one may legally conduct a bingo game in West Virginia without first obtaining a charitable bingo license from the West Virginia Tax Division. If the application is for a new license, there is a mandatory 60-day filing period that must be observed before any bingo activities may be conducted. Charitable bingo licenses can be obtained by filing an application for a bingo license (form WV/BGO-1).

HEADING

The heading of the application form must include the name and address of the organization that is applying for the license, and the federal identification number or account number issued to the organization by letter from the West Virginia Tax Division.

IS THIS A RENEWAL APPLICATION?

If the application is for a license renewal, the mandatory 60-day filing period may be waived. Licensees are urged to file their renewal applications prior to the expiration of their current license, to avoid interruption in their bingo activities. You may not conduct any bingo activities if you do not have a current valid bingo license.

PHONE NUMBER

If the organization has a telephone number, it must be provided. If the organization has no telephone, then the address and telephone number of the person applying for the license must be provided.

NAME AND ADDRESS OF STATE OR NATIONAL ORGANIZATION

If the applicant is a local branch or lodge of a state or national organization, it must provide the name and headquarters address of the state or national organization with which it is affiliated.

SECTION 1 - TAX-EXEMPT STATUS:

A copy of the organization's IRS determination letter must accompany the application. Exempt organizations that do not have an IRS determination letter must attach a letter explaining the nature of their exempt status.

For example: volunteer fire departments, rescue units, other similar volunteer community service organizations or associations, churches, or government subdivisions are eligible to apply for a charitable bingo license, even though they may not be required to have an IRS exemption letter.

The West Virginia Tax Division does not issue tax exemptions, but it recognizes exemptions issued by the Internal Revenue Service. You should consult the IRS if you have questions about the tax exempt status of your organization.

SECTION 2 - TYPE OF LICENSE:

Select the type of license that best suits your organization's needs (See page 9 for further information on license types):

- **ANNUAL LICENSE - \$500.00:** An annual license entitles an organization to conduct up to two bingo occasions per week for the calendar year.
- **ANNUAL SENIOR LICENSE - \$50.00:** Bona fide senior citizen organizations pay a reduced rate for the annual bingo license. See the description of an annual license for limitations on the number of bingo occasions.
- **ANNUAL LICENSE - \$200.00:** Volunteer or nonprofit groups with gross revenues of less than \$20,000 per year pay a reduced rate for the annual bingo license. See the description of an annual license for limitations on the number of bingo occasions.
- **LIMITED LICENSE - \$100.00:** A limited occasion license is issued for a specified period of time, and entitles the organization to conduct one bingo occasion every 24 hours for up to two weeks. If two or more organizations wish to conduct a joint bingo occasion, each participating organization must obtain a limited occasion license. An organization that does not hold an annual license may obtain up to three limited occasion licenses per year. An organization that

holds an annual license may obtain one limited occasion license per year.

- **STATE FAIR LICENSE - \$500.00:** This license type is issued only to the West Virginia State Fair Board.
- **SUPER LICENSE - \$5,000.00:** A super bingo license entitles an organization to conduct one super bingo occasion each month for a calendar year. An organization may award prizes up to fifty thousand dollars at a super bingo occasion. Any organization that holds an annual or limited occasion bingo license may obtain a super bingo license.

SECTION 3 – LOCATION OF BINGO OCCASIONS

List the address or location of the premises where bingo games will be held. Bingo occasions must be conducted in the county where the organization is principally located, unless otherwise approved in writing by the West Virginia Tax Division.

Indicate whether you own the premises, or are renting or leasing the premises.

List the name of the owner of the premises.

If you are renting or leasing the premises, copies of all rental or lease agreements must be attached. Rental agreements that are not reflective of the fair market value may be disapproved by the Tax Commissioner.

SECTION 4 - DATES AND TIMES OF ANNUAL AND SENIOR BINGO

Indicate the date of the first bingo occasion to be held under the license. Circle the days of the week when bingo occasions will be held, and indicate the playing times of regularly scheduled bingo games. If you wish to conduct games on days or at times other than those indicated on the application, you must obtain written permission from the West Virginia Tax Division.

SECTION 5 - DATES AND TIMES OF LIMITED BINGO OCCASIONS

Specify the dates and times that you intend to conduct limited bingo occasions. The limited occasion license is good only for the specified dates. If you wish to conduct games at dates or times other than those specified, you must obtain written permission from the State Tax Division.

SECTION 6 - DATES AND TIMES OF STATE FAIR BINGO OCCASIONS

Attach a copy of any lease agreement between the State Fair Board and the persons who will be conducting the State Fair Bingo occasions. Indicate whether the persons who will be conducting the State Fair Bingo occasions have conducted Bingo at the State Fair for at least 2 years prior to the current license application. Indicate the date of the first bingo occasion to be held under the license, and the hours that bingo occasions will be conducted.

SECTION 7 - DATES AND TIMES OF SUPER BINGO OCCASIONS

Indicate the date and time of each scheduled super bingo occasion.

SECTION 8 - PROOF OF EXISTENCE

In order to qualify for a bingo license, your organization must provide proof that it has been in existence in West Virginia for two years prior to the date of filing the application. Documentary proof may include a copy of your organization's Certificate of Registration issued by the Secretary of State

and a copy of a business registration certificate issued by the West Virginia Tax Division. These documents are not required from organizations that are applying to renew their license, and have previously provided them.

SECTION 9 – CONCESSIONS

If a concession is to be operated by someone other than the licensee, a copy of any written agreement, or an explanation of any oral agreement, between the licensee and the concession operator must be attached to the application.

SECTION 10 NAMES OF OFFICERS OF ORGANIZATION

List the names, home addresses and home telephone numbers of all of the officers, members of the board of directors, governors, or trustees of the organization. If necessary, attach a separate sheet.

SECTION 11 – PERSONS IN CHARGE OF BINGO

List the names, titles, home addresses and home telephone numbers of persons in charge of bingo occasions. These persons must be bona fide active members of the organization and residents of the State of West Virginia. Annual licenses require 3 names. Limited licenses require at least two names. One of these persons must be present at all times bingo is conducted. All persons in charge of bingo must be over 18.

SECTION 12 – NAME OF HIGHEST ELECTED OFFICER AND DESIGNEE

List the names, titles, home addresses and home telephone numbers of the highest elected officer of the licensee and his or her officially appointed designee. One of these persons must be present at all times bingo is conducted.

SECTION 13

Indicate by circling the appropriate answer whether the organization has ever been denied a bingo license, or whether any previous license issued to the organization has been revoked or suspended. If the answer is "yes," attach an explanation on a separate sheet.

Indicate whether any member of the organization who will participate in any way in the conduct of bingo has been convicted of a felony, or a misdemeanor for a gambling offense within the previous ten years. If the answer is "yes," attach an explanation on a separate sheet.

SECTION 14 – DISPOSITION OF PROCEEDS

List the organization(s)/recipient(s) to which proceeds will be donated, using a separate sheet if necessary.

Indicate whether the recipient has a tax exempt status letter from the IRS.

Indicate the intended organization(s)/recipient(s) intended use of the proceeds. .

SECTION 15 – AGREEMENT

By signing the application form, the authorized representative of the organization is affirming that the

persons in charge of the organization's bingo operations and the officers of the applicant organization understand:

- (1) That it is a violation of the law to allow any unauthorized persons to conduct any part of the bingo games or concessions;
- (2) That the organization is required to file the reports and keep the records as provided by the law; and
- (3) That it is a crime to violate the provisions of the charitable bingo laws, and, in addition, that a violation may result in suspension or revocation of the organization's license and denial of future licenses.

By signing the application, the authorized representative of the organization is certifying that the information in the application is true to the best of his or her knowledge.

Tip: To avoid delays, make sure your application is complete, your check for the appropriate fee, your IRS exemption letter (not required for renewals) and all other supporting documents, copies of all leases or rental agreements, and the signature of the person submitting the application. **If the application form is not complete, your license will be denied.**

The completed application form, along with a check for the applicable license fee, and supporting documentation should be mailed to the West Virginia Tax Division, P.O. Box 2666, Charleston, West Virginia 25330-2666.

TYPES AND COSTS OF CHARITABLE BINGO LICENSES

Annual License - W. Va. Code § 47-20-4

Fees for annual licenses are:

ANNUAL LICENSE	\$500
ANNUAL FEE (BINGO OCCASIONS GROSSING LESS THAN \$20,000 ANNUALLY)	\$200
ANNUAL FEE (BONA FIDE SENIOR CITIZEN ORGANIZATIONS)	\$50

W. Va. Code § 47-20-6.

- An annual license is good for one year from the date of issue. All annual licenses run from January 1 through December 31. If the application is received after January 1, the first year's license fee will be prorated in order to keep all renewals on a calendar year basis.
- An annual license entitles the licensee to hold no more than two bingo occasions a week. An organization that does not have a license cannot conduct a bingo occasion on another

organization's license. No bingo license may be transferred. W. Va. Code §47-20-3. No bingo occasion held under an annual license may exceed six hours' duration.

- No two or more organizations may hold a joint bingo occasion under any annual license. However, joint occasions may be held under limited occasion licenses.

Limited Occasion License - W. Va. Code §47-20-5

Limited Occasion License Fee - \$100

- A limited occasion license is valid only for the time period specified in the application.
- A limited occasion license entitles 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.
- An organization that holds an annual license and wishes to conduct a limited bingo occasion must also obtain a limited occasion license. However, no licensee which holds an annual license may obtain more than one limited occasion license per year.
- No more than three limited occasion licenses per year may be granted to an organization which does not hold an annual license.

Super Bingo License - W. Va. Code § 47-20-6a

Super Bingo License Fee - \$5,000

- A super bingo license entitles the organization to conduct one super bingo occasion a month.
- An organization with an annual or limited license can also obtain a super bingo license. A charitable or public service organization does not have to have an annual or limited license in order to obtain a super bingo license.
- Up to fifty thousand dollars (\$50,000) in prizes may be awarded at any one super bingo occasion. This limit applies unequivocally per occasion.
- If an organization holds a super bingo occasion in conjunction with a regular bingo occasion conducted under its annual license, the prizes awarded under the annual license may not exceed ten thousand dollars for that occasion. 110 CSR 16-11.

State Fair Bingo License - W. Va. Code § 47-20-22

State Fair Bingo License Fee - \$500

- The West Virginia State Fair Board may apply annually for a State Fair bingo license to provide for the conduct of bingo occasions at the State Fair. The license allows the West

Virginia State Fair Board to have one or more persons conduct the bingo occasions at the State Fair.

- The persons conducting State Fair bingo occasions shall have conducted bingo occasions on a regular basis for at least two years prior to the date of the State Fair application.
- Several statutory provisions do not apply to state fair licenses. These are: W. Va. Code §47-20-10 (limits on prizes awarded); W. Va. Code §47-20-11(restrictions on operators of bingo games);W. Va. Code §47-20-12 (compensation prohibitions);W. Va. Code §47-20-15 (payment of reasonable expenses and net proceeds disbursement); and W. Va. Code §47-20-28 (restrictions on use of bingo equipment).

MODIFICATION OR AMENDMENT OF LICENSE

VENUE

Normally, a licensee must conduct its bingo occasions in the county where the organization is principally located. The county shown on the licensee's business registration certificate as its physical business location is the county where it is considered to be principally located.

However, if a licensee organization, in good faith, finds itself unable to comply with this requirement, it may apply to the Tax Commissioner for permission to conduct bingo occasions in a location other than the county within which it is principally located. This alternate location must be either in a contiguous county or, be no more than thirty air miles from the county where the organization is principally located. The request should be made in writing no later than sixty days before any scheduled bingo occasion. W.Va.Code § 47-20-5a.

OTHER CHANGES

Additionally, if circumstances beyond the control of the licensee organization prohibit it from holding any bingo occasion in accordance with the information provided in its license application form, the licensee organization may request approval by the commissioner to either modify (request temporary change) or amend (request a permanent change) its original license. The request should be in writing. W. Va. Code § 47-20-8.

If any other information on the license application changes during the course of the license year, such as a change in officers or persons responsible for the conduct of bingo occasions, or a change in organizations to which proceeds are to be donated, the Tax Division should be informed, in writing, as soon as possible.

BINGO OPERATORS

WHO MAY CONDUCT BINGO

The only persons who may participate in any manner in the conduct of bingo games or operate a concession on behalf of the licensee are:

- (1) Residents of West Virginia who are active members of the licensee organization or its

auxiliary organization and have been active members in good standing for at least two years prior to the organization's filing of the application for license or renewal of its license; or

- (2) Employees of the licensee organization or its authorized auxiliary organization who are:
 - a. Residents of West Virginia;
 - b. Residents of a state bordering West Virginia if their county of residence is contiguous to the West Virginia county where the bingo operation is conducted; or
- (3) Residents of a bordering state who reside within thirty-five miles of the West Virginia county where the bingo operation is conducted.

W. Va. Code § 47-20-11 and 47-20-12a.

No individual under the age of eighteen years may directly or indirectly participate in the conduct of a bingo game, except for junior firefighters. W. Va. Code §47-20-11. Junior volunteer firefighters sixteen years of age or older may assist in the conduct of bingo conducted by their company if they are supervised by a senior member of the company over the age of twenty-one. W. Va. Code §47-20-4.

Bingo operations may be staffed by either paid operators who meet the requirements set forth above or volunteers. Volunteers must have had some meaningful affiliation with the organization for at least one year prior to the organization's current license year.

COMPENSATION OF OPERATORS

Except as provided below, no individual who participates in any manner in the conduct of 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. W. Va. Code §47-20-12.

Licensees may pay a salary to operators of bingo games who are either:

1. Active members of the licensee organization who have been active members in good standing for at least two years, or,
2. Employees of the licensee organization or its authorized auxiliary organization who are:
 - a. Residents of West Virginia;
 - b. Residents of a state bordering West Virginia if the county of his or her residence is contiguous to the West Virginia county where the bingo operation is conducted; or
 - c. Residents of a bordering state who reside within thirty-five miles of the county where the bingo operation is conducted.

The number of allowable paid operators is based on the gross receipts as reported in the licensee's

most recent annual financial report. W. Va. Code § 47-20-12a(b)ff:

<u>GROSS RECEIPTS</u>	<u>NUMBER OF PAID OPERATORS</u>
LESS THAN \$50,000	3
\$50,000 OR MORE, BUT LESS THAN \$100,000	5
\$100,000 OR MORE	8
SUPER BINGO LICENSE	15

Organizations holding simultaneous bingo and raffle occasions must pay bingo workers from the bingo account. The number of raffle workers is in addition to the number of bingo workers. W. Va. Code §47-20-12a.

Workers may be paid not less than \$7.25 per hour (the federal minimum wage) or more than \$10.50 per hour (120% of the State minimum wage). W. Va. Code §47-20-12a.

Since wages paid to operators are part of the expense of conducting bingo occasions, these payments must be made by checks drawn on the licensee's bingo account. W. Va. Code §47-20-16.

Concession workers cannot be paid more than \$10.50 per hour. W. Va. Code §47-20-12a(g).

Security workers may be paid a reasonable rate and must be licensed pursuant to the provisions of W.Va. Code §30-18-1 et seq.

Any compensation received by the licensee for allowing another individual or organization to operate concessions at bingo occasions must be donated to charitable or public service purposes. Except for salaries paid to concession workers, net proceeds derived from the sale of concessions by either the licensee or other individual or organization must be donated to charitable or public service purposes as specified by W. Va. Code §47-20-2(c).

MISCELLANEOUS PROVISIONS

DISPLAY OF LICENSE

A bingo license must be conspicuously displayed at the location where the bingo occasion is held.

RESTRICTIONS ON USE OF BINGO EQUIPMENT

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. W. Va. Code §47-20-28. A licensee may not use bingo equipment provided through a borrowing or leasing arrangement by a vendor or donor unless the vendor or donor has a charitable bingo license. This restriction does not apply to holders of a State Fair bingo license. W. Va. Code §47-20-22.

PRIZES

The average total prizes awarded by a licensee for all bingo occasions held under an annual or limited occasion license may not exceed ten thousand dollars in value per occasion. W. Va. Code §47-20-10. This does not mean that an organization may not pay out more than ten thousand dollars at any bingo occasion. For example:

Organization C conducts bingo on Thursday and Saturday. At its Thursday bingo, it pays out \$15,000 in prizes. At its Saturday bingo, it pays out \$5,000. Thus, Organization C's average payout does not exceed the \$10,000 limitation.

If an organization holds a Super Bingo occasion in conjunction with a regular bingo occasion, the prizes awarded under the annual license may not exceed ten thousand dollars for that occasion. Prizes may be money or merchandise, but they may not be beer, wine, spirits or alcoholic liquor. W. Va. Code §47-20-10.

If prizes are merchandise, the value assigned to them is their fair market value at the time of purchase. W. Va. Code §47-20-10.

Prizes are considered taxable income, and may be subject to Federal withholding. Consult IRS Publication 3079, *Gaming Publication for Tax-exempt Organizations*, for further information. There is no West Virginia withholding tax on bingo prizes.

WHO MAY PLAY BINGO

All bingo occasions must be open to the public. W. Va. Code §47-20-4.

No individual under the age of eighteen may play any bingo game. An individual under the age of eighteen may attend a bingo game when accompanied by and under the supervision of an adult relative or legal guardian.

Bingo workers and operators may not play in bingo games at which they are working or assisting. A licensee may not allow an individual who is not present to play any bingo games.

CHECKS

At any bingo occasion the licensee may cash personal checks from its bingo account in an amount not to exceed one hundred dollars (total) for any one player. No checks or money orders may be accepted in payment for a bingo game.

SMOKING AND NONSMOKING SECTIONS

Any bingo licensee who distributes more than one hundred bingo cards or bingo sheets at any bingo occasion shall provide a smoking and nonsmoking section, if smoking is permitted by the licensee organization.

ALCOHOLIC BEVERAGES OR NONINTOXICATING BEER

Under no circumstances may the sale or consumption of alcoholic beverages or nonintoxicating beer

be permitted in any area where bingo is conducted. .

OTHER GAMES OF CHANCE

No games of chance other than bingo or raffles may be conducted or allowed at any bingo occasion.

LICENSEE RULES

A licensee organization may adopt any house rules it desires, as long as they are consistent with the State Code. House rules should be available for inspection at all bingo occasions. W. Va. Code § 47-20-9.

EXPENSES

GROSS PROCEEDS - W. Va. Code §47-20-2(1)

"Gross proceeds" means all money collected or received from the conduct of bingo at all bingo occasions held by a licensee during a license period. "Gross proceeds" does not include money collected or received from the sale of concessions at bingo occasions.

EXPENSES - W. Va. Code 47-20-15(a)

GENERAL RULE FOR EXPENSES

The "reasonable, necessary and actual" expenses incurred in connection with the conduct of charitable bingo occasions may be paid out of the gross proceeds of the conduct of bingo.

To be considered qualified operating expenses, they must meet three criteria:

1. Expenses must be "reasonable," that is, indicative of fair market value. The Tax Commissioner has the authority to disapprove any contract for sale of goods or services, or any lease of real or personal property used in connection with charitable bingo activities if it is unreasonable or not representative of fair market value.
2. Expenses must be "necessary," that is, they must be related to the actual conduct of the charitable bingo activities.
3. Expenses must be "actual," that is, the licensee organization must be able to prove the amounts it expended.

Total expenses for the conduct of bingo occasions may not exceed twenty-five percent of the gross proceeds collected during a license period.

EXPENSES THAT CAN BE PAID FROM BINGO PROCEEDS

The following are examples of qualified operating expenses that can be paid entirely from charitable bingo proceeds. These expenses must be reported in the annual financial return under "Expenses."

- a. Salaries and related payroll taxes for personnel whose only duties are working in connection

with the bingo occasion. Bingo workers can be paid for no more than twenty hours a week.

- b. Rent of a facility used solely for bingo. Rent must be indicative of fair market value.
- c. Utilities and insurance costs paid on a facility used solely for bingo.
- d. Accounting or bookkeeping services incurred solely in connection with bingo.
- e. Custodial services incurred solely in connection with bingo.
- f. The cost of equipment and supplies used solely in connection with bingo.
- g. Advertising costs incurred solely in connection with bingo.
- h. Security personnel costs incurred solely in connection with bingo.
- i. The cost of providing childcare services for bingo patrons.
- j. The cost of maintenance, repairs or improvements incurred solely in connection with bingo.

Examples of "qualified operating expenses" that can be prorated so that a portion may be paid from charitable bingo proceeds:

- a. A portion of the rent for a facility that is used not only for bingo, but for other non-related purposes as well. A copy of the rental agreement MUST be filed with the license application. Rent MUST be indicative of "fair market value".
- b. A portion of the insurance paid on a facility that houses bingo as well as being used for other purposes.
- c. A portion of the salaries and related payroll taxes of employees whose responsibilities include performing bingo related activities, in addition to other unrelated duties.
- d. A portion of the utilities paid on a facility that is used not only for bingo, but for other purposes as well.
- e. A portion of the total cost of security personnel or a security system for a facility that houses bingo as well as serving other purposes.
- f. A portion of the custodial service expenses for a facility that is used not only for bingo, but for other purposes as well.

- g. A portion of repair and maintenance costs for a facility that houses bingo as well as being used for other purposes (for bingo purposes, a portion of the costs for improvements to a facility can also be paid from bingo proceeds).

EXPENSES THAT CANNOT BE PAID FROM BINGO PROCEEDS

Gross proceeds from any bingo operation may not be devoted or in any manner used by either a licensee organization or a qualified recipient organization for the construction or acquisition of real or personal property, except that which is used exclusively for charitable or public service purposes or, for equipment and supplies used to conduct the charitable bingo occasion. W. Va. Code §47-20-15(d).

This prohibition includes mortgage payments on a facility, whether it is used for charitable bingo purposes or not. Unless the facility is used exclusively for charitable or public service purposes, charitable bingo proceeds cannot be used for its construction or acquisition.

Other expenses of the licensee organization that are not incurred in connection with the conduct of charitable bingo cannot be paid, in whole or in part, with bingo proceeds. Also, the cost of refreshments sold or otherwise provided to patrons may not be paid out of bingo proceeds. W. Va. Code §47-20-15(c). If a question arises concerning whether proposed expenses are allowable or not, the licensee should contact the West Virginia Tax Division at (304) 558-3333 for assistance.

PRORATING EXPENSES

Two methods may be used to determine what percentage of an organization's qualified operating expenses is incurred in connection with the charitable bingo operation and may be reimbursed from charitable bingo proceeds.

METHOD ONE: TIME ALLOTMENT

The first method is based upon the percentage of time the facility is used exclusively for the conduct of bingo. This method requires that, during charitable bingo occasions, the expense incurred not be related to any non-bingo purpose. The percentage is determined by simply dividing the number of hours the facility is used exclusively for bingo by the total number of hours the facility is used for all purposes, including bingo.

EXAMPLE

A licensed organization holds charitable bingo occasions two days a week. During these occasions, the building is not used for any other purpose. Each occasion lasts six hours, but the facility is actually utilized for ten hours for each occasion (this would include two hours before the bingo occasion starts and two hours after it ends). Therefore, the building is used twenty hours a week for bingo. During a one-month period there are eight bingo occasions, representing eighty hours of usage.

The building is used for non-bingo related activities for thirty hours each week (one hundred twenty hours a month). The building is used a total of two hundred hours each month (eighty

hours for bingo plus one hundred twenty hours for non- bingo purposes). Charitable bingo usage represents forty percent of the building's use (eighty hours divided by two hundred hours). Therefore, forty percent of the qualified operating expenses for the building may be paid from bingo proceeds.

This method can be similarly applied to salaries when a worker is paid for several different jobs at different times. While working the bingo occasion, the worker cannot perform non-bingo-related duties. Further, it must be readily apparent what portion of the worker's salary (hours worked) is incurred for charitable bingo operations.

METHOD TWO: PERCENTAGE OF TOTAL REVENUES

If the organization conducts bingo at the same time it is carrying on non-bingo-related activities, it must use this method to determine what percentage of its qualified operating expenses may be prorated from its bingo account.

1. Take Gross Proceeds (total sales of bingo packets, admission receipts, bingo supplies, etc.).
2. Subtract the Prize payouts (cash and the fair market value of non-cash prizes awarded) from Gross Proceeds. The difference is Bingo Revenue.
3. Add the Bingo Revenue to all other revenue (dues, bar sales, food sales, donations, vending machine income, special project revenue, rental income, etc.). This gives you the Total Revenue of the organization.
4. Divide the Bingo Revenue by Total Revenue. This gives you the percentage of the organization's qualified operating expenses that can be paid from Bingo Revenue. Remember, total expenses paid from bingo funds cannot exceed 25% of Bingo Gross Proceeds.

EXAMPLE 1

Bingo Gross Proceeds	\$100,000
Less prizes	<u>-80,000</u>
Bingo Revenue	\$20,000

Bingo Revenue	\$20,000
Other Revenue of the Organization	<u>+5,000</u>
Total Revenue of the Organization	\$25,000

Then, \$20,000 divided by \$25,000 equals .80 or 80%.

80% of the organization's qualified operating expenses can be paid from Bingo Revenue as expenses incurred in connection with bingo operations, as long as total bingo expenses do not exceed 25% of bingo gross proceeds (in this instance \$25,000). Since Bingo Revenue is only \$20,000, then expenses would be limited to \$20,000.

EXAMPLE 2

Bingo Gross Proceeds	\$100,000
Less prizes	<u>-70,000</u>
Bingo Revenue	\$30,000
Bingo Revenue	\$30,000
Other Revenue of the Organization	<u>+70,000</u>
Total Revenue of the Organization	\$100,000

Then, \$30,000 divided by \$100,000 equals .30 or 30%.

30% of the organization's qualified operating expenses can be paid from Bingo Revenue as expenses incurred in connection with bingo operations, as long as total bingo expenses do not exceed 25% of bingo gross proceeds (in this instance, \$25,000).

Since Bingo Revenue is \$30,000, at least \$5,000 (\$30,000 minus \$25,000) must be distributed for charitable or public service purposes.

EXAMPLE 3

Bingo Gross Proceeds	\$100,000
Less prizes	<u>-70,000</u>
Bingo Revenue	\$30,000
Bingo Revenue	\$30,000
Other Revenue of the Organization	<u>+20,000</u>
Total Revenue of the Organization	\$50,000

Then, \$30,000 divided by \$50,000 equals .60 or 60%.

60% of the organization's qualified operating expenses can be paid from bingo revenue as expenses incurred in connection with bingo operations, as long as total bingo expenses do not exceed 25% of bingo gross proceeds (in this instance \$25,000).

Since Bingo Revenue is \$30,000, at least \$5,000 (\$30,000 minus \$25,000) must be distributed for charitable or public service purposes.

DISBURSEMENT OF NET PROCEEDS

W. Va. Code §47-20-2(1)

All net bingo proceeds and any interest earned on them must be donated to the charitable or public service purposes stated in the organization's license application within one year after the end of the license year in which the games were conducted. W. Va. Code § 47-20-15 (c).

CHARITABLE OR PUBLIC SERVICE PURPOSES - W. Va. Code § 47-20-2(c)

A "charitable or public service activity or endeavor" is any bona fide activity or endeavor that directly benefits a number of people by:

- Contributing to educational or religious purposes.
- Relieving them from disease, distress, suffering, constraint or the effects of poverty.
- Promoting patriotism and good citizenship.
- Publicizing issues of public concern (as long as the activity is not aimed at supporting or participating in any candidate's campaign for public office).
- Lessening the burden borne by government or supporting, augmenting or supplementing services normally borne by government.
- Providing or supporting nonprofit community activities for youth, senior citizens or the disabled.
- Providing or supporting nonprofit cultural or artistic activities.

HOW TO CALCULATE NET PROCEEDS

After subtracting the expense of the prizes awarded and the qualified operating expenses from gross proceeds, the remainder is net proceeds:

$$\text{GROSS PROCEEDS} - \text{PRIZES} - \text{QUALIFIED OPERATING EXPENSES} = \text{NET PROCEEDS}$$

Net proceeds from one license year cannot be used to cover expenses or prize payouts incurred during subsequent periods.

If a licensee, in good faith, finds itself unable to comply with this requirement, it may apply to the Tax Commissioner for permission to expend its net proceeds for charitable or public service purposes other than those stated in its license application or for permission to expend its net proceeds later than one-year time period. The request should be submitted in writing no later than sixty days before the end of the one-year time period. If the request is approved, the licensee may be required to file periodic reports with the Tax Commissioner until the proceeds are expended.

RECORDKEEPING

A licensee must maintain a separate checking account and separate bookkeeping procedures for its bingo operations. W. Va. Code §47-20-16.

Expenses **MUST** be paid by checks having preprinted consecutive numbers and made payable to a specific person, firm or corporation. At no time may checks be written payable to "cash." Expenses cannot be paid in cash. It is acceptable to write checks to a payroll account if backup documentation, detailing the payroll expenses attributable to charitable bingo activities, is submitted with the bingo financial reports.

Bingo and raffle funds may not be commingled. Organizations holding simultaneous bingo and raffle occasions should pay bingo workers and other bingo expenses from the bingo account. However, the law allows money to be transferred from the raffle account to the bingo account to cover losses for a particular bingo occasion. The money should be transferred by check, as any other raffle expense.

All bingo records must be maintained for at least three years.

If there is reasonable cause to believe the bingo laws have been violated, the Tax Commissioner may order an audit of the licensee's books and records. Whenever any licensee awards total prizes in excess of one hundred seventy-five thousand dollars (\$175,000) during the license period, the licensee's books must be audited.

FINANCIAL REPORTS

Each organization holding an annual license must file quarterly and annual financial reports with the Tax Commissioner summarizing bingo operations for the period covered by the report.. A quarterly report must be filed within 20 days after the end of the quarter it covers. The annual report must be filed within 30 days after the expiration of the license under which the operations covered by the report are held. The filing dates for bingo reports under an annual license are:

First Quarter Report	April 20
Second Quarter Report	July 20
Third Quarter Report	October 20
Fourth Quarter Report	January 20 (of the following year)
Annual Report	January 30 (of the following year)

A financial report for a limited occasion license or State Fair license must be filed with the Tax Commissioner within 30 days after the license period.

Financial reports **MUST** contain the names, addresses and social security numbers of all players who win prizes that total over one hundred dollars at one bingo occasion. A player who wins a \$75 bingo, then later that night wins a \$25 bingo, need not be reported, because the total prizes are not over one hundred dollars. However, if that player wins any more bingo prizes at that occasion, it must be reported. Certain information on the financial reports may be disclosed to the public. However, social security numbers of

bingo prize winners will not be disclosed.

INSTRUCTIONS FOR FORM WV/BGO-3
(Super, Annual, Limited and State Fair Bingo Financial Reports)

Bingo financial reports are filed quarterly and annually on the WV/BGO-3.

HEADING

The heading of the financial report must include the name and address of the organization that holds the license, and the account number issued to the organization by letter from the West Virginia Tax Division.

REPORT PERIOD

Indicate the report period in the box provided. Quarterly reports are due within 20 days after the end of the calendar quarter covered by the report. Annual, limited occasion, super or State Fair bingo reports are due 30 days after the expiration of the license. Check the box provided if the report is an annual report.

TYPE OF LICENSE

Indicate by checking the appropriate box which type of license the report covers. Also, indicate the number of bingo occasions that were conducted during the period covered by the report.

CALCULATION OF ENDING BALANCE

(Complete schedules A, B and C on page 2 before filling out this section.)

Line 1 - Enter the total amount of receipts from Schedule A, Line 5.

Line 2 - Enter the total amount of prizes from Schedule B, Line 5.

Line 3 - Enter the total amount of bingo expenses from Schedule C, Line 8.

Line 4 - To calculate the net profit or loss, subtract Lines 2 and 3 from Line 1. Place negative figures (loss) in parentheses.

Line 5 - Beginning Balance - Enter the unexpended balance from the previous period's financial report. The unexpended balance is the amount from Line 9 of the previous period's financial report. If this is a quarterly report, refer back to the last quarterly report. If it is an annual report, refer back to the last annual report.

Line 6 – Enter the total of the deposits into your bingo account for the period reported.

Line 7 -- Adjustments in Bingo Account - This will include all other deposits or credits not included on Line 6, including money transferred from the bingo account.

Line 8 – Amounts Contributed this Period – Enter the amount of charitable donations made from your organization's bingo account during the period being reported.

Line 9 – Ending Unexpended Balance – Enter the unexpended balance of the bingo account for this reporting period. (Line 4 plus line 5 plus (or minus) line 6, plus (or minus) line 7 minus line 8.) The unexpended balance reported should be the same amount reported in the bingo bank account at the end of the reporting period. This amount must be distributed for charitable or public service purposes during the twelve-month period immediately following the end of this reporting period.

CONCESSIONS

Enter the name of the concession operator, if it is not the licensee.

Calculate the net profit or loss: Line 1 minus Line 2 will equal net profit (line 3).

NAME OF THE BANK AND BINGO CHECKING ACCOUNT NUMBER

Enter the name of the bank where the bingo checking account is held, along with the account number.

SCHEDULE A – RECEIPTS FOR REPORTING PERIOD

Line 1 - Admission or Receipts – If admission is charged for the bingo occasions, it must be reported here. Also, include all revenue generated through bingo card sales and any donations that are received related to card sales.

Line 2 - Sales of supplies – Enter all revenue generated from selling bingo supplies, daubers, souvenirs, mementos, etc.

Line 3 - Donated prizes – Enter the fair market value of all prizes donated to the licensee. When a prize is purchased for less than the fair market value, then the difference of the fair market value and the purchase price must be reported.

Line 4 - Enter all other receipts received by the licensee.

Line 5 - **TOTAL RECEIPTS** – Enter the sum of lines 1 through 4. Also, enter this amount on page 1, line 1.

SCHEDULE B - PRIZES

Line 1 - Report the amount of money, cash and checks, awarded as prizes here. .

Line 2 - Report the cash value of all merchandise prizes purchased by the licensee and awarded as prizes here.

Line 3 - Report the fair market value of all prizes donated to the licensee and awarded as prizes here.

Line 4 - Report the fair market value of all other prizes (door prizes, winner take all, penny games, etc.) awarded in conjunction with bingo occasions here.

Line 5 - **TOTAL ALL PRIZES** – Enter the sum of lines 1 through 4. Also, enter this amount on page 1, line 2.

SCHEDULE C - EXPENSES

Line 1 - Enter the amount of rent paid for the premises where the bingo occasions are held..

Line 2 - Enter the advertising expenses for bingo occasions.

Line 3 - Enter the custodial expenses related to bingo operations.

Line 4 - Enter the cost of equipment and supplies. If payments are being made on equipment purchased during a prior reporting period, then only those payments made during this reporting period should be included.

Line 5 - Report any payments to security personnel for bingo occasions.

Line 6 - Report the total salaries/wages paid to bingo workers/operators – A list of the names of workers and payments to individual workers must be attached.

Line 7 - Enter ALL other expenses incurred during the reporting period and related to bingo operations. This includes fees for professional services, such as legal expenses and accounting fees, related to the bingo operations. Include an explanation of all expenses listed on this line.

Line 8 - **TOTAL BINGO EXPENSES** – Add lines 1 through 7. By State law, expenses cannot total more than twenty-five percent of Gross Receipts. Enter this amount on page 1, line 3.

PAGE 3 - LISTING OF CHECKS

Provide a detailed list of all checks paid out of the bingo account, using additional sheets, if needed.

SCHEDULE 1 (PAGE 4)

List all winners of prizes totaling more than \$100 at any one bingo occasion. This information is required by W.Va. Code §47-20-24. Failure to report this information, or reporting fraudulent information, may subject the licensee organization to administrative or criminal penalties.

SIGN THE REPORT

If total receipts (Schedule A, line 5) exceed \$50,000, the financial return must be signed by a Certified Public Accountant.

The completed report should be mailed to the West Virginia Tax Division, P.O. Box 2666, Charleston, West Virginia 25330-2666 by the applicable due date.

Late reports are subject to a late fee of \$25 for each month or portion of a month that the report is past due, up to a maximum of \$100. After the maximum penalty is reached, the organization's charitable bingo license will be suspended or revoked.

ADMINISTRATIVE PENALTIES FOR VIOLATIONS OF CHARITABLE BINGO LAWS

W. Va. Code §47-20-24 and 47-20-31

REPRIMAND

Any minor violation of the charitable bingo statutes or legislative rules may result in a reprimand being placed in the licensee's file. If the violation is corrected by the licensee, after being notified by the Tax Commissioner, then no further action will be taken.

For any material violation of the charitable bingo statutes or legislative rules, the Tax Commissioner may impose any one, or any combination, of the following administrative penalties:

ACTIONS AGAINST THE LICENSE:

- **SUSPENSION** for not less than one week nor more than twelve months.
- **REVOCAION**
- **REFUSAL TO RENEW**
- **DENIAL OF LICENSE**

ADDITIONAL PENALTIES:

PROBATION

The Tax Commissioner may place a licensee organization on probation for not less than six months nor more than five years. During that period, the licensee must pay a supervision fee of two percent of its gross bingo proceeds, but not less than two thousand dollars, to the Commissioner.

CIVIL MONEY PENALTY

A licensee may be ordered to pay a civil money penalty of not less than one hundred dollars nor more than two times the annual gross proceeds derived by the licensee.

REMOVAL OF AN OFFICER

The Tax Commissioner may require a licensee to replace an officer who knew or should have known of a material violation of the charitable bingo laws or legislative rules.

PROHIBITION OF PARTICIPATION IN FUTURE BINGO ACTIVITIES

The Tax Commissioner may require a licensee to prohibit one or more members, supporters, volunteers or employees of the licensee involved in acts of material violation from all future bingo occasions held under the license, or for a period of time specified by the Commissioner.

CRIMINAL VIOLATIONS AND PENALTIES

FRAUD

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. W. Va. Code § 47-20-18.

OBTAINING LICENSE FRAUDULENTLY

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. W. Va. Code § 47-20-19.

VIOLATIONS OF OTHER STATUTORY PROVISIONS

Any person who knowingly violates any provision of the charitable bingo law (other than W. Va. Code §47-20-18 and 47-20-19) is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars. Upon a second or subsequent conviction, he shall be fined not less than one hundred or more than one thousand dollars or imprisoned not more than one year or both fined and imprisoned. W. Va. Code § 47-20-20.

WHERE TO FIND ADDITIONAL INFORMATION

CONTACT US:

All questions concerning licensing, or other questions about bingo, should be directed to:

West Virginia Tax Division
P.O. Box 2666
Charleston, West Virginia 25330-2666
Telephone: (304) 558-3333

OTHER SOURCES:

To obtain a West Virginia Business Registration Certificate (Business License), call (304) 558-3333.

To register as a business organization in West Virginia, call the West Virginia Secretary of State, Business Organizations Division, (866) 767-8683 or (304) 558-8000.

To register as a charity in West Virginia, call the West Virginia Secretary of State, Charities Division, (866) 767-8683 or (304) 558-8000.

Copies of West Virginia's charitable bingo statutes (W. Va. Code § 47-20-1, *et seq.*) may be downloaded, free of charge, from the State Legislature's website: (<http://www.wvlegislature.gov>).

Copies of the Legislative Rules concerning charitable bingo (110 C.S.R. 16) may be downloaded, free of charge, from the Secretary of State's website: (<https://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-16>)

IRS Telephone Assistance for Exempt Organizations: 1-877-829-5500

Hours of Operation: Monday - Friday, 8:00 a.m. to 6:30 p.m.