



**Frank Madla**

Texas State Senate  
District 19

1313 S.E. Military Dr., Suite 101  
San Antonio, Texas 78214-2860  
(210) 927-9464  
FAX (210) 922-9521  
P.O. Box 12068  
Austin, Texas 78711  
(512) 463-0119  
FAX (512) 463-1017  
TDD 1-800-735-2989

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SEP 24 2001

September 13, 2001

OPINION COMMITTEE

**RQ-0439-*jc***

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SEP 21 2001

The Honorable John Cornyn  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-42171-01  
I.D. # 42171

OFFICE OF THE ATTORNEY GENERAL  
EXECUTIVE ADMINISTRATION

2395

Re: Request for an Opinion regarding the award of a charitable raffle ticket as a prize in a charitable bingo game.

Dear Attorney General Cornyn:

Please accept this letter as one of formal request for an Opinion from your office on the following question:

May a raffle ticket may be awarded as a prize in a bingo game?

**BACKGROUND**

With the passage of the Charitable Raffle Enabling Act, the Texas Legislature authorized qualified non-profit organizations to hold raffles to raise money for religious, educational, and public welfare work that benefits all Texans.

When a valuable item is donated to or otherwise acquired by a charity or group of charities, the item can often be translated into a much larger donation and used, simultaneously, to increase local public awareness of the charities by conducting a raffle for it. Under Texas law, charitable organizations may conduct both raffles and bingo. Many charities conduct a large portion of their fund-raising with bingo. This provides the charities with the facilities and administrative support that they could not otherwise afford. Those who participate in the bingo events are the primary audience the charities would expect to also participate in a raffle. The issue thus arises whether a raffle ticket could be awarded as a prize in the charities' bingo games.

In specific, a charity in possession of the item of value would sell raffle tickets for a sum, say \$25.00, which could be purchased directly, including purchase by other charities to distribute as prizes during regular or special bingo games. The raffle would occur on the same or a different occasion, but after the bingo games at which the tickets were awarded as prizes. In other words, the identity of the "winning" raffle ticket would not be made until after it was awarded. The valuable

item awarded in the raffle would be worth up to \$50,000.00 if the charity paid any consideration for the item or worth more if the item were donated.

#### ISSUE PRESENTED

At issue here are the Bingo Enabling Act, TEX. OCCUPATIONS CODE ANN. §§2001.001-2001.657 (Vernon Pamph. 2001), and the Charitable Raffle Enabling Act, TEX. OCCUPATIONS CODE ANN. §§2002.001- 2002.058 (Vernon Pamph. 2001).

This opinion request assumes that all of the requirements of the Charitable Raffle Enabling Act are met, i.e. the raffle is conducted by a qualified nonprofit organization (section 2002.003), the raffles conducted by the qualified nonprofit organization do not overlap and are within the 2 raffle annual limit (section 2002.052), raffle proceeds are spent for charitable purposes (section 2002.053; *see* Tex. Att'y Gen Op. JC-0046 (1999)), raffle tickets contain necessary disclosures (section 2002.055), and the prizes awarded are within the limits imposed by law (section 2002.056; *see* Tex. Att'y Gen Ops. JC-0046, JC-0111(1999)). This opinion request also assumes that the bingo events meet the requirements of the Bingo Enabling Act.

Three provisions are of concern here; one in the Charitable Raffle Enabling Act and two in the Bingo Enabling Act.

Section 2002.54 of the Charitable Raffle Enabling Act, places certain restrictions on raffle promotion and ticket sales and provides in part:

- (b) The organization may not compensate a person directly or indirectly for organizing or conducting a raffle or for *selling or offering to sell* tickets to a raffle.
- (c) The organization may not permit a person who is not a member of the organization or who is not authorized by the organization *to sell or offer to sell* raffle tickets. (Emphasis added.)

This language prohibits the *sale* of raffle tickets by non-members; it does not prohibit giving tickets away as bingo prizes after they have been purchased from a member of the organization. The purpose of the prohibition is to assure that all raffle proceeds go to the purposes of the charitable organization, less only certain administrative expenses. *See* Tex. Att'y Gen Op. JC-0046 (1999). That purpose is not thwarted in any way by allowing the ticket to be purchased and then given away as a bingo prize by another charitable organization. There is no published case law or previous attorney general opinion, however, directly on point.

Section 2001.416 of the Bingo Enabling Act provides, in part:

- (a) A game of chance other than bingo *or a raffle conducted under Chapter 2002* may not be conducted or allowed during a bingo occasion. (Emphasis added.)

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TEX. OCCUPATIONS CODE ANN. §§2001.416 (a) (Vernon Pamph. 2001); *Cf. Lyon v. State*, 766 S.W.2d 879 (Tex. App. – Austin, 1989, pet. Denied)(door prize during intermission excepted). If a raffle itself may be conducted during a bingo occasion, awarding a raffle ticket as a bingo prize does not appear to violate the prohibition on other games of chance. There is no published case law or previous attorney general opinion, however, directly on point.

Section 2001.420 of the Bingo Enabling Act limits the value of bingo prizes to \$750.00 “for a single game”, to an aggregate value of more than \$2,500.00 for games other than pull-tab “on a single bingo occasion”, and to a value of \$250.00 as a “door prize.” TEX. OCCUPATIONS CODE ANN. §2001.420 (Vernon Pamph. 2001). Here, the prize of the bingo game is a ticket worth \$25.00. At some point later, the ticket might or might not be worth far more or far less, depending on whether it was drawn as the winning ticket. Awarding a raffle ticket as a bingo prize does not appear to violate this section. There is no published case law or previous attorney general opinion, however, directly on point.

#### CONCLUSION

As previously stated, it does not appear that current law prohibits the award of a charitable raffle ticket as a prize in a charitable bingo game. However, absent an attorney general opinion or amendment to the language of the law specifically authorizing such activity, a question remains.

I thank you in advance for your consideration of this matter. Please don't hesitate to contact me or my Legislative Assistant for Intergovernmental Relations, Jason Anderson, should you have any questions or require further information.

Yours truly,

  
Frank Madla

FM/ja

cc: The Texas Lottery Commission  
The Texas Charitable Bingo Association