

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative McJunkin**

# **A Bill**

**ACT 939 OF 1993**  
**HOUSE BILL 1580**

## **For An Act To Be Entitled**

8 "AN ACT TO LEVY A TWENTY PERCENT (20%) GROSS RECEIPTS TAX  
9 UPON BINGO OPERATIONS AND TO REQUIRE THE ANNUAL  
10 REGISTRATION OF ANY OPERATIONS OR FACILITIES WHERE BINGO  
11 GAMES ARE PLAYED; TO DECLARE AN EMERGENCY; AND FOR OTHER  
12 PURPOSES."

## **Subtitle**

15 "AN ACT TO LEVY A TWENTY PERCENT (20%) GROSS RECEIPTS TAX  
16 UPON BINGO OPERATIONS AND REQUIRE THE ANNUAL REGISTRATION  
17 OF ALL FACILITIES WHERE BINGO IS PLAYED."

18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 SECTION 1. Definitions. As used in this Act, unless the context  
22 otherwise requires:

23 (1) "Director" means the Director of the Department of Finance and  
24 Administration or his authorized agents.

25 (2) "Bingo", a game in which each participant receives one or more  
26 cards, including, but not limited to, pull-tab cards, marked off into twenty-  
27 five squares arranged on five horizontal rows of five squares each; or, one or  
28 more cards marked off into twenty-five squares arranged on five horizontal  
29 rows of five squares each which are not pull-tab cards and, in addition  
30 thereto, one or more pull-tab cards. Each square is designated by number,  
31 letter or by a combination of numbers and letters, except that the center  
32 square on the card shall be designated with the word "free". No two cards  
33 shall be identical. As the announcer of the game announces a number, letter  
34 or a combination of numbers and letters, each player covers the square  
35 corresponding to the announced number, letter or combination. The numbers,  
36 letters or combination of numbers and letters which are announced shall appear

1 on an object selected by chance, either manually or mechanically, from a  
2 receptacle containing the objects bearing numbers, letters or combinations of  
3 numbers and letters. The winner of each game shall be the player or players  
4 who are first to properly cover a predetermined and announced pattern of  
5 squares upon the card or cards used by such player or players. A prize or  
6 prizes may be awarded to the winner or winners of a game;

7 (3) "Bingo Operator" shall include any person who owns or operates a  
8 location or business within the State of Arkansas which offers the game of  
9 bingo.

10 (4) "Person" includes any individual, partnership, joint venture,  
11 corporation, estate, trust, non-profit corporation, church, association, club  
12 or organization;

13 (5) "Gross receipts" or "gross proceeds" means the total amount of  
14 consideration for the sale of tangible personal property and such services and  
15 admissions as are herein specifically provided for, whether the consideration  
16 is in money or otherwise, without any deduction on account of the cost of the  
17 properties sold, labor service performed, interest paid, losses, or any  
18 expenses whatsoever. The term "gross proceeds" or "gross receipts" shall  
19 include the value of any goods, wares, merchandise, or property withdrawn or  
20 used from the established business or from the stock in trade of the  
21 established reserves for consumption or use by the bingo operator or by any  
22 other person.

23 (6) (A) "Sale" is declared to mean the transfer of either the title or  
24 possession for a valuable consideration of tangible personal property,  
25 regardless of the manner, method, instrumentality, or device by which the  
26 transfer is accomplished.

27 (B) "Sale" is also declared to include the exchange, barter,  
28 lease, or rental of tangible personal property.

29 (C) "Sale" shall include also the sale, giving away, exchanging,  
30 or other disposition of admissions, dues, or fees for admission to a bingo  
31 game location.

32 (7) "Charitable or non-profit organization" means any non-profit tax  
33 exempt religious, educational, veterans, fraternal, service, civic, medical,  
34 volunteer rescue service, or volunteer fire fighters' organization which has  
35 been in continuing existence in this state for a period of not less than five

1 (5) years immediately prior to making application for registration, and which  
2 does not offer bingo on more than two (2) days during a consecutive seven (7)  
3 day period. An organization is tax exempt if it has received from the  
4 Internal Revenue Service a determination letter that is currently in effect  
5 stating that the organization is exempt from federal income taxation under  
6 Section 501(a), and if it is described in Section 501(c)(3), (10), or (19) or  
7 Section 528 of the Internal Revenue Code.

8

9 SECTION 2. Imposition of tax. There is levied a tax of twenty percent  
10 (20%) on the total gross receipts derived from the retail sale of any device  
11 used in playing bingo, and any charge for admittance to a bingo game or other  
12 payment to play bingo, whether voluntary or not. The tax levied by this Act  
13 does not apply to sales of other tangible personal property by the bingo  
14 operator, if the property is not for use in playing bingo.

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16 SECTION 3. No exemptions or deductions shall be allowed from the tax  
17 levied by this Act, except as otherwise provided hereafter for charitable or  
18 non-profit organizations. It is intended that charitable or non-profit  
19 organizations which engage in only limited bingo operations as specified  
20 herein shall not be subject to the tax.

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22 SECTION 4. Annual registration with Director required.

23 (a) All persons who act as a bingo operator within the State of  
24 Arkansas shall be required to register annually on July 1 of each year with  
25 the Director. The Director shall issue a certificate of registration  
26 which shall be posted conspicuously on all premises owned, leased or  
27 controlled by the bingo operator where bingo is to be played.

28 (b) Any person required to register under this Section shall obtain a  
29 certificate of registration for each location where bingo games are played.

30 (c) The certificate shall be effective from the date of issuance until  
31 June 30 next following the date of issuance. All registrations shall be  
32 renewed on an annual basis. All registration renewals must be made on or  
33 before July 1 each year.

34 (d) Registration shall be made with the Director upon forms designed  
35 and provided by him. Registration shall be complete and a certificate issued

1 upon submission of the properly completed forms and the payment of a five  
2 hundred dollar (\$500) non-refundable annual registration fee by all bingo  
3 operators, except those who qualify as a charitable or non-profit  
4 organization. Registration for charitable or non-profit organizations shall  
5 be completed and a bingo tax exemption registration certificate issued upon  
6 the submission of the properly completed forms and payment of a twenty-five  
7 dollar (\$25.00) non-refundable annual registration fee. The bingo tax  
8 exemption registration certificate shall only be issued to those charitable or  
9 non-profit organizations which qualify for that status under the specific  
10 requirements of this Act. The registration fee shall not be prorated.

11 (e) The registration certificate shall be conspicuously displayed at  
12 the location for which it was issued.

13 (f) Failure to properly register or to report or pay the tax levied in  
14 this Act shall be a Class C felony.

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16 SECTION 5. Authorized Persons.

17 (a) Persons who lease premises; sell or lease supplies or equipment; or  
18 furnish commodities or services to sponsoring organizations to conduct bingo  
19 games shall not participate in the operation of the bingo games.

20 (b) No lease providing for a rental arrangement for premises or  
21 equipment for use in the game shall provide for payment in excess of the  
22 reasonable fair market rental rate for the premises or equipment and in no  
23 case shall any payment be based on a percentage of gross receipts or proceeds.  
24 The reasonable fair market rental rate shall be determined by the Director.

25 (c) No person shall participate in conducting or managing the game of  
26 bingo for a charitable or non-profit organization except a person who has been  
27 a bona fide member of the registered organization for at least two (2) years  
28 immediately preceding such participation and who volunteers their time and  
29 service necessary to conduct the game. Such person shall not be a paid  
30 employee of the registered organization nor compensated specifically for  
31 conducting or managing the game of bingo for the charitable or non-profit  
32 organization.

33 (d) No person, firm, partnership or corporation shall receive any  
34 remuneration, profit or gift for participating in the management or operation  
35 of the game for a charitable or non-profit organization, including the

1 *granting or use of bingo cards without charge or at a reduced charge, from the*  
2 *registered organization or from any other source.*

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4 SECTION 6. Administration - Rules and Regulations.

5 (a) The administration of this Act shall be vested in and shall be  
6 exercised by the Director and shall be subject to the provisions of the  
7 Arkansas Tax Procedure Act, Arkansas Code §§ 26-18-101 et seq.

8 (b) The Director shall promulgate rules and regulations and prescribe  
9 forms for the proper enforcement of this Act.

10 (c) The tax levied hereunder shall be due and payable to the Arkansas  
11 Department of Finance and Administration in the same manner as provided for by  
12 Arkansas Code § 26-52-501, however tax payments under this Act shall be due  
13 and payable on the fifteenth of each month.

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15 SECTION 7. Relationship to other taxes. The taxes levied in Section 2  
16 of this Act are in lieu of all State gross receipts taxes currently levied  
17 under Arkansas Code §§ 26-52-101 et seq. The taxes levied in Section 2 of  
18 this Act are in addition to all gross receipts taxes levied by cities or  
19 counties.

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21 SECTION 8. All provisions of this act of general and permanent nature  
22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
23 Revision Commission shall incorporate the same in the Code.

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25 SECTION 9. If any provisions of this act or the application thereof to  
26 any person or circumstance is held invalid, the invalidity shall not affect  
27 other provisions or applications of the act which can be given effect without  
28 the invalid provisions or application, and to this end the provisions of this  
29 act are declared to be severable.

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31 SECTION 10. All laws and parts of laws in conflict with this act are  
32 hereby repealed.

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34 SECTION 11. Emergency. It is hereby found and determined by the  
35 Seventy-Ninth General Assembly of the State of Arkansas that this act

1 establishes a bingo tax on the gross receipts derived from the retail sale of  
2 any device used in playing bingo, and any charge for admittance to a bingo  
3 game or other payment to play bingo; that this tax and the requirement for  
4 annual registration are not intended to address any question of legality or  
5 illegality of the conduct of playing bingo; that the revenues raised by this  
6 tax and the registration fees are immediately needed to support certain  
7 Medicaid funding deficits; and that for the proper administration of this tax,  
8 the act should become effective on July 1, 1993. Therefore, in order to  
9 insure the effective administration of this tax and act, an emergency is  
10 hereby declared to exist, and this act being necessary for the immediate  
11 preservation of the public peace, health, and safety, shall be in full force  
12 and effect from and after July 1, 1993.

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*/s/Louis McJunkin*

APPROVED: 4/7/93

***As Engrossed: 3/1/93 4/2/93***

**HB 1580**

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