

BINGO GAMES FOR RESIDENTS (Re-print from Nov. 99 Newsletter)

There's just something about the calling of the numbers that has Florida RV park guests glued to their seats. Many who profess some difficulty in hearing have no trouble determining what number was called. It's so popular that many parks have instituted Bingo games for their guests. While this in house Bingo operation is legal, there are very stringent requirements to be followed.

Section 849.0931(4), Florida Statutes, specifically allows RV parks to conduct bingo games. Section 849.0931(1), F.S., defines "Bingo Game" and the various items used to play bingo, such as bingo cards, objects, racks and receptacles. The statute sets forth guidelines by which the bingo games must be conducted:

1. The net proceeds from the bingo games must be returned to the players in the form of prizes, but can first deduct the actual business expenses for articles designed for, and essential to the operation, to conduct and play bingo. If there are any net proceeds still remaining after paying prizes and deducting expenses, there are two options:
 - a) Donate the money to a charitable, nonprofit, or veterans' organization which is exempt from federal income tax under the provisions of Section 501 (c) of the Internal Revenue Code, or
 - b) At the next scheduled day of play conduct the bingo games without any charge to the players and continue to do so until the proceeds carried over from the previous day's play have been exhausted.
2. There shall be no more than 3 jackpots in any one session and on any one day of play. No jackpot can exceed the amount of \$250 and all other game prizes shall not exceed \$50.
- 3.. Bingo cannot be played more than 2 days per week.
4. Each person involved in the conduct of the bingo game must be a resident of the park. This means either site owners or tenants can conduct the bingo games, but not outside guests. No compensation can be paid to any person for operation of the bingo games.
5. A caller in a bingo game cannot be a participant in that bingo game.
6. The group of residents conducting the bingo games is responsible for posting a notice stating the name of the group of residents and the designated members in a conspicuous place on the premises where the bingo session is held.
7. No one under 18 years of age can play a bingo game or be involved in the conduct of a bingo game in any way.
8. The bingo game must be held on the property owned by the RV parks or residents of the RV park or property which is a common area located within the RV park.
9. Seats cannot be held or reserved by the group or anyone involved in the conduction the bingo game for players not present, nor can any cards be set aside, held or reserved from one session to another for any player.

In addition to the above requirements, there are also detailed restriction and specifications for the game pieces, and equipment and for calling the game.

There is no requirement under the state statute for licensing. There are also no requirements under most county or municipal codes for licensing. In most cases, you only need to meet the requirements of the statute set forth above. However, if you willfully and knowingly violate this statute once, you will be guilty of a first degree misdemeanor, punishable by not more than 1 year imprisonment, or a fine not to exceed \$1,000. If you willfully and knowingly violate this statute more than once, you will be guilty of a third degree felony punishable by not more than 5 years of imprisonment, or a fine not to exceed \$5,000.

(Source: Becker & Poliakoff, P.A.)

THE MOST ASKED QUESTIONS
AND THE ANSWERS CONCERNING THE NEW BINGO LAW

1) Q. A parent organization has several bingo chapters in the state. Who gets licensed?

The parent organization?
Each individual chapter?
Organization and chapter?

A. The chapters, not the parent organization, would be licensed since they are the ones actually conducting bingo. However, if the parent organization receives proceeds derived from its member chapters conducting bingo in Florida, the Division may license the state or national organization as well.

2) Q. Section 849.093(7)(c) requires a person taking part in the management or conduct of bingo to have been an active member of the bingo organization for at least 18 months. Does this provision apply to volunteers as well?

A. There is no explicit prohibition against volunteers who have not been active members for 18 months from marginally assisting the bingo committee or member-in-charge. The Division will prescribe the exact function of volunteers by rule.

3) Q. Will the Division require a minimum standard of cash registers to be used by the bingo organization?

A. The Division does not presently plan to require cash registers; the Division will require a progressively numbered admission and sales receipting system.

4) Q. Is it permissible to have two members-in-charge at the same bingo session?

A. No. Section 849.093(7)(b) explicitly provides that one member of the licensee's bingo committee shall be designated as the member-in-charge. However, the member-in-charge may change from session to session upon notification to the Division.

5) Q. For the purpose of record keeping and quarterly reporting, can a licensee prorate its monthly authorized expenses per session?

A. The Division has explicit rulemaking authority regarding record keeping and reporting standards. The Division will determine by rule whether to permit or require depreciation of bingo equipment. Rents generally cannot be prorated.

- 6) Q. Does the provision prohibiting anyone involved in the conduct of any session from reserving bingo equipment or seats apply to players reserving seats or cards for themselves and other players?
- A. No. Section 849.093(1) prohibits reserving seats or cards by those "involved in the conduct of any session..." This section does not prohibit players from holding, saving or reserving seats for other players.
- 7) Q. Is the game called "Progressive Number, Progressive Pot" allowed under the new law?
- A. No. This game does not correspond to the definition of bingo in section 849.093(2)(f).
- 8) Q. Can a service organization lease space from its holding corporation for the conduct of bingo games?
- A. Yes, if the property is used for purposes other than conducting bingo exclusively. The Division may require copies of lease agreements.
- 9) Q. Are bingo marathons allowed under the new bingo law?
- A. Yes. However, the law limits a bingo organization to conduct bingo for no more than two sessions a week, each session of a maximum of six hours. Marathons would only be permitted if several organizations got together to produce extended playing.
- 10) Q. Does a member of the bingo organization who provides security services need to be registered and identified with the appropriate state agency?
- A. Members of the bingo organization may provide security services without compensation provided they are licensed with certain exceptions, as security officers under chapter 493, Florida Statutes. An exception would be an off-duty law enforcement officer.
- 11) Q. Many organizations meet all the bingo licensing requirements except that they are described under subsections of 501(c) of the Internal Revenue Tax Code, which are not included in the bingo law. Are these organizations now ineligible to conduct bingo?
- A. The plain language of section 849.093 indicates that organizations conducting bingo must be described under paragraphs (3), (10), or (19) of subsection 501(c) or Section 528 of the Internal Revenue Code. However, certain members of the Legislature have indicated that they will propose amendments to Section 849.093 of the Florida Statutes during the 1992 legislative session addressing the issue of authorized organizations.

12) Q. A current lessee leases space from company X for the sole purpose of leasing it to charity organizations, along with bingo equipment, for the conduct of bingo games. Since he may no longer lease his space exclusively for the conduct of bingo games, he inquires whether he can lease his bingo equipment to a licensed bingo organization and if he needs a distributor's license.

A. Section 849.093(2)(i) defines a distributor as "any person who sells, leases, or otherwise provides or distributes bingo supplies or equipment to licensees conducting bingo,". Obviously bingo equipment can be leased. The lessor of such equipment must be licensed as a distributor.

13) Q. A bingo organization conducts membership meetings in the same place it conducts bingo games; do the meetings constitute using the premises for "purposes other than conducting bingo" as provided in subparagraphs (3) and (4) of Section 849.093 (11) (a)?

A. Yes, provided the meetings address matters other than bingo.

14) Q. The law requires members of the bingo committee to have been part of the bingo organization for at least 18 months prior to becoming members of the committee. Will members of existing bingo committees who have not been members of the organization for 18 months be grandfathered into the law?

A. No. There is no provision in the law to grandfather such persons membership on bingo committees.

15) Q. Will the Division establish a formula for the bingo licensees to prorate the expenses between bingo and the other activities conducted in the same premises?

A. While section 849.09(3)(2)(a) defines authorized expenses as "the actual business expenses essential to the conduct and playing of bingo", and lists certain examples, the act does not provide explicitly for the proration of expenses. The Division may, however, attempt to create formulae to provide for the proration of certain expenses.

16) Q. Section (5)(d) states that the Division shall require background checks on all officers of any applicant. Is "all officers" to be taken literally, or will the background checks affect only those officers who perform the functions of President, Secretary and Treasurer?

A. The Division's policy, at this time, is to conduct background investigations of literally all officers of bingo distributors; however, the Division will conduct background investigations of the members of the bingo committee only in the case of bingo organizations.

Can a bingo organization claim fees on returned checks from their clients as an authorized expense?

No. This is not an expense "essential to the conduct of and playing of bingo..." Bingo organizations can require a fee for returned checks, suspend the member's playing rights, or seek prosecution through the state attorney's office.

18) Q. Can the lessor stay in the hall where the lessee is conducting bingo and help out with the selling of tickets or other tasks that are not directly related to the conduct of the bingo game?

No. The selling of tickets is essential to the conduct of a bingo game. Any function even remotely connected to the bingo game should be restricted to members.

19) Q. Are for profit mobile homeowner associations and not-for-profit associations authorized to conduct bingo sessions?

For profit associations may not conduct bingo. Not-for-profit associations may conduct bingo if they are authorized organizations under 849.093(2)(b). Also, any tax exempt, nonprofit organization described under 501(c) is authorized pending amendments to the law during the 1992 legislative session.

20) Q. Can a building owned by a non-profit, charitable, fraternal organization, which is exclusively used for charitable purposes, except when it is rented occasionally on a per diem basis to organizations or functions not related to charities, qualify as "property used exclusively for charitable purposes" when the rental income is used exclusively for charitable purposes and legitimate expenses?

If the building is used for charitable purposes and income derived from its occasional rental to other parties is used for charitable purposes, the building qualifies as "property used for charitable purposes" and proceeds may then be used as provided in section 849.093(4)(a)(3).

BINGO LAW

Florida Statute Chapter 849.0931

849.0931 Bingo authorized; conditions for conduct; permitted uses of proceeds; limitations.

(1) As used in this section:

(a) "Bingo game" means and refers to the activity, commonly known as "bingo," in which participants pay a sum of money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out "bingo" and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

(b) "Bingo card" means and refers to the flat piece of paper or thin pasteboard employed by players engaged in the game of bingo. The bingo card shall have not fewer than 24 playing numbers printed on it. These playing numbers shall range from 1 through 75, inclusive. More than one set of bingo numbers may be printed on any single piece of paper.

(c) "Charitable, nonprofit, or veterans' organization" means an organization which has qualified for exemption from federal income tax as an exempt organization under the provisions of s. 501(c) of the Internal Revenue Code of 1954 or s. 528 of the Internal Revenue Code of 1986, as amended; which is engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar activities; and which has been in existence and active for a period of 3 years or more.

(d) "Objects" means a set of 75 balls or other precision shapes that are imprinted with letters and numbers in such a way that numbers 1 through 15 are marked with the letter "B," numbers 16 through 30 are marked with the letter "I," numbers 31 through 45 are marked with the letter "N," numbers 46 through 60 are marked with the letter "G," and numbers 61 through 75 are marked with the letter "O."

(e) "Rack" means the container in which the objects are placed after being drawn and announced.


(f) "Receptacle" means the container from which the objects are drawn or ejected.

(g) "Session" means a designated set of games played in a day or part of a day.

(2)(a) None of the provisions of this chapter shall be construed to prohibit or prevent charitable, nonprofit, or veterans' organizations engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar endeavors, which organizations have been in existence and active for a period of 3 years or more, from conducting bingo games, provided the entire proceeds derived from the conduct of such games, less actual business expenses for articles designed for and essential to the operation, conduct, and playing of bingo, are donated by such organizations to the endeavors mentioned above. In no case may the net proceeds from the conduct of such games be used for any other purpose whatsoever. The proceeds derived from the conduct of bingo games shall not be considered solicitation of public donations.

(b) It is the express intent of the Legislature that no charitable, nonprofit, or veterans' organization serve as a sponsor of a bingo game conducted by another, but such organization may only be directly involved in the conduct of such a game as provided in this act.

(3) If an organization is not engaged in efforts of the type set out above, its right to conduct bingo games hereunder is conditioned upon the return of all the proceeds from such games to the players in the form of prizes. If at the conclusion of play on any day during which a bingo game is allowed to be played under this section there remain proceeds which have not been paid out as prizes, the organization conducting the game shall at the next scheduled day of play conduct bingo games without any charge to the players and shall continue to do so until the proceeds carried over from the previous days played have been exhausted. This provision in no way extends the limitation on the number of prize or jackpot games allowed in one day as provided for in subsection (5).



(4) The right of a condominium association, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513 to conduct bingo is conditioned upon the return of the net proceeds from such games to players in the form of prizes after having deducted the actual business expenses for such games for articles designed for and essential to the operation, conduct, and playing of bingo. Any net proceeds remaining after paying prizes may be donated by the association to a charitable, nonprofit, or veterans' organization which is exempt from federal income tax under the provisions of s. 501(c) of the Internal Revenue Code to be used in such recipient organization's charitable, civic, community, benevolent, religious, or scholastic works or similar activities or, in the alternative, such remaining proceeds shall be used as specified in subsection (3).

(5) No jackpot shall exceed the value of \$250 in actual money or its equivalent, and there shall be no more than three jackpots in any one session of bingo.

(6) The number of days per week during which organizations authorized hereunder may conduct bingo may not exceed two.

(7) There shall be no more than three jackpots on any one day of play. All other game prizes shall not exceed \$50.

(8) Each person involved in the conduct of any bingo game must be a resident of the community where the organization is located and a bona fide member of the organization sponsoring such game and may not be compensated in any way for operation of such bingo game. When bingo games are conducted by a charitable, nonprofit, or veterans' organization, the organization conducting the bingo games shall be required to designate up to three members of that organization to be in charge of the games, one of whom shall be present during the entire session at which the bingo games are conducted. The organization conducting the bingo games is responsible for posting a notice, which notice states the name of the organization and the designated member or members, in a conspicuous place on the premises at which the session is held. In no event may a caller in a bingo game be a participant in that bingo game.

(9) Every charitable, nonprofit, or veterans' organization involved in the conduct of a bingo game must be located in the county, or within a 15-mile radius of, where the bingo game is located.

(10)(a) No one under 18 years of age shall be allowed to play any bingo game or be involved in the conduct of a bingo game in any way.

(b) Any organization conducting bingo open to the public may refuse entry to any person who is objectionable or undesirable to the sponsoring organization, but such refusal of entry shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap.

(11) Bingo games may be held only on the following premises:

(a) Property owned by the charitable, nonprofit, or veterans' organization.

(b) Property owned by the charitable, nonprofit, or veterans' organization that will benefit by the proceeds.

(c) Property leased for a period of not less than 1 year by a charitable, nonprofit, or veterans' organization, providing the lease or rental agreement does not provide for the payment of a percentage of the proceeds generated at such premises to the lessor or any other party and providing the rental rate for such premises does not exceed the rental rates charged for similar premises in the same locale.

(d) Property owned by a municipality or a county when the governing authority has, by appropriate ordinance or resolution, specifically authorized the use of such property for the conduct of such games.

(e) With respect to bingo games conducted by a condominium association, a mobile home owners' association, a group of residents of a mobile home park as defined in chapter 723, or a group of residents of a mobile home park or recreational vehicle park as defined in chapter 513, property owned by the association, property owned by the residents of the mobile home park or recreational vehicle park, or property which is a common area located within the condominium, mobile home park, or recreational vehicle park.

(12) Each bingo game shall be conducted in accordance with the following rules:

(a) The objects, whether drawn or ejected, shall be essentially equal as to size, shape, weight, and balance and as to all other characteristics that may control their selection from the receptacle. The caller shall cancel any game if, during the course of a game, the mechanism used in the drawing or ejection of objects becomes jammed in such a manner as to interfere with the accurate determination of the next number to be announced or if the caller determines that more than one object is labeled with the same number or that there is a number to be drawn without a corresponding object. Any player in a game canceled pursuant to this paragraph shall be permitted to play the next game free of charge.

(b) Prior to commencement of any bingo session, the member in charge shall cause a verification to be made of all objects to be placed in the receptacle and shall inspect the objects in the presence of a disinterested person to ensure that all objects are present and that there are no duplications or omissions of numbers on the objects. Any player shall be entitled to call for a verification of numbers before, during, and after a session.

(c) The card or sheet on which the game is played shall be part of a deck, group, or series, no two of which may be alike in any given game.

(d) All numbers shall be visibly displayed after being drawn and before being placed in the rack.

(e) A bona fide bingo shall consist of a predesignated arrangement of numbers on a card or sheet that correspond with the numbers on the objects drawn from the receptacle and announced. Errors in numbers announced or misplaced in the rack may not be recognized as a bingo.

(f) When a caller has started to vocally announce a number, he shall complete the call. If any player has obtained a bingo on a previous number, such player will share the prize with the player who gained bingo on the last number called.

(g) Numbers on the winning cards or sheets shall be announced and verified in the presence of another player. Any player shall be entitled at the time the winner is determined to call for a verification of numbers drawn. The verification shall be in the presence of the member designated to be in charge of the occasion or, if such person is also the caller, in the presence of an officer of the licensee.

(h) Upon determining a winner, the caller shall ask, "Are there any other winners?" If no one replies, the caller shall declare the game closed. No other player is entitled to share the prize unless he has declared a bingo prior to this announcement.

(i) Seats may not be held or reserved by an organization or person involved in the conduct of any bingo game for players not present, nor may any cards be set aside, held, or reserved from one session to another for any player.

(13) Any organization or other person who willfully and knowingly violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For a second or subsequent offense, the organization or other person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.— ss. 1, 6, ch. 92-280; s. 1, ch. 93-160; s. 1, ch. 94-326.

849.0935 Charitable, nonprofit organizations; drawings by chance; required disclosures; unlawful acts and practices; penalties.

(1) As used in this section, the term:

(a) "Drawing by chance" or "drawing" means an enterprise in which, from the entries submitted by the public to the operator of the drawing, one or more entries are selected by chance to win a prize. The term "drawing" does not include those enterprises, commonly known as "matching," "instant winner," or "preselected sweepstakes," which involve the distribution of winning numbers, previously designated as such, to the public.

(b) "Operator" means an organization qualified under 26 U.S.C. s. 501(c)(3), and its agents, officers, or employees, which promotes, operates, or conducts a drawing by chance.

(2) The provisions of s. 849.09 shall not be construed to prohibit an organization qualified under 26 U.S.C. s. 501(c)(3) from conducting drawings by chance, provided the operator has complied with all applicable provisions of chapter 496.

(3) All brochures, advertisements, notices, tickets, or entry blanks used in connection with a drawing by chance shall conspicuously disclose:

(a) The rules governing the conduct and operation of the drawing.

(b) The full name of the organization or operator, and its principal place of business.

(c) The source of the funds used to award cash prizes or to purchase prizes.

(d) The date, hour, and place where the winner will be chosen, unless the brochures, advertisements, notices, tickets, or entry blanks are not offered to the public more than 3 days prior to the drawing.

(4) It is unlawful for any operator who, pursuant to the authority granted by this section, promotes, operates, or conducts a drawing by chance:

(a) To design, engage in, promote, or conduct any drawing in which the winner is predetermined by means of matching, instant win, or preselected sweepstakes or otherwise or in which the selection of the winners is in any way rigged;

(b) To require an entry fee, payment, proof of purchase, or contribution as a condition of entering the drawing or of being selected to win a prize;

(c) To arbitrarily remove, disqualify, disallow, or reject any entry or to discriminate in any manner between entrants who gave contributions to the operator and those who did not give such contributions;

(d) To fail to promptly notify, at the address set forth on the entry blank, any person, whose entry is selected to win, of the fact that he won;

(e) To fail to award all prizes offered in the manner and at the time stated; and

(f) To print, publish, or circulate literature or advertising material used in connection with the drawing which is false, deceptive, or misleading.

(5) Any operator who engages in any act or practice in violation of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. However, any operator or other person who sells or offers for sale in this state a ticket or entry blank for a raffle or other drawing by chance, without complying with the requirements of paragraph (3)(d), is guilty of a misdemeanor of the second degree, punishable by fine only as provided in s. 775.083.

(6) This section does not apply to the state lottery operated pursuant to chapter 24.

History.— s. 1, ch. 84-181; ss. 1, 2, ch. 88-115; s. 216, ch. 91-224.