

NOR CAL TREMORS  
TO PROMOTE  
BINGO

cc 40

City Manager Graves apprised the Council that the NorCal Tremors of Lodi have approached the City proposing that they be allowed to promote a bingo game in Lodi to be held one evening per week with the following conditions:

1. The need for a small room within the building that they will use periodically, usually 2 to 3 times per month, for regular meetings year-round.

Suggested Rental \$85.00 per month, or \$1,020.00

2. Use of the Main Hall one night per week year-round.

Suggested rental \$700.00 per month, or \$8,400.00

3. The Tremors would also purchase 40 folding tables, which would become the property of the City of Lodi.

Est. cost - 40 x \$60.00 \$2,400.00

4. It is also understood that the Tremors would furnish their own tote boards, speaker system, and other necessary needs to conduct a successful bingo operation.

5. The Tremors would clean said facility, both the small room and main hall, after each use or at least return same to a presentable condition.

6. The Tremors would furnish the City of Lodi with insurance as requested by the City Attorney to cover all necessary liabilities.

Under the proposed agreement, the City of Lodi:

Would furnish the space requirements, present tables and adequate number of chairs needed to seat at least 500 patrons. The City would incur utility costs and provide equipment needs to maintain building, such as brooms, cleaners, mops, etc. The City would also allow the Tremors concession privileges during regular Bingo meeting nights.

It is also understood that this agreement is to run for three years as suggested, at which time it will be reviewed. It is also agreed that either party can cancel said agreement in writing with 30-day notice.

COUNCIL GRANTS  
REQUEST OF  
NOR CAL TREMORS  
TO HOLD BINGO  
GAMES IN LODI  
AT CITY  
FACILITY

A brief history of the NorCal Tremors of Lodi was presented for Council's information. Discussion followed with questions being directed to Staff. On motion of Council Member Pinkerton, Murphy second, Council granted permission to the NorCal Tremors to promote bingo games in Lodi to be held one evening per week with conditions heretofore set forth and directed the City Attorney to prepare the appropriate agreement.

# COUNCIL COMMUNICATION

TO THE CITY COUNCIL  
FROM THE CITY MANAGER'S OFFICE

DATE  
6/28/83

NOK3

SUBJECT: Bingo Games - NorCal Tremors

The NorCal Tremors of Lodi would like to make the following proposal, and request of the City Council of Lodi.

For the purpose of promoting a bingo game in Lodi to be held one evening per week (Tuesday the 1st choice, Wednesday the 2nd choice) for 3 years, the NorCal Tremors' needs and suggested rental fees are as follows:

1. The need for a small room within the building that they will use periodically, usually 2 to 3 times per month, for regular meetings year-round  
Suggested Rental \$85.00 per month, or \$1,020.00
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ED DE BENEDETTI, Director, Recreation & Park

WHC ARE THE NOR-CAL TREMORS OF LODI, a non-profit organization?

K3

The Tremors organization has been in existence for some seven (7) years and their main function is to promote girls' fast pitch softball of all ages.

At the present time the organization sponsors five (5) girls' teams and one (1) ladies' team. They provide a training center in Stockton, (which they would like to move to Lodi,) and put on numerous clinics year-round to teach and further the sport of girls fast pitch softball.

The coaches are hand-picked, highly qualified, and class people, who work and provide a volunteer service at no cost to the participant.

The organization consistently qualifies one or more teams for U. S. championship and national tournaments. Many past Tremor players have received college scholarships and have participated again in national and international play.

As a reward to players and coaches, each year one or more Tremor teams travel to foreign countries to participate. (This year Holland and Japan will be visited.)

It is also the hope of the Tremor organization to host and establish a national tournament in Lodi, with teams from Taiwan, Japan, Canada, Mexico, Holland, and other countries participating.

The Tremors are truly a good-will ambassador in that the team members are well-chaperoned and represent quality people.

In the past the Tremors have also given monies to many needy projects where youth are concerned. In fact, profits from the requested Bingo game to be held in Lodi will be shared with high school athletics in Lodi, which are being cut.

It might be noted that for the past five years at least two to three or more Lodi girls have been and are presently Tremor players. Hopefully, as this program develops in Lodi, more will be added. It is certainly a fine opportunity for girls of the Lodi and Central Valley area in that all are welcome to take advantage of this fine organization.

Ed DeBenedetti, Director  
Recreation and Parks Department

*Charles R. Spatola*  
*Counselor at Law*

K3

*1746 Grand Canal Boulevard, Suite 9*  
*Stockton, California 95207*  
*(209) 473-1746*

June 13, 1983

Ron Stein, City Attorney  
City of Lodi  
221 W. Pine Street  
Lodi, California 95240

Ed DeBenedetti  
City of Lodi  
Parks & Recreation  
125 N. Stockton  
Lodi, California 95240

Re: Nor-Cal Tremors lease of 125 N. Stockton St.,  
Lodi, California

Gentlemen:

I represent Nor-Cal Tremors, a California non-profit organization, which is desirous of leasing a city building located at 125 N. Stockton Street.

Nor-Cal Tremors intends to use the premises as a branch office for the storage of equipment and supplies and to conduct weekly bingo games under the state law and the local bingo ordinance (Section 4(b)(1) to 4(b)(4)). The office and storage areas must be exclusively rented to Nor-Cal Tremors; however the bingo area is only needed once a week. Nor-Cal Tremors will contract with the City for the other nights on a one time basis only.

Nor-Cal Tremors has successfully and legally conducted a Thursday night bingo game at the Stockton Ballroom in Stockton for approximately one (1) year. Nor-Cal Tremors representatives are familiar with the strict requirements of Section 326.5 of the Penal Code

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(a copy of this code section is enclosed).

The weekly bingo game will be conducted as the game in Stockton is conducted. Nor-Cal Tremors will attempt to have a capacity bingo crowd of approximately 400 persons. As in Stockton, the bingo games will be advertised in the local newspaper one or two days prior to the weekly event. A copy of the Stockton Record ad is enclosed. All door prizes will be free and without the condition that the customer purchase a bingo card. All bingo cards will be from Nor-Cal's regular supplier. The City of Lodi and any of its representatives are welcome to inspect the Stockton game at any time upon request.

Nor-Cal Tremors prefers to move into the building within the next sixty (60) days. If you have additional questions with respect to our proposal, kindly contact Vern Ferguson, President of Nor-Cal Tremors at (209) 946-4195, or me.

Yours truly,

*Charles R. Spatola*  
CHARLES R. SPATOLA

CRS/cs  
cc: Vern Ferguson

DICTATED BUT NOT READ

NOR-CAL TREMORS GIRLS SOFTBALL

**BINGO BINGO BINGO**

ALL GAMES

**\$250**

PAYOUT OVER

**\$5500**

● EVERY THURSDAY NIGHT ●

STOCKTON BALLROOM

9650 THORNTON ROAD

● SEPARATE NON-SMOKING ●

**FREE ● FREE ● FREE**

COFFEE, DONUTS, POPCORN, BINGO GAMES

● DOOR PRIZE ●

**\$50 AFTER EACH REGULAR GAME**

man's monthly gross receipts from bingo games"; and redesignated former subd. (k) to (m) as subds. (j) to (o).

**Library References**

Lotteries *supra* § 3.  
C.J.S. Lotteries § 30 et seq.

**Index to Notes**

In general 1  
Licenses 2  
Validity 2

**2. Validity**

The 1979 amendment of subd. (n) of this section, including punch boards in the legislative definition of bingo, exceeded the authority of the legislature to permit charitable bingo granted by the 1976 amendment of Const. Art. 4, § 19(c), which provided that the legislature by statute may authorize cities and counties to provide bingo games, but only for charitable purposes. 63 Ops. Atty. Gen. 524, 6-26-80.

**1. In general**

Where Legislature adopted this section authorizing the operation of "bingo" games by religious organizations for

charitable purposes pursuant to Const. Art. 4, § 19, subd. (c), state law preempted the field of taxation of such games, and therefore city could not properly impose a tax on bingo games operated by religious corporation. *City of Pomona v. Christian Fellowship Center* (1981) 177 Cal.Rptr. 897, 125 C.A.3d 250.

The term "bingo" as used in Const. Art. 4, § 19(c), which provides the legislature by statute may authorize cities and counties provide for bingo games, but only for charitable purposes, refers to a particular game of that name, commonly played in California when the voters asked that subdivision in 1976, and does not embrace any other game or activity included in the legislative definition of bingo contained in the first sentence of subd. (n) of this section, which provides that bingo games may be played for charity. 63 Ops. Atty. Gen. 524, 6-26-80.

This section supersedes the provisions of Pen.C. §§ 119 to 126 as to any bingo game authorized by this section, but not as to any bingo game not so authorized. 60 Ops. Atty. Gen. 130, 4-8-77.

**2. Licenses**

In proceeding challenging denial of bingo license, applicant failed to show that procedure used by hearing officer for local department of social service was improper or unfair to applicant in any way. *Temple of Inspired Living v. Dept. of Social Service of City of Los Angeles* (1979) 158 Cal.Rptr. 816, 97 C.A.3d 564.

**§ 327. Endless chain schemes**

**Law Review Commentaries**

Pyramiding: Victim chain—Holiday Magic case. (1974) 1 U.S.F. L.Rev. 65.

**Notes of Decisions**

**1. In general**

Where there was a headhunting fee, product sales were not made a precondition for receiving performance bonus, unsold inventory was not bought back, and substantial percentage of products was not required to be sold to consumers at retail, defendants' marketing plan was a deceptive business practice and an illegal chain scheme. *Bounds v. Figurettes, Inc.* (1982) 185 Cal.Rptr. 480, 135 C.A.3d 1.

Defendants, charged with deceptive business practices in operation of an "endless-chain" marketing program, were not deprived of a jury trial under this section where relief was sought under Bus. & Prof.C. § 17500 and was essentially equitable in nature, notwithstanding fact that imposition of civil penalties might also result. *People v. Bedline Products, Inc.* (1976) 132 Cal.Rptr. 767, 61 C.A.3d 879.

Dismissal of second cause of action charging defendants with violations of this section by, inter alia, engaging in a marketing plan that constituted an unlawful chain scheme did not operate to preclude consideration of chain scheme issue under first cause of action charging defendants with violation of Bus. & Prof.C. § 17500 by, inter alia, engaging in deceptive marketing practices, even though no mention was made of this section in the first cause of action, where there was no reason to make such mention in that the deceptive character of the scheme did not depend upon its illegality and, in basing a charge of deception upon the chain scheme aspect of defendants' marketing practices, the People were simply asserting a widely accepted view that the practices were inherently fraudulent. *Id.*

A pyramid sales plan under which the compensation for recruitment is limited to payment based upon sales made to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme does not come within the definition of endless chain schemes set forth in this section, but if compensation is offered for introducing one or more additional persons into participation in the scheme based upon a sale to person introduced, the scheme is deceptive and is criminal. *Id.*

**§ 328. Printed materials for lotteries legally conducted outside state.**

Nothing in this chapter shall make unlawful the printing or other production of any advertisements for, or any ticket, chance, or share in a lottery conducted in any other state or nation where such lottery is not prohibited by the laws of such state or nation; or the sale of such materials by the manufacturer thereof to any person or entity conducting or participating in the conduct of such a lottery in any such state or nation. This section does not authorize any advertisement within California relating to lotteries, or the sale or resale within California of lottery tickets, chances, or shares to individuals, or acts otherwise in violation of any laws of the state.

(Added by Stats.1980, c. 216, p. 456, § 1, urgency, eff. June 23, 1980.)

Underline indicates changes or additions by amendment

(1) A city, county, or city and county which enacts an ordinance permitting bingo games may, if necessary in such ordinance that if \* \* \* the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2) of this subdivision.

\* \* \* (j)(1) A city, county, or city and county may impose a license fee on each organization which it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee of 1 percent of the monthly gross receipts over five thousand dollars (\$5,000) derived from bingo games shall be collected monthly by the city, county, or city and county issuing the license.

\* \* \* (m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted.

\* \* \* (n) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250) in cash or kind, or both, for each separate game which is held.

\* \* \* (o) As used in this section "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All such preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(Added by Stats.1975, c. 869, p. 1942, § 1. Amended by Stats.1977, c. 271, p. 1160, § 1, urgency, eff. July 8, 1977; Stats.1979, c. 1006, p. 3419, § 1; Stats.1980, c. 997, p. 3179, § 1; Stats.1981, c. 804, p. —, § 1.)

1975 Legislation.

Section 2 of Stats.1975, c. 869, p. 1943, provides: "This act shall become operative only if Assembly Constitutional Amendment No. 3 of the 1975-76 Regular Session is adopted by the people, in which case this act shall become operative at the same time as such constitutional amendment. A.C.A. No. 50 was adopted by the people at the primary election held June 8, 1976." [A.C.A. No. 3 was adopted June 8, 1976.]

1977 Amendment. Substituted, following "bank and corporation tax" in subd. (a), new provisions for "by Section 23701d of the Revenue and Taxation Code and a contribution or gift to which would be a charitable contribution under Section 170(c)(2) of the Internal Revenue Code of 1954"; added the second sentence in subd. (c); substituted, in subd. (f) preceding "shall conduct", the present provisions for "A nonprofit, charitable organization"; added the second sentence in subd. (f); substituted in the first sentence of subd. (h) preceding "organization", and word "authorized" for "nonprofit charitable"; inserted the introductory phrase in subd. (j) relating to Rev & T.C. § 23701d, inserted the second to fourth sentences in subd. (j) including subpars. (1), (2); expanded subd. (k) by inserting following the first use of the words "license fee" new provisions including the second and third sentences, for "not to exceed the actual cost of issuing such license, on each nonprofit, charitable

organization which it authorizes to conduct bingo games"; and added the last sentence in subd. (n).

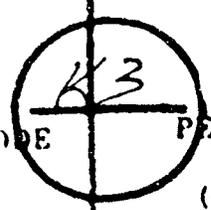
1979 Amendment. Substituted in subd. (j)(2) "before the deduction for prizes" for "after the deduction for prizes" and in subd. (j)(2) after "overhead" inserted "including the purchase of bingo equipment"; added subd. (j)(3); in subd. (k) inserted "(1)" and then in para. (1), second sentence, after "\$50" added "annually, except as provided in paragraph (2)" and added para. (2); in subd. (n) added the second, third, and fourth sentences.

Amendment of this section by § 2 of Stats.1979, c. 1006, p. 3421, failed to become operative under the provisions of § 1 of that Act.

1980 Amendment. Added subd. (j)(4)

1981 Amendment. Added the second sentence of subd. (b); inserted in the first sentence of subd. (f) "or property whose use is donated to the organization"; inserted in the second sentence of subd. (f) "or whose use is donated to" and "or donated exclusively to"; added the second sentence of subd. (h), designated the former third and fourth sentences of subd. (j) as subd. (k); inserted in the second sentence of subd. (k); substituted in subd. (k)(2) "20 percent" for "10 percent" and "\$1,000" for "\$500"; inserted in subd. (k)(2) security equipment and security personnel; substituted in the first sentence of subd. (l)(4) "the monthly gross receipts from bingo games of an organization within this subdivision" for "an organiza-

Asterisks \* \* \* indicate deletions by amendment



1975 Amendment. Deleted following "court" in the second sentence, the words "or if the suit be in a justice court, the judge"

§ 326.5. Bingo games for charity

(a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game which is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, provided that such ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701h of the Revenue and Taxation Code and by mobilehome park associations and senior citizens organizations; and provided that the receipts of such games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games as provided in subdivisions (i) and (k).

(c) A violation of subdivision (b) of this section shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and county which enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county which enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by or whose use is donated to the organization be used or leased exclusively by or donated exclusively to such organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at such bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Such proceeds shall be used only for charitable purposes, except as follows:

(1) Such proceeds may be used for prizes.

(2) A portion of such proceeds, not to exceed \* \* \* 20 percent of the proceeds before the deduction for prizes, or \* \* \* one thousand dollars (\$1,000) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, \* \* \* administrative expenses, security equipment, and security personnel

(3) Such proceeds may be used to pay license fees.

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221 W. Pine Street  
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Ed DeBenedetti  
City of Lodi  
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**1. In general**

Where Legislature adopted this section authorizing the operation of "bingo" games by religious organizations for

charitable purposes pursuant to Const. Art. 4, § 19, subd. (c), state law preempted the field of taxation of such games, and therefore city could not properly impose a tax on bingo games operated by religious corporation. City of Pomona v. Christian Fellowship Center (1981) 177 Cal.Rptr. 897, 125 C.A.3d 250.

The term "bingo" as used in Const. Art. 4, § 19(c), which provides the legislature by statute may authorize cities and counties provide for bingo games, but only for charitable purposes, refers to a particular game of that name, commonly played in California when the voters asked that subdivision in 1976, and does not embrace any other game or activity included in the legislative definition of bingo contained in the first sentence of subd. (n) of this section, which provides that bingo games may be played for charity. 63 Ops. Atty. Gen. 524, 6-26-80.

This section supersedes the provisions of Pen.C. §§ 119 to 326 as to any bingo game authorized by this section, but not as to any bingo game not so authorized. 60 Ops. Atty. Gen. 140, 4-8-77.

**2. Licenses**

In proceeding challenging denial of bingo license, applicant failed to show that procedure used by hearing officer for local department of social service was improper or unfair to applicant in any way. Temple of Inspired Living v. Dept. of Social Service of City of Los Angeles (1979) 158 Cal.Rptr. 816, 97 C.A.3d 584.

**§ 327. Endless chain schemes**

**Law Review Commentaries**

Pyramiding: Victims chain—Holiday Magic case. (1974) 3 U.S.F. L. Rev. 65.

**Notes of Decisions**

**1. In general**

Where there was a headhunting fee, product sales were not made a precondition for receiving performance bonus, unsold inventory was not bought back, and substantial percentage of products was not required to be sold to consumers at retail, defendants' marketing plan was a deceptive business practice and an illegal chain scheme. Bonds v. Cigarettes, Inc. (1982) 185 Cal.Rptr. 480, 135 C.A.3d 1.

Defendants, charged with deceptive business practices in operation of an "endless-chain" marketing program, were not deprived of a jury trial under this section where relief was sought under Bus. & Prof.C. § 17500 and was essentially equitable in nature, notwithstanding fact that imposition of civil penalties might also result. People v. Bestline Products, Inc. (1976) 132 Cal.Rptr. 767, 61 C.A.3d 879.

Dismissal of second cause of action charging defendant with violations of this section by, inter alia, engaging in a marketing plan that constituted an unlawful chain scheme did not operate to preclude consideration of chain scheme issue under first cause of action charging defendants with violation of Bus. & Prof.C. § 17900 by, inter alia, engaging in deceptive marketing practices, even though no mention was made of this section in the first cause of action, where there was no reason to make such mention in that the deceptive character of the scheme did not depend upon its illegality and, in basing a charge of deception upon the chain scheme aspect of defendants' marketing practices, the People were simply asserting a widely accepted view that the practices were inherently fraudulent. Id.

A pyramid sales plan under which the compensation for recruitment is limited to payment based upon sales made to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme does not come within the definition of endless chain schemes set forth in this section, but if compensation is offered for introducing one or more additional persons into participation in the scheme based upon a sale to person introduced, the scheme is deceptive and is criminal. Id.

**§ 328. Printed materials for lotteries legally conducted outside state.**

Nothing in this chapter shall make unlawful the printing or other production of any advertisements for, or any ticket, chance, or share in a lottery conducted in any other state or nation where such lottery is not prohibited by the laws of such state or nation; or the sale of such materials by the manufacturer thereof to any person or entity conducting or participating in the conduct of such a lottery in any such state or nation. This section does not authorize any advertisement within California relating to lotteries, or the sale or resale within California of lottery tickets, chances, or shares to individuals, or acts otherwise in violation of any laws of the state.

(Added by Stats.1980, c. 216, p. 456, § 1, urgency, eff. June 23, 1980.)

Underline indicates changes or additions by amendment

(4) A city, county, or city and county which enacts an ordinance permitting bingo games may specify in such ordinance that if \* \* \* the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2) of this subdivision.

\* \* \* (1)(1) A city, county, or city and county may impose a license fee on each organization which it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee of 1 percent of the monthly gross receipts over five thousand dollars (\$5,000) derived from bingo games shall be collected monthly by the city, county, or city and county issuing the license.

\* \* \* (m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is being conducted.

\* \* \* (n) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250) in cash or kind, or both, for each separate game which is held.

\* \* \* (o) As used in this section "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All such preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(Added by Stats.1975, c. 869, p. 1942, § 1. Amended by Stats.1977, c. 271, p. 1160, § 1, urgency, eff. July 8, 1977; Stats.1979, c. 1006, p. 3419, § 1, Stats.1980, c. 997, p. 3179, § 1, Stats.1981, c. 804, p. —, § 1.)

1975 Legislation

Section 2 of Stats.1975, c. 869, p. 1943, provides: "This act shall become operative only if Assembly Constitutional Amendment No. 1 of the 1975-76 Regular Session is adopted by the people, in which case this act shall become operative at the same time as such constitutional amendment. A.C.A. No. 90 was adopted by the people at the primary election held June 8, 1976." [A.C.A. No. 1 was adopted June 8, 1976.]

1977 Amendment. Substituted, following "bank and corporation tax" in subd. (a), new provisions for "by Section 23701d of the Revenue and Taxation Code and a contribution or gift to which would be a charitable contribution under Section 170(c)(2) of the Internal Revenue Code of 1954"; added the second sentence in subd. (c); substituted, in subd. (f) preceding "shall conduct", the present provisions for "A nonprofit charitable organization"; added the second sentence in subd. (f); substituted in the first sentence of subd. (h) preceding "organization", and word "authorized" for "nonprofit charitable"; inserted the introductory phrase in subd. (j) relating to Rev. & T.C. § 23701d; inserted the second to fourth sentences in subd. (j) including subparts (1), (2), expanded subd. (k) by inserting following the first use of the words "license fee" new provisions including the second and third sentences, for "not to exceed the actual cost of issuing such license, on each nonprofit charitable

organization which it authorizes to conduct bingo games"; and added the last sentence in subd. (m).

1979 Amendment. Substituted in subd. (j)(2) "before the deduction for prizes" for "after the deduction for prizes" and in subd. (j)(2) after "overhead" inserted "including the purchase of bingo equipment"; added subd. (j)(3); in subd. (k) inserted "(1)" and then in para. (1), second sentence after "\$50" added "annually, except as provided in paragraph (2)" and added para. (2); in subd. (n) added the second, third, and fourth sentences.

Amendment of this section by § 2 of Stats.1979, c. 1006, p. 3421 failed to become operative under the provisions of § 1 of that Act.

1980 Amendment. Added subd. (j)(4).

1981 Amendment. Added the second sentence of subd. (b); inserted in the first sentence of subd. (f) "or property whose use is donated to the organization"; inserted in the second sentence of subd. (f) "or whose use is donated to" and "or donated exclusively to"; added the second sentence of subd. (h); designated the former third and fourth sentences of subd. (n) as subd. (k); inserted in the second sentence of subd. (k); substituted in subd. (k)(2) "20 percent" for "10 percent" and "\$1,000" for "\$500"; inserted in subd. (k)(2) security equipment and security personnel; substituted in the first sentence of subd. (j)(4) "the monthly gross receipts from bingo games of an organization within this subdivision" for "an organiza-

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1977 Amendment. Deleted, following "court" in the second sentence, the words "or if the suit be in a justice court, the judge"

§ 326.5. Bingo games for charity

(a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game which is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, provided that such ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701j of the Revenue and Taxation Code and by mobile-home park associations and senior citizens organizations; and provided that the receipts of such games are used only for charitable purposes

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games as provided in subdivisions (i) and (k).

(c) A violation of subdivision (b) of this section shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and county which enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county which enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by or whose use is donated to the organization be used or leased exclusively by or donated exclusively to such organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization which organized it. Such members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at such bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game shall hold a financial interest in the conduct of such bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Such proceeds shall be used only for charitable purposes, except as follows:

(1) Such proceeds may be used for prizes.

(2) A portion of such proceeds, not to exceed \* \* \* 20 percent of the proceeds before the deduction for prizes, or \* \* \* one thousand dollars (\$1,000) per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, \* \* \* administrative expenses, security equipment, and security personnel

(3) Such proceeds may be used to pay license fees.

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