

ARKANSAS SENATE
86th General Assembly - Regular Session, 2007
Amendment Form

Subtitle of Senate Bill No. 87

"TO CREATE THE CHARITABLE BINGO AND RAFFLES OVERSIGHT COMMISSION."

Amendment No. 2 to Senate Bill No. 87.

Amend Senate Bill No. 87 as engrossed, S1/18/07 (version: 01-18-2007 09:09):

Page 1, line 9 delete "RAFFLES" and substitute "RAFFLE"

AND

Delete the subtitle and substitute the following:
"TO CREATE THE CHARITABLE BINGO AND RAFFLE OVERSIGHT COMMISSION."

AND

Delete SECTION 1 of the bill and substitute the following:
"SECTION 1. Arkansas Code Title 23 is amended to add an additional chapter to read as follows:

CHAPTER 114 CHARITABLE BINGO AND RAFFLES

SUBCHAPTER 1 GENERAL PROVISIONS

23-114-101. Short title.

This chapter shall be known and may be cited as the "Charitable Bingo and Raffles Enabling Act".

23-114-102. Definitions.

As used in this chapter:

(1) "Authorized organization" means an organization eligible for a license to conduct bingo and raffles that is a nonprofit tax-exempt religious, educational, veterans, fraternal, service, civic, medical, volunteer rescue service, volunteer firefighters organization, or volunteer police organization that has been in continuing existence as a nonprofit tax-exempt organization in this state for a period of not less than five (5) years immediately prior to conducting the game of bingo or raffles;

(2) "Automated bingo services" means a computer program or system for:

(A) Registering or accounting for bingo sales, prizes, inventory, and prize fees;

(B) Generating required reports to the Department of Finance and Administration; and



(C) Providing the conductor of a game with other information requested for accounting or other business purposes;

(3)(A) "Bingo equipment" means equipment used, made, or sold for the purpose of use in bingo.

(B) "Bingo equipment" includes:

(i) A machine or other device from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called;

(ii) A bingo card;

(iii) A bingo ball; and

(iv) Any other device commonly used in the direct operation of a bingo game.

(C) "Bingo equipment" does not include:

(i) A bingo game set commonly manufactured and sold as a child's game for a retail price of twenty dollars (\$20) or less, unless the set or a part of the set is used in bingo subject to regulation under this chapter; or

(ii) A commonly available component part of bingo equipment such as a light bulb or fuse;

(4) "Bingo session" means all activities incident to the conduct of a series of bingo games by a licensed authorized organization, including the organization's licensed times and any preparatory or concluding activities incidental to the conduct of bingo;

(5) "Charitable purpose" means a purpose described by § 23-114-904;

(6) "Financial security" means cash, surety bond, certificate of deposit, savings account, or United States Treasury Bonds;

(7)(A) "Game of bingo" means a single game of the activity commonly known as "bingo" in which the participants pay a sum of money for the use of one (1) or more bingo cards.

(B) "Game of bingo" includes only games in which the winner receives a pre-announced, fixed-dollar prize and in which the winner is determined by the matching of letters and numbers on a bingo card imprinted with at least twenty-four (24) numbers, with letters and numbers appearing on objects randomly drawn and announced by a caller, in contemporaneous competition among all players in the game;

(8) "Gross receipts" means the total amount received from the sale, rental, transfer, or use of bingo cards and entrance fees charged at premises at which bingo is conducted;

(9) "Licensed agent" means a person eligible under this chapter for an agent's license to lease bingo premises and provide all necessary support for one (1) or more charities to use the premise;

(10) "Licensed authorized organization" means an authorized organization that holds a license to conduct bingo;

(11) "Premises" means the area subject to the direct control of and actual use by a licensed authorized organization or group of licensed authorized organizations to conduct bingo. Premises includes a location or place;

(12) "Primary business office" means the location at which all records relating to the primary purpose of a licensed authorized organization are maintained in the ordinary course of business; and

(13) "Raffle" means the selling of tickets or chances to win a

prize awarded though a random drawing.

23-114-102. General provisions.

(a) The game of bingo or raffles conducted by a licensed authorized organization shall not be a lottery prohibited by Arkansas Constitution, Article 19, Section 14, if all net receipts over and above the actual cost of conducting the game or raffles are used only for charitable, religious, or philanthropic purposes.

(b) No net receipts shall be used to compensate in any manner any person who works for or is in any way affiliated with the licensed authorized organization.

(c) Entering into a contract between an authorized organization and a licensed agent or unit will not constitute an affiliate relationship under this act.

SUBCHAPTER 2 CHARITABLE BINGO AND RAFFLES COMMISSION

23-114-201. Charitable Bingo and Raffles Oversight Commission – Creation – Members.

(a) There is created the Charitable Bingo and Raffles Oversight Commission.

(b)(1) The commission shall consist of five (5) members appointed by the Governor for terms of five (5) years.

(2) The term of office for each member shall begin on July 1 and shall end on June 30 of the fifth year following the year in which the regular term commenced.

(3) The terms of the initial members of the commission shall be determined by lot so that the term of one (1) member expires each year.

(c) The Director of the Department of Finance and Administration or his or her designee shall serve as an ex officio member of the commission.

(d) Any vacancies arising in the membership of the commission for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, to be effective until the expiration of the regular term.

(e)(1) Each congressional district shall be represented on the commission.

(2) Each member of the commission shall have been a resident of Arkansas for not less than five (5) years next preceding the date of his or her appointment and shall be a qualified voter at the time of his or her appointment.

(3) No person who is officially connected with, employed by, financially interested in, or related to, within the third degree of consanguinity or affinity, any officer of an applicant for, or any officer of a holder of, a license applied for or issued under or pursuant to the provisions of this section shall be eligible to serve as a member of the commission.

(f) The Governor shall have the right to remove any member of the commission for cause.

(g) Before entering upon his or her duties, each member of the commission shall take, subscribe, and file in the office of the Secretary of State an oath to support the Constitution of the United States and the Constitution of the State of Arkansas and to faithfully perform the duties of

the office upon which he or she is about to enter.

(h) Members of the commission shall not receive compensation for their services, but within the limitations of appropriations made available by the General Assembly, each member may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

23-114-202. Control and supervision of bingo -- Bingo Operations Division.

(a) The Charitable Bingo and Raffle Oversight Commission shall administer this chapter.

(b) The commission has broad authority and shall exercise strict control and close supervision over all bingo conducted in this state so that bingo is fairly conducted and the proceeds derived from bingo are used for an authorized purpose.

(c)(1) Staff support for the commission shall be provided by the Department of Finance and Administration.

(2) The department shall execute its responsibility through the Bingo Operations Division established within the department.

23-114-203. Director of Bingo Operations.

(a)(1) The Charitable Bingo and Raffle Oversight Commission shall appoint a Director of Bingo Operations from a list of three (3) names submitted by the Governor.

(2) The director shall be employed by the Department of Finance and Administration.

(b) The director shall administer the Bingo Operations Division under the direction of the commission.

23-114-204. Officers and investigators.

The Department of Finance and Administration may employ officers or investigators the Charitable Bingo and Raffle Oversight Commission considers necessary to administer this chapter.

23-114-205. Rulemaking authority.

The Charitable Bingo and Raffle Oversight Commission may adopt rules to enforce and administer this chapter. The rules will be drafted by the Department of Finance and Administration and submitted to the commission for final approval.

23-114-206. Regulation of bingo games.

The Charitable Bingo and Raffle Oversight Commission by rule may establish the number and type of bingo games that may be played during a bingo session.

23-114-207. Approval of bingo cards.

(a) The Charitable Bingo and Raffle Oversight Commission by rule shall provide procedures for the approval of bingo cards.

(b) A license holder may not use or distribute a bingo card unless the card has been approved by the commission.

(c) The commission may set the price or adopt a schedule of prices for the sale or provision of bingo cards by a licensed authorized organization.

(d) A licensed authorized organization may not sell or provide a bingo

card at a price other than a price authorized by the commission or a schedule adopted by the commission.

(e) The commission by rule may require a licensed authorized organization to notify the commission of the price for bingo cards the licensed authorized organization will use for one or more reporting periods.

SUBCHAPTER 3 LICENSING

23-114-301. Authorized organization license.

The Department of Finance and Administration may license an entity that is an authorized organization eligible for a license to conduct bingo that is a nonprofit tax-exempt religious, educational, veterans, fraternal, service, civic, medical, volunteer rescue service, volunteer firefighters organization, or volunteer police organization that has been in continuing existence as a nonprofit tax-exempt organization in this state for a period of not less than five (5) years immediately prior to conducting the game of bingo or raffles.

23-114-302. Licensed agent's license.

The Department of Finance and Administration shall issue a licensed agent's license if the department determines that:

- (1) The applicant has paid the license fee;
- (2) The applicant qualifies to be licensed under this chapter;
- (3) The applicant satisfies the requirements for a licensed agent under this subchapter;
- (4) The rent to be charged is fair and reasonable and will be charged and collected in compliance with law;
- (5) There is no diversion of the funds of the proposed lessee from the lawful purposes under this chapter;
- (6) The person whose signature or name appears in the application is in all respects the real party in interest and is not an undisclosed agent or trustee for the real party in interest; and
- (7) The applicant will lease the premises for the conduct of bingo in accordance with this chapter.

23-114-303. Licensed agent's residence -- Authority.

(a) A licensed agent shall be an individual resident of Arkansas, a partnership domiciled in Arkansas, or an Arkansas corporation.

(b) A Licensed agent has the authority on behalf of a multiple charity unit to provide services. The licensed agent shall enter into individual bingo leases with each charity and a management agreement with the unit, as defined in § 23-115-501, to provide some or all of the following services:

- (1) Leasing or otherwise obtaining a suitable piece of real estate at which to conduct charitable bingo on behalf of the unit;
- (2) Improving premise to accommodate bingo including providing for street, exterior and interior signage; ceiling, floor, wall finishes; heating, ventilation and air conditioning; lights and electrical service; utility services; cable television; sound and audio visual systems; security cameras; rest rooms; snack bar; and, offices;
- (3) Providing bingo equipment to include a ball blower with computer, bingo number boards, monitors; callers sound system; point of sale equipment and counters; and, other equipment necessary to conduct bingo;

(4) Providing tables, chairs, waste receptacles, mats and other furnishings;

(5) Maintaining and repairing the physical plant and all furnished bingo and general equipment;

(6) Maintaining a single inventory of bingo paper on behalf of all of the charities;

(7) Retaining a paid staff of cashiers, callers, runners and a bingo hall manager to conduct bingo on behalf of the charities;

(8) Providing directly or retaining the services of suitable security workers, janitorial staff, and bookkeepers or accountants, or both;

(9) Maintaining the unit bingo account for the benefit of the unit including receiving and accounting for all revenue, expenses and capital expenditures, and preparing a monthly cash receipts and disbursements journal;

(10)(A) Preparing and certifying the monthly, quarterly, and annual income statement, balance sheet, and statement of cash flows for the unit.

(B) The quarterly financial statements shall be reviewed and the annual financial statements shall be audited by an independent auditor selected by the unit;

(11) Preparing the daily and quarterly reports to the State of Arkansas for the unit;

(12) Collecting and remitting to the State of Arkansas all prize fees on a quarterly basis; and

(13) Developing an annual written business plan and a financial forecast and marketing plan for the unit and bingo hall. These plans shall be updated on a quarterly basis and submitted to the unit for review and approval.

(c) The licensed agent shall enter into individual bingo leases with each charity and a management agreement with the unit. Sample documents shall be promulgated.

23-114-304. License fees and training.

(a) An authorized organization license may be issued to an authorized organization. The applicant shall pay an annual fee of one hundred dollars (\$100) and post financial security in the amount of five thousand dollars (\$5,000).

(b) A licensed agent's license may be issued to a person as described in § 23-114-401 et seq. The applicant shall pay an annual fee of five thousand dollars (\$5,000) and post financial security in the amount of one hundred thousand dollars (\$100,000).

(c) Before the issuance of licenses under subsections (a) or (b) of this section, the applicant for a licensed agent's license or a person designated by the applicant for an authorized organization license shall complete the training required under § 23-114-306.

23-114-305 License application.

(a) An applicant for a licensed agent license or an authorized organization license shall file with the Department of Finance and Administration a written verified application on a form prescribed by the Charitable Bingo and Raffle Oversight Commission.

(b) The license application shall include:

(1) The name and address of the applicant and each other person who has a financial interest in or who is in any capacity a real party in interest in the applicant's business as it pertains to this chapter;

(2) A designation and address of the premises intended to be covered by the license;

(3) The lawful capacity of the premises for public assembly purposes;

(4) A statement that a copy of the application has been sent to the appropriate governing body; and

(5) A statement that the applicant complies with the conditions for eligibility for the license.

(c) Any person applying for any license issued by the commission shall meet the following requirements:

(1) No applicant shall have been found guilty of or pleaded guilty or nolo contendere to:

(A) Any felony by any court in the State of Arkansas; or

(B) Any similar offense by a court in another state or of any similar offense by a military or federal court;

(2)(A) In order to determine the applicant's suitability for a permit, the applicant shall be fingerprinted, and the fingerprints shall be forwarded for a criminal background check through the Department of Arkansas State Police.

(B) After the completion of the criminal background check through the Department of Arkansas State Police, the fingerprints shall be forwarded by the department to the Federal Bureau of Investigation for a national criminal history record check; and

(3) The applicant shall sign a release that allows the Department of Arkansas State Police to release:

(A) An Arkansas non-criminal justice background check to the Alcoholic Beverage Control Board; and

(B) A fingerprint card of the applicant to the bureau to allow a federal fingerprint-based background check to be performed.

23-114-306. Training program.

(a) The person shall complete eight (8) hours of training as provided by the Charitable Bingo and Raffle Oversight Commission rule.

(b) A training program approved by the commission shall include training related to:

(1) Conducting bingo;

(2) Administering and operating bingo; and

(3) Promoting bingo.

(c) The commission by rule shall establish:

(1) The content of the training course;

(2) Information concerning training to be reported to the Department of Finance and Administration; and

(3) Other training program requirements that the commission determines to be necessary to promote the fair conduct of bingo and compliance with this chapter.

23-114-307. License issuance.

(a) The Department of Finance and Administration shall issue a

licensed agents license if the department determines that:

- (1) The applicant has paid the license fee;
- (2) The applicant qualifies to be licensed under this chapter;
- (3) The applicant satisfies the requirements for a licensed agent under this subchapter;
- (4) The rent to be charged is fair and reasonable and will be charged and collected in compliance with law;
- (5) There is no diversion of the funds of the proposed lessee from the lawful purposes under this chapter;
- (6) The person whose signature or name appears in the application is in all respects the real party in interest and is not an undisclosed agent or trustee for the real party in interest; and
- (7) The applicant will lease the premises for the conduct of bingo in accordance with this chapter.

23-114-308. Denial, suspension, or revocation of licenses – Proceedings before the department.

(a) All proceedings for the suspension and revocation of licenses shall be before the Director of Department of Finance and Administration or his or her designee.

(b) The department may deny an application for a license or renewal of a license issued under this chapter for a cause that would permit or require the suspension or revocation of a license issued under this chapter.

(c) The proceedings shall be in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

23-114-309. Display of license.

A licensed authorized organization or licensed agent shall conspicuously display a license issued under this chapter and a license to lease premises for conducting bingo at the premises at which bingo is conducted at all times during the conduct of bingo.

23-114-310. Failure to file fee reports.

A person is not eligible for a license or a license renewal unless all required reports and requested information have been filed under this chapter.

SUBCHAPTER 4 OPERATION OF BINGO

23-114-401. Restrictions on premises providers.

A person shall not for direct or indirect consideration lease or otherwise make a premises available for conducting bingo unless the person is a licensed agent.

23-114-402. Single premises.

(a) Bingo shall not be conducted at more than one (1) premises on property owned or leased by a licensed authorized organization.

(b) The Department of Finance and Administration shall not license more than two (2) affiliated organizations to conduct bingo at the same premises.

(c) Up to seven (7) licensed authorized organizations may conduct bingo at the same premises if they have formed a unit, as defined in § 23-115-501, and retained a licensed agent.

23-114-403. Admission to bingo games.

(a) A person shall not be denied admission to a bingo game or the opportunity to participate in a bingo game because of race, color, creed, religion, national origin, sex, or disability or because the person is not a member of the licensed authorized organization conducting the bingo game.

(b) Each license holder can set the age requirements for participating in bingo sessions and being admitted to the bingo facility.

23-114-404. Bingo records.

(a) The Charitable Bingo and Raffle Oversight Commission by rule may provide for different recordkeeping procedures for licensed authorized organizations by class based on the amount of gross receipts of the organization.

(b) An organization conducting bingo shall record on a cash register all transactions for which it receives bingo gross receipts in conformance with Charitable Bingo and Raffle Oversight Commission rules relating to transaction recording specifications.

23-114-405. Advertisements.

(a) A person other than a licensed authorized organization, unit, or a licensed agent shall not advertise bingo.

(b) A licensed authorized organization and a licensed agent may include in an advertisement or promotion the amount of a prize or series of prizes offered at a bingo session.

(c) A licensed authorized organization, unit, and licensed agent may market bingo to the general public by utilizing any of the following tools:

(1) Advertising the playing times and prizes for its bingo hall in any marketing channels, for example, print, radio, or television, which accept such ads and in printed flyers prepared for that specific purpose;

(2) Providing targeted promotional and discounted pricing to attract bingo customers;

(3) Providing gift certificates or bingo bucks or discount coupons to attract bingo customers;

(4) Offer a door prize by means of a raffle with a value not to exceed \$250 at each session of bingo; and

(5) Offering in cooperation with a snack bar, discounted or promotional food pricing to attract bingo customers.

23-114-406. Gift certificates.

(a) Nothing in this chapter prohibits a licensed authorized organization from selling or redeeming a gift certificate that entitles the bearer of the certificate to play a bingo game.

(b) A licensed authorized organization that sells or redeems a gift certificate shall keep adequate records relating to the gift certificate as provided by Charitable Bingo and Raffle Oversight Commission rule.

23-114-407. Bingo sessions.

(a)(1) A bingo session begins when the first bingo game of that bingo session is commenced by calling the first bingo ball drawn.

(2) A licensed authorized organization may conduct up to three (3) bingo sessions on each of two (2) calendar days during a calendar week.

(b)(1) No more than two (2) licensed authorized organizations may conduct bingo at the same premises during a twenty-four-hour period.

(2) If two (2) organizations conduct bingo at the same premises during a twenty-four-hour period, the bingo sessions shall be announced separately, and an intermission of at least ten (10) minutes shall occur between the bingo sessions.

23-114-408. Prizes.

(a) A bingo prize shall not have a value of more than five hundred dollars (\$500) for a single game.

(b)(1) For the total prizes of all bingo games, an authorized organization shall not offer or award during a single bingo session prizes with an aggregate value of more than one thousand five hundred dollars (\$1,500).

(2) In addition to the prize limitation of one thousand five hundred dollars (\$1,500) in subdivision (b)(1) of this section, an authorized organization can play unlimited twenty-five dollar (\$25.00) bingo games before and after the bingo session.

(c) A licensed authorized organization shall not award or offer to award a door prize with a value of more than two hundred fifty (\$250) per bingo session. This door prize value shall not accrue against the one thousand five hundred dollar (\$1,500) bingo session prize limitation.

(d) A bingo prize, other than cash, may be merchandise with a recognized wholesale cost not to exceed five hundred dollars (\$500). A copy of the receipt for such merchandise shall be included in the charity's daily report.

23-114-409. Purchase of bingo paper.

Authorized organizations, units, and licensed agents may purchase bingo paper directly from printers and suppliers and are not obligated to purchase bingo paper from distributors.

SUBCHAPTER 5 UNIT ACCOUNTING

23-114-501. Definitions.

As used in this subchapter:

(1) "Unit" means two (2) or more licensed authorized organizations that conduct bingo at the same location joining together to share revenues, authorized expenses, and inventory related to bingo operations;

(2) "Unit accounting" means a method by which licensed authorized organizations that are members of a unit account for the sharing of revenues, authorized expenses, and inventory related to bingo operations;

(3) "Unit accounting agreement" means a written agreement by all the licensed authorized organizations that are members of a unit that contains, at a minimum:

(A) The taxpayer name and number of each licensed authorized organization that is a member of the unit;

(B) The method by which the net proceeds of the bingo operations of the unit will be apportioned among the members of the unit;

(C) The name of the unit manager or designated agent of the unit; and

(D) The methods by which the unit may be dissolved and by which

one or more members of the unit may withdraw from participation in the unit, including the distribution of funds, records, and inventory and the allocation of authorized expenses and liabilities on dissolution or withdrawal of one or more members of the unit; and

(4) "Unit manager" means an individual licensed under this subchapter to be responsible for the revenues, authorized expenses, and inventory of a unit and represents the interests of the authorized organizations with the licensed agent.

23-114-502. Accounting unit formation.

(a) Two (2) or more licensed authorized organizations may form and operate a unit as provided by this subchapter by executing a unit accounting agreement that identifies the unit manager and the duties of that unit manager.

(b)(1) This subchapter does not require a licensed authorized organization to join a unit.

(2) Except as provided by subsection (c) of this section, whether to join or withdraw from a unit is at the discretion of each licensed authorized organization.

(c)(1) The members of a unit may determine whether to allow another licensed authorized organization to join the unit.

(2) The terms of the withdrawal of a member from the unit are governed by the unit accounting agreement.

23-114-503. Applicability of chapter.

A licensed authorized organization that uses unit accounting is subject to the other provisions of this chapter to the extent the provisions are applicable and are not inconsistent with this subchapter.

23-114-504. Conduct of bingo.

(a) Each licensed authorized organization that is a member of a unit shall conduct its bingo games separately from the bingo games of the other members of the unit.

(b) A unit may purchase or lease bingo supplies and equipment in the same manner as a licensed authorized organization.

23-114-505. Unit accounting.

(a) A unit:

(1) Shall establish and maintain one (1) checking account designated as the unit's bingo account;

(2) Shall maintain one (1) inventory of bingo supplies and equipment for use in the bingo operations of members of the unit; and

(3) May maintain an interest-bearing savings account designated as the unit's bingo savings account.

(b) Each member of a unit shall deposit into the unit's bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes. The deposit shall be made not later than the next business day after the day of the bingo session on which the receipts were obtained.

(c) All authorized expenses and distributions of the unit and its members shall be paid from the unit's bingo checking account.

23-114-506. Disbursement of funds by dissolved unit.

(a) For purposes of this subchapter, the requirements that are applicable to a licensed authorized organization shall be applied to a unit.

(b) A unit that has dissolved for any reason and has unexpended bingo funds shall disburse those funds to the bingo account of each member of the unit before the end of the next calendar quarter after the calendar quarter in which the unit dissolves.

23-114-507. Unit Manager -- License.

(a) If the unit accounting agreement of a unit states that a unit manager is responsible for compliance with Charitable Bingo and Raffle Oversight Commission rules and this chapter, the unit manager is responsible for:

(1) The filing of one quarterly report for the unit on a form prescribed by the commission; and

(2) The payment of fees and the maintenance of the bingo inventory and financial records of the unit.

(b) A unit with a unit manager shall notify the Department of Finance and Administration of the name of the unit manager and immediately notify the Department of any change of unit manager.

(c)(1) A person shall not provide services as a unit manager to licensed authorized organizations that form a unit unless the person holds a unit manager license under this subchapter.

(2) A person designated as a licensed agent is not a unit manager on account of that designation for purposes of this section.

(d) An applicant for a unit manager license shall file with the department a written application on a form prescribed by the department that includes:

(1) The name and address of the applicant;

(2) Information regarding whether the applicant, or any officer, director, or employee of the applicant, has been convicted of a felony, criminal fraud, gambling or gambling-related offense, or crime of moral turpitude; and

(3) Any other information required by commission rule.

(e) A person who holds a unit manager license shall post a bond or other form of security authorized by the commission.

(f) A person is not eligible for a unit manager license under this subchapter if the person, or any officer, director, or employee of the person:

(1) Has been convicted of a felony, criminal fraud, a gambling or gambling-related offense, or crime of moral turpitude, if less than ten (10) years has elapsed since the termination of a sentence, parole, or community supervision served for the offense;

(2) Is an owner, officer, or director of a licensed agent, is employed by a licensed agent, or is related to a licensed agent within the second degree by consanguinity or affinity, unless the holder of the license is a licensed authorized organization or an association of licensed authorized organizations; or

(3) Holds or is listed on another license under this chapter, unless the holder of the license is a licensed authorized organization or an association of licensed authorized organizations.

(g) A unit manager shall complete the training required by § 23-114-306.

SUBCHAPTER 6 BINGO ACCOUNTS AND USE OF PROCEEDS

23-114-601. Organization bingo accounts.

(a)(1) A licensed authorized organization shall establish and maintain one regular checking account designated as the bingo account.

(2) A licensed authorized organization may also maintain an interest-bearing savings account designated as the bingo savings account.

(b)(1) A licensed authorized organization shall deposit into the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes. Except as provided by subdivision (b)(2) of this section, a deposit shall be made not later than the next business day after the day of the bingo session on which the receipts were obtained.

(2) A licensed authorized organization may deposit funds derived from the conduct of bingo that are paid through a debit card transaction into the bingo fund not later than seventy-two (72) hours after the transaction.

(c) A licensed authorized organization may lend money from its general fund to its bingo account if the organization requests and receives the prior approval of the Department of Finance and Administration. Except as provided by this section, no other funds may be deposited into the bingo account.

(d) A licensed authorized organization shall not commingle gross receipts derived from the conduct of bingo with other funds of the organization.

(e) Except as permitted, the licensed authorized organization shall not transfer gross receipts to another account maintained by the licensed authorized organization.

(f) A licensed authorized organization shall maintain all of its savings and checking accounts in a financial institution in this state.

23-114-602. Withdrawals from bingo account.

(a)(1) Funds from the bingo account shall be withdrawn by preprinted, consecutively numbered checks or withdrawal slips, signed by an authorized representative of the licensed authorized organization and made payable to a person.

(2) A check or withdrawal slip shall not be made payable to "cash," "bearer," or a fictitious payee.

(3) The nature of the payment made shall also be noted on the face of the check or withdrawal slip.

(b) The checks for the bingo account shall be imprinted with the words "Bingo Account" and shall contain the licensed authorized organization's bingo license number on the face of each check.

(c) A licensed authorized organization shall keep and account for all checks and withdrawal slips, including voided checks and withdrawal slips.

23-114-603. Authorized uses of bingo account.

(a) A licensed authorized organization may draw a check on its bingo account only for:

(1) The payment of necessary and reasonable bona fide expenses, including compensation of personnel incurred and paid in connection with the conduct of bingo;

(2) The disbursement of net proceeds derived from the conduct of bingo to charitable purposes; or

(3) The transfer of net proceeds derived from the conduct of bingo to the licensed authorized organization's bingo savings account pending a disbursement to a charitable purpose.

(b) A licensed authorized organization shall make the disbursement of net proceeds on deposit in the bingo savings account to a charitable purpose by transferring the intended disbursement back into the licensed authorized organization's bingo account and then withdrawing an amount by a check drawn on the bingo account.

23-114-604. Use of net proceeds for charitable purposes.

(a) A licensed authorized organization shall devote to the charitable purposes of the licensed authorized organization its net proceeds of bingo.

(b) Except as otherwise provided by law, the net proceeds derived from bingo are dedicated to the charitable purposes of the licensed authorized organization only if directed to a cause, deed, or activity that is consistent with the federal tax exemption the licensed authorized organization obtained under 26 U.S.C. Section 501, as in existence on January 1, 2007, and under which the organization qualifies as a nonprofit organization as defined by law. If the licensed authorized organization is not required to obtain a federal tax exemption under 26 U.S.C. Section 501, as in existence on January 1, 2007, the licensed authorized organization's net proceeds are dedicated to the charitable purposes of the licensed authorized organization only if directed to a cause, deed, or activity that is consistent with the purposes and objectives for which the licensed authorized organization qualifies as a licensed authorized organization.

(c)(1) The charity shall make mandatory annual or more frequent disbursement from the bingo account to the general fund of the charity after providing for appropriate reserves and funds necessary to pay for short term payables of the bingo hall.

(2) Once funds are distributed to the charity general fund under subdivision (c)(1) of this section, no funds shall be returned to the bingo account except by means of a loan from the charity general fund to the bingo account as evidenced by a written instrument.

23-114-605. Use of proceeds by recipient.

A person given bingo proceeds for a charitable purpose shall not use the donation:

(1) To pay for services rendered or materials purchased in connection with the conduct of bingo by the donor organization; or

(2) For a purpose that would not constitute a charitable purpose if the activity were conducted by the donor organization.

23-114-606. Use of proceeds by a licensed authorized organization.

A licensed authorized organization shall not use the net proceeds from bingo directly or indirectly to:

(1) Support or oppose a candidate or slate of candidates for public office;

(2) Support or oppose a measure submitted to a vote of the people; or

(3) Influence or attempt to influence legislation.

23-114-607. Items of expense.

(a) Expenses that are reasonable or necessary to conduct bingo may be incurred or paid in connection with the conduct of bingo, including expenses for:

- (1) Advertising, including the cost of printing bingo gift certificates;
- (2) Security;
- (3) Repairs to premises and equipment;
- (4) Bingo supplies and equipment;
- (5) Prizes;
- (6) Stated rental or mortgage and insurance expenses;
- (7) Bookkeeping, legal, or accounting services related to bingo;
- (8) Fees for callers, cashiers, ushers, janitorial services, and utility supplies and services;
- (9) License fees;
- (10) Attending a bingo seminar or convention; and
- (11) Debit or credit card transaction fees.

(b) The value of health insurance or a health benefit provided by a licensed authorized organization to an employee is not included under subdivision (a)(8) of this section.

23-114-608. Expenses paid from bingo account.

The following items of expense incurred or paid in connection with the conduct of bingo must be paid from a licensed authorized organization's bingo account:

- (1) Advertising, including the cost of printing bingo gift certificates;
- (2) Security during a bingo session;
- (3) The purchase or repair of bingo supplies and equipment;
- (4) Prizes, other than authorized cash prizes;
- (5) Stated rental expenses;
- (6) Bookkeeping, legal, or accounting services;
- (7) Fees for callers, cashiers, and ushers;
- (8) Janitorial services;
- (9) License fees; and
- (10) Payment for services provided by a system service provider.

SUBCHAPTER 7 PRIZE FEES

23-114-701. Prize fee.

A licensed authorized organization shall collect from a person who wins a bingo prize a fee of one and one half percent (1.5%) of the amount or value of the prize.

23-114-702. Payment and reporting of fee.

(a) A fee authorized or imposed under this subchapter is due and is payable by the license holder or a person conducting bingo without a license to the Department of Finance and Administration quarterly on or before the twenty-fifth day of the month succeeding each calendar quarter.

(b) The report of a fee shall be filed under oath on forms prescribed by the department.

(c) The department shall adopt rules for the payment of the fees.

(d) The department shall deposit the revenue collected under this

section to the credit of the General Revenue Fund Account of the State Apportionment Fund.

23-114-703. Report of expenses.

(a) A licensed authorized organization conducting bingo shall submit quarterly to the Department of Finance and Administration a report under oath stating:

- (1) The amount of the gross receipts derived from bingo;
- (2) Each item of expense incurred or paid;
- (3) Each item of expenditure made or to be made, the name and address of each person to whom each item has been paid or is to be paid, and a detailed description of the merchandise purchased or the services rendered;
- (4) The net proceeds derived from bingo;
- (5) The use to which the proceeds have been or are to be applied; and
- (6) A list of prizes offered and given, with their respective values.

(b) A license holder shall:

- (1) Maintain records to substantiate the contents of each report; and
- (2) Furnish a copy of each report to the appropriate governing body.

23-114-704. Record of prize winner.

The Charitable Bingo and Raffle Oversight Commission by rule may require a licensed authorized organization to maintain records relating to each person to whom a prize is awarded at a bingo session.

23-114-705. Collection and disbursement of prize fee.

The Department of Finance and Administration shall deposit the revenue collected from the fee on prizes to the credit of a General Revenue Fund Account of the State Apportionment Fund.

23-114-706. Determination if no return made.

(a) If a license holder fails to make a required return or if a person conducts bingo without a license, the Department of Finance and Administration shall make an estimate of the prizes awarded at a bingo session or of the gross rentals received by a license holder for the rental of premises. The department shall make the estimate for the period in respect to which the license holder or other person failed to make a return.

(b) The estimate shall be based on any information covering any period possessed by the department or that may come into the possession of the department.

(c) On the basis of the department's estimate, the department shall compute and determine the amount of taxes or fees required to be paid to the state and shall add to that amount a penalty of ten percent (10%) of the amount.

(d) One (1) or more determinations may be made under this section for one (1) or more periods.

SUBCHAPTER 8 ENFORCEMENT

23-114-801. Unlawful bingo offense.

(a) As used in this section, "bingo" or "game" means a specific game of chance, commonly known as bingo, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random, whether or not a person who participates as a player furnishes something of value for the opportunity to participate.

(b) A person conducting, promoting, or administering bingo commits an offense if the person conducts, promotes, or administers bingo other than:

(1) Under a license issued under this chapter;

(2) Within the confines of a home for purposes of amusement or recreation when:

(A) No player or other person furnishes anything of more than nominal value for the opportunity to participate;

(B) Participation in the game does not exceed fifteen (15) players; and

(C) The prizes awarded or to be awarded are nominal;

(3) On behalf of an organization of individuals sixty (60) years of age or over, a senior citizens' association, a senior citizens' community center program operated or funded by a governmental entity, the patients in a hospital or nursing home, residents of a retirement home, or the patients in a Veteran's Administration medical center or a military hospital, solely for the purpose of amusement and recreation of its members, residents, or patients, when:

(A) No player or other person furnishes anything of more than nominal value for the opportunity to participate; and

(B) The prizes awarded or to be awarded are nominal; or

(4) On behalf of a business conducting the game for promotional or advertising purposes if:

(A) The game is conducted by or through a newspaper or a radio or television station;

(B) Participation in the game is open to the general public and is not limited to customers of the business;

(C) Playing materials are furnished without charge to a person on request; and

(D) No player is required to furnish anything of value for the opportunity to participate.

(c) A violation of subsection (b) of this section is a Class A misdemeanor.

23-114-802. Fraudulent award of prizes -- Offense.

(a) A person commits an offense if the person knowingly participates in the award of a prize to a bingo player in a manner that disregards, to any extent, the random selection of numbers or symbols.

(b) It is a defense to prosecution under this section that no participant in the game furnished anything of value for the opportunity to participate in the game.

(c) A violation of subsection (b) of this section is a Class A misdemeanor.

23-114-803. Other offenses -- Revocation of License.

(a) A person commits an offense and the person's license is subject to revocation under this chapter if the person:

(1) Makes a false statement or material omission in an application for a license under this chapter;

(2) Fails to maintain records that fully and accurately record each transaction connected with the conducting of bingo, the leasing of premises to be used for bingo, or the manufacture, sale, or distribution of bingo supplies or equipment;

(3) Falsifies or makes a false entry in a book or record if the entry relates to bingo, the disposition of bingo proceeds, the application of rent received by a licensed authorized organization, or the gross receipts from the manufacture, sale, or distribution of bingo supplies or equipment;

(4) Diverts or pays a portion of the net proceeds of bingo to a person except in furtherance of one or more of the lawful purposes provided by this chapter;

(5) Violates this chapter or a term of a license issued under this chapter; or.

(6) A person whose license is revoked under this section may not apply for another license under this chapter before the first anniversary of the date of revocation.

(b) A violation of subsection (b) of this section is a Class A misdemeanor.

23-114-804. Exemption from prosecution.

(a) A person lawfully conducting or participating in bingo or permitting the conduct of bingo on premises owned or leased by the person under a license issued under this chapter is not subject to prosecution or conviction for a violation of a provision of any other law or ordinance to the extent that the person's action is specifically authorized by this chapter.

(b) The immunity granted under this section does not extend to a person:

(1) Knowingly conducting or participating in bingo under a license obtained by a false pretense, false statement, or material omission made in an application for license or otherwise; or

(2) Knowingly permitting the conduct of bingo on premises owned or leased by the person under a license known to the person to have been obtained by a false pretense or statement.

(c) A license holder under this chapter may possess paraphernalia or equipment that is required to conduct bingo.

23-114-805. Inspection of premises.

The Department of Finance and Administration, its officers or agents, or a state, municipal, or county peace officer may enter and inspect the contents of premises where:

(1) Bingo is being conducted or intended to be conducted; or

(2) Equipment used or intended for use in bingo is found.

23-114-806. Injunction -- Civil penalty.

(a) If the Department of Finance and Administration has reason to believe that this chapter has been or is about to be violated, the department

may petition a court for injunctive relief to restrain the violation.

(b) Venue for an action seeking injunctive relief is in a Pulaski County circuit court.

(c) If the court finds that this chapter has been violated or is about to be violated, the court shall issue a temporary restraining order and, after due notice and hearing, a temporary injunction, and after a final trial, a permanent injunction to restrain the violation.

(d) If the court finds that this chapter has been knowingly violated, the court shall order all proceeds from the illegal bingo to be forfeited to the department as a civil penalty.

23-114-807. Remedies not exclusive.

The Department of Finance and Administration may suspend or revoke a license under this subchapter or impose an administrative penalty under this subchapter, or both, depending on the severity of the violation.

23-114-808. Examination of records -- Disclosure of information.

(a) The Department of Finance and Administration or a person authorized in writing by the department may examine the books, papers, records, equipment, and place of business of a license holder and may investigate the character of the license holder's business to verify the accuracy of a return, statement, or report made, or, if no return is made by the license holder, to ascertain and determine the amount required to be paid.

(b) The department may set and charge to the license holder a fee in an amount reasonably necessary to recover the cost of an authorized investigation or audit authorized under this chapter.

(c) If the department determines that a person is not complying with this chapter, the department shall notify the Attorney General and the governing body of the appropriate political subdivision.

SUBCHAPTER 9 ADMINISTRATIVE PENALTY

23-114-901. Imposition of penalty.

The Department of Finance and Administration may impose an administrative penalty against a person who violates this chapter or a rule or order adopted by the Charitable Bingo and Raffle Oversight Commission under this chapter.

23-114-902. Amount of penalty.

(a) The amount of the administrative penalty may not exceed one thousand dollars (\$1,000) for each violation. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty.

(b) In determining the amount of the penalty, the Director of Bingo Operations shall consider:

(1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited acts;

(2) The history of previous violations;

(3) The amount necessary to deter future violations;

(4) Efforts to correct the violation; and

(5) Any other matter that justice may require.

23-114-903. Notice of violation and penalty.

(a) If after investigating a possible violation and the facts surrounding that possible violation the Director of Bingo Operations determines that a violation has occurred, the director may issue a violation report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty be imposed on the person alleged to have committed the violation, and recommending the amount of the proposed penalty. The director shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set out in § 23-114-902(b).

(b) Not later than the fourteenth day after the date on which the report is issued, the director shall give written notice of the report to the person alleged to have committed the violation.

(c) The notice shall:

(1) Include a brief summary of the alleged violation;

(2) State the amount of the administrative penalty recommended;

and

(3) Inform the person of the person's right to a hearing on the occurrence of the violation or the amount of the penalty, or both.

23-114-904. Penalty to be paid or hearing requested.

(a) Not later than the twentieth day after the date the person receives the notice, the person may:

(1) Accept the recommendation of the Director of Bingo Operations, including the recommended administrative penalty; or

(2) Make a written request for a hearing on the determination.

(b) If the person accepts the determination of the director, the director by order shall approve the determination and impose the proposed penalty.

23-114-905. Hearing.

(a) If the person timely requests a hearing or does not respond to the notice in the time allowed, the Director of Bingo Operations shall set a hearing and give notice of the hearing to the person.

(b) The hearings examiner shall make findings of fact and conclusions of law and promptly issue to the Department of Finance and Administration a proposal for decision as to the occurrence of the violation and the amount of the proposed penalty, if a penalty is warranted.

23-114-906. Decision by Director of Bingo Operations.

(a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the Director of Bingo Operations by order:

(1) May find that a violation has occurred and may impose an administrative penalty; or

(2) May find that a violation has not occurred.

(b) The director shall give notice of the order to the person. The notice shall include:

(1) Separate statements of the findings of fact and conclusions of law;

(2) The amount of any penalty imposed;

- (3) A statement of the right of the person to judicial review of the order; and
- (4) Other information required by law.

23-114-907. Options following decision -- Pay or appeal.

(a) Not later than the thirtieth day after the date on which the order becomes final, the person shall:

- (1) Pay the administrative penalty;
- (2) Pay the penalty and file a petition for judicial review contesting the finding that a violation occurred, the amount of the penalty, or both; or

(3) Without paying the penalty, file a petition for judicial review contesting the finding that a violation occurred or the amount of the penalty, or both.

(b) Within the thirty-day period, a person who acts under subdivision (a)(3) of this section may:

- (1) Stay enforcement of the penalty by:
 - (A) Paying the penalty to the court for placement in an escrow account; or
 - (B) Giving to the court a supersedeas bond approved by the court for the amount of the penalty that is effective until all judicial review of the order is final; or

(2) Request the court to stay enforcement of the penalty by:

- (A) Filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) Giving a copy of the affidavit to the Director of Bingo Operations by certified mail.

(c) On receipt of a copy of the affidavit as provided by subdivision (b)(2) of this section, the director may file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

23-114-908. Collection of penalty.

If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the Director of Bingo Operations may refer the matter to the Attorney General for collection of the penalty.

23-114-909. Determination by court.

(a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

23-114-910. Remittance of penalty and interest.

(a) If after judicial review the administrative penalty is reduced or not upheld by the court, the court, after the judgment becomes final, shall:

(1) Order the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or

(2) If the person posted a supersedeas bond, order the release of the bond:

(A) If the penalty is not upheld; or

(B) After the person pays the reduced penalty, if the amount of the penalty is reduced.

(b) The interest paid under subdivision (a)(1) of this section is accrued at the rate charged on loans to depository institutions by the Federal Reserve Bank of New York. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.”

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Faris
JDF/SIK - 01-23-2007 13:48
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Secretary