

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S1/18/07

A Bill

SENATE BILL 87

5 By: Senator Faris
6
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE CHARITABLE BINGO AND RAFFLES
10 OVERSIGHT COMMISSION; TO ENABLE THE CONDUCT OF
11 CHARITABLE BINGO AND RAFFLES IN THE STATE OF
12 ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

15 TO CREATE THE CHARITABLE BINGO AND
16 RAFFLES OVERSIGHT COMMISSION.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 *SECTION 1. Arkansas Code Title 23 is amended to add an additional*
22 *chapter to read as follows:*

CHARITABLE BINGO AND RAFFLES

SUBCHAPTER 1. General provisions.

23-114-101. Short title.

27 This chapter shall be known and may be cited as the "Charitable Bingo
28 and Raffles Enabling Act".
29

23-114-102. Definitions.

In this chapter:

33 (1) "Authorized agent" means a person eligible for an agent's
34 license to lease bingo premises under this chapter;

35 (2) "Authorized organization" means an organization eligible for
36 a license to conduct bingo and raffles who is a nonprofit tax-exempt



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

6 (3) "Automated bingo services" means a computer program or
7 system for:

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

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

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

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

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

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

25 (B) "Bingo equipment" includes:

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

29 (ii) A bingo card;

30 (iii) A bingo ball; and

31 (iv) Any other device commonly used in the direct
32 operation of a bingo game; and

33 (C) "Bingo equipment" does not include:

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

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

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

7 (7) "Charitable purpose" means a purpose described by § 23-114-
8 904;

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

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

14 (10) "Licensed authorized agent" means a person licensed to
15 lease premises for the purpose of Bingo;

16 (11)(A) "Raffle" means the selling of tickets or chances to win
17 a prize awarded through a random drawing;

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

23 (ii) No net receipts shall be used to compensate in
24 any manner any person who works for or is in any way affiliated with the
25 authorized bingo and raffles organization;

26 (12)(A) "Premises" means the area subject to the direct control
27 of and actual use by a licensed authorized organization or group of licensed
28 authorized organizations to conduct bingo.

29 (B) "Premises" includes a location or place;

30 (13) "Primary business office" means the location at which all
31 records relating to the primary purpose of a licensed authorized organization
32 are maintained in the ordinary course of business.

33
34 SUBCHAPTER 2. -- Charitable Bingo and Raffle Oversight Commission.

35
36 23-114-201. Charitable Bingo and Raffle Oversight Commission -

1 Creation – Members.

2 (a) There is created the “Charitable Bingo and Raffle Oversight
3 Commission.”

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

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

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

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

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

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

19 (2) Each member of the commission shall have been a resident of
20 Arkansas for not less than ten (10) years next preceding the date of his or
21 her appointment and shall be a qualified voter at the time of his or her
22 appointment.

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

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

31 (g) Before entering upon his or her duties, each member of the
32 commission shall take, subscribe, and file in the office of the Secretary of
33 State an oath to support the Constitution of the United States and the
34 Constitution of the State of Arkansas and to faithfully perform the duties of
35 the office upon which he or she is about to enter.

36 (h) Members of the commission shall not receive compensation for their

1 services, but, within the limitations of appropriations made available by the
2 General Assembly, each member may receive expense reimbursement and stipends
3 in accordance with § 25-16-901 et seq.

4
5 23-114-202. Control and supervision of bingo -- Bingo Operations
6 Division.

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

9 (b) The Charitable Bingo and Raffle Oversight Commission has broad
10 authority and shall exercise strict control and close supervision over all
11 bingo conducted in this state so that bingo is fairly conducted and the
12 proceeds derived from bingo are used for an authorized purpose.

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

15 (2) The Department of Finance and Administration shall execute
16 its responsibility through a bingo operations division established within the
17 department.

18
19 23-114-203. Director of Bingo Operations.

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

23 (2) The Director of Bingo Operations shall be employed by the
24 Department of Finance and Administration.

25 (b) The Director of Bingo Operations shall administer the Bingo
26 Operations Division under the direction of the commission.

27
28 23-114-204. Officers and investigators.

29 The Department of Finance and Administration may employ officers or
30 investigators the commission considers necessary to administer this chapter.

31
32 23-114-205. Rulemaking authority.

33 The Charitable Bingo and Raffle Oversight Commission may adopt rules to
34 enforce and administer this chapter.

35
36 23-114-206. Regulation of games.

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

4
5 23-114-207. Approval of bingo cards.

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

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

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

12 (d) A licensed authorized organization may not sell or provide a bingo
13 card at a price other than a price authorized by the commission or a schedule
14 adopted by the commission.

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

18
19 SUBCHAPTER 3. -- License to conduct bingo.

20
21 23-114-301. Authorized organization.

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

31
32 23-114-302. License application.

33 An applicant for a license to conduct bingo must file with the
34 Department of Finance and Administration a written, executed, and verified
35 application on a form prescribed by the Charitable Bingo and Raffle Oversight
36 Commission.

1
2 23-114-303. License issuance or renewal.

3 The Department of Finance and Administration shall issue or renew a
4 license to conduct bingo on payment of the license fee provided by § 23-114-
5 501 et. seq.

6
7 23-114-304. Form and contents of license.

8 A license to conduct bingo must include:

9 (1) The name and address of the license holder;

10 (2) The names and addresses of the member or members of the
11 license holder under whom the bingo will be conducted;

12 (3) An indication of the premises where and the time when bingo
13 is to be conducted;

14 (4) The specific purposes to which the net proceeds of bingo are
15 to be devoted; and

16 (5) A statement of whether a prize is to be offered and the
17 amount of any authorized prize.

18
19 SUBCHAPTER 4. -- Authorized agent license.

20
21 23-114-401. Training program.

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

24 (b) A training program approved by the commission must include
25 training related to:

26 (1) Conducting bingo;

27 (2) Administering and operating bingo; and

28 (3) Promoting bingo.

29 (c) The commission by rule shall establish:

30 (1) The content of the training course;

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

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

36

1 23-114-402. License application.

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

6 (b) The license application must include:

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

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

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

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

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

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

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

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

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

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

29 (B) After the completion of the criminal background check
30 through the department, the fingerprints shall be forwarded by the department
31 to the Federal Bureau of Investigation for a national criminal history record
32 check; and

33 (3) The applicant shall sign a release that allows the
34 department to release:

35 (A) An Arkansas noncriminal justice background check to
36 the Alcoholic Beverage Control Board; and

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

3
4 SUBCHAPTER 5 -- Licenses.

5
6 23-114-501. Licenses

7 (a) An authorized organization license may be issued to an
8 organization as defined in § 23-114-301 et. seq. The applicant shall pay an
9 annual fee of \$100 and post financial security in the amount of \$5,000.

10 (b) An authorized agent's license may be issued to a person as defined
11 in § 23-114-401 et. seq. The applicant shall pay an annual fee of \$5,000 and
12 post a surety bond in the amount of \$100,000.

13
14 23-114-502. License issuance.

15 (a) Department of Finance and Administration shall issue an authorized
16 agents license if the Department of Finance and Administration determines
17 that:

18 (1) The applicant has paid the license fee.

19 (2) The applicant qualifies to be licensed under this chapter;

20 (3) The applicant satisfies the requirements for an Authorized
21 Agent under this subchapter;

22 (4) The rent to be charged is fair and reasonable and will be
23 charged and collected in compliance with law;

24 (5) There is no diversion of the funds of the proposed lessee
25 from the lawful purposes under this chapter;

26 (6) The person whose signature or name appears in the
27 application is in all respects the real party in interest and is not an
28 undisclosed agent or trustee for the real party in interest; and

29 (7) The applicant will lease the premises for the conduct of
30 bingo in accordance with this chapter.

31
32 23-114-503. Denial, suspension, or revocation of licenses -
33 Proceedings before the Department of Finance and Administration.

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

1 (b) The proceedings shall be in accordance with rules and regulations
2 which shall be established by the Charitable Bingo and Raffle Oversight
3 Commission and not inconsistent with law.

4 (c) No license shall be revoked except after a hearing by the Director
5 of Bingo Operations with reasonable notice to the licensee and an opportunity
6 to appear and defend.

7 (d) However, the Director of Bingo Operations shall not be bound by
8 the legal rules of evidence in conducting hearings and in making his
9 decisions and may take into consideration any testimony, papers, or documents
10 which he or she may deem relevant to the issue.

11 (e)(1) Whenever the Director of Bingo Operations shall refuse an
12 application for any license or shall suspend or revoke any license, he shall
13 prepare an order so providing which shall be signed by the Director of Bingo
14 Operations or some person designated by him, and the seal of the Director of
15 Bingo Operations shall be affixed thereto.

16 (2) The order shall be mailed by registered mail by the Director
17 of Bingo Operations to the applicant at the address as shown on the
18 application, or to the licensee at the address of the premises licensed, as
19 the case may be.

20 (3) The order shall be final and binding on all parties.

21
22 23-114-504. Conduct of hearings.

23 (a) For the purpose of hearing or conducting any appeal authorized to
24 be heard by it, the Department of Finance and Administration shall have
25 power:

26 (1) To examine, or cause to be examined, under oath, any
27 licensee, or any other person and to examine, or cause to be examined, the
28 books and records of any such licensee;

29 (2) To hear testimony and to take proof material for its
30 information in hearing an appeal;

31 (3) To administer or cause to be administered oaths; and

32 (4) To issue subpoenas requiring the attendance of witnesses and
33 the production of records for any such purposes.

34 (b) The subpoenas shall be effective in any part of this state. Any
35 circuit court may by order duly entered require the attendance of witnesses
36 and the production of relevant records subpoenaed by the department, and the

1 court may compel obedience to its orders by proceedings for contempt.

2 (c) An applicant involved in a hearing before the Director of Bingo
3 Operations shall be entitled, on request, to subpoena for the compulsory
4 attendance of witnesses desired by him.

5 (d) All witnesses shall be entitled to mileage and fees as are
6 prescribed by law for witnesses in the circuit courts of the state; and the
7 mileage and fees of witnesses subpoenaed at the request of an applicant shall
8 be paid by him.

9
10 23-114-505. Appeal to courts.

11 An appeal of the decision of the Department of Finance and
12 Administration may be filed in conformance with the provisions of the
13 Arkansas Administrative Procedure Act, §25-15-201 et seq.

14
15 23-114-506. Display of license.

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

20
21 23-114-507. Failure to file tax or fee reports. A person is not
22 eligible for a license or a license renewal unless all required reports and
23 requested information have been filed under this chapter.

24
25 SUBCHAPTER 6. -- Denial, revocation, and suspension of license.

26
27 23-114-601. Denial of license.

28 The Department of Finance and Administration may deny an application
29 for a license or renewal of a license issued under this chapter for a cause
30 that would permit or require the suspension or revocation of a license issued
31 under this chapter.

32
33 SUBCHAPTER 7. -- Operation of bingo.

34
35 23-114-701. Restrictions on premises providers. A person may not, for
36 direct or indirect consideration, lease or otherwise make a premises

1 available for conducting bingo unless the person is a licensed authorized
2 agent

3
4 23-114-702. Single premises.

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

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

9 (c) No more than seven licensed authorized organizations may conduct
10 bingo at the same premises.

11
12 23-114-703. Admission to bingo games.

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

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

19
20 23-114-704. Bingo records.

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

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

29
30 23-114-705. Advertisements.

31 (a) A person other than a licensed authorized organization or a
32 licensed authorized agent may not advertise bingo.

33 (b) A licensed authorized organization, licensed authorized agent, may
34 include in an advertisement or promotion the amount of a prize or series of
35 prizes offered at a bingo occasion.

36

1 23-114-706. Gift certificates.

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

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

8
9 23-114-707. Bingo occasions.

10 (a) A bingo occasion begins when the premises are opened to the
11 public.

12 (b) A licensed authorized organization may not conduct a bingo
13 occasion more often than three days during a calendar week and not to exceed
14 more than four hours during a 24-hour period.

15 (c) A licensed authorized organization may conduct two bingo occasions
16 during a 24-hour period. No more than two bingo occasions may be conducted
17 at the same premises during one day except that a third bingo occasion may be
18 conducted under a temporary license held by a licensed authorized
19 organization at that premises.

20 (d) No more than two licensed authorized organizations may conduct
21 bingo at the same premises during a 24-hour period. If two organizations
22 conduct bingo at the same premises during a 24-hour period, the bingo
23 occasions must be announced separately, and an intermission of at least 10
24 minutes must occur between the bingo occasions.

25 (e) If two licensed authorized organizations are authorized to conduct
26 bingo at the same premises on the same day, the bingo occasion of one
27 organization may overlap with the bingo occasion of the other organization,
28 but their games must be separated by the intermission required under
29 subsection (d) of this section. In that event, the intermission is
30 considered part of each organization's bingo occasion.

31
32 23-114-708. Prizes.

33 (a) A bingo prize may not have a value of more than \$500 for a single
34 game.

35 (b) For bingo games, a person may not offer or award on a single bingo
36 occasion prizes with an aggregate value of more than \$1,500.

1 (c) A licensed authorized organization or other person may not award
2 or offer to award a door prize with a value of more than \$250.

3 (d) A prize may be merchandise with a recognized wholesale cost not to
4 exceed \$500. A copy of the receipt for such merchandise must be included in
5 the charity's daily report

6
7 SUBCHAPTER 8. -- Unit accounting.

8
9 23-114-801. Definitions.

10 As used in this subchapter:

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

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

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

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

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

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

26 (D) The methods by which the unit may be dissolved and by
27 which one or more members of the unit may withdraw from participation in the
28 unit, including the distribution of funds, records, and inventory and the
29 allocation of authorized expenses and liabilities on dissolution or
30 withdrawal of one or more members of the unit; and

31 (4) "Unit manager" means an individual licensed under this
32 subchapter to be responsible for the revenues, authorized expenses, and
33 inventory of a unit.

34
35 23-114-802. Forming accounting unit.

36 (a) Two or more licensed authorized organizations may form and operate

1 a unit as provided by this subchapter by:

2 (1) Executing a unit accounting agreement; and

3 (2) Stating in the unit accounting agreement whether the unit
4 will use:

5 (A) A unit manager; or

6 (B) A designated agent.

7 (b) More than one unit may be formed at a single location. A licensed
8 authorized organization may not be a member of more than one unit.

9 (c) This subchapter does not require a licensed authorized
10 organization to join a unit. Except as provided by Subsection (d), whether
11 to join or withdraw from a unit is at the discretion of each licensed
12 authorized organization.

13 (d) The members of a unit may determine whether to allow another
14 licensed authorized organization to join the unit. The terms of the
15 withdrawal of a member from the unit are governed by the unit accounting
16 agreement.

17
18 23-114-803. Applicability of chapter.

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

22
23 23-114-804. Conduct of bingo.

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

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

29
30 23-114-805. Unit accounting.

31 (a) A unit:

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

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

36 (3) May maintain an interest-bearing savings account designated

1 as the unit's bingo savings account.

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

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

8
9 23-114-806. Disbursement of funds by dissolved unit.

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

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

16
17 23-114-807. Unit manager -- License.

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

22 (1) The filing of one quarterly report for the unit on a form
23 prescribed by the Charitable Bingo and Raffle Oversight Commission; and

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

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

29 (c) A person may not provide services as a unit manager to licensed
30 authorized organizations that form a unit unless the person holds a unit
31 manager license under this subchapter. A person designated as an authorized
32 agent is not a unit manager on account of that designation for purposes of
33 this section.

34 (d) An applicant for a unit manager license must file with the
35 Department of Finance and Administration a written application on a form
36 prescribed by the Department of Finance and Administration that includes:

1 (1) The name and address of the applicant;

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

6 (3) Any other information required by Charitable Bingo and
7 Raffle Oversight Commission rule.

8 (e) The Charitable Bingo and Raffle Oversight Commission by rule shall
9 establish an annual license fee for a unit manager license in an amount
10 reasonable to defray administrative costs plus any costs incurred to conduct
11 a criminal background check.

12 (f) A person who holds a unit manager license shall post a bond or
13 other form of security authorized by Charitable Bingo and Raffle Oversight
14 Commission.

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

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

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

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

30 (h) A unit manager must complete the training required by § 23-114-
31 401.

32
33 SUBCHAPTER 9. -- Bingo accounts and use of proceeds.

34
35 23-114-901. Organization bingo accounts.

36 (a) A licensed authorized organization shall establish and maintain one

1 regular checking account designated as the "bingo account." The organization
2 may also maintain an interest-bearing savings account designated as the
3 "bingo savings account."

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

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

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

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

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

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

23
24 23-114-902. Bingo account withdrawals.

25 (a) Funds from the bingo account must be withdrawn by preprinted,
26 consecutively numbered checks or withdrawal slips, signed by an authorized
27 representative of the licensed authorized organization and made payable to a
28 person. A check or withdrawal slip may not be made payable to "cash,"
29 "bearer," or a fictitious payee. The nature of the payment made must also be
30 noted on the face of the check or withdrawal slip.

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

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

36

1 23-114-903. Authorized uses of bingo account.

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

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

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

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

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

16
17 23-114-904. Use of net proceeds for charitable purposes.

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

20 (b) Except as otherwise provided by law, the net proceeds derived from
21 bingo are dedicated to the charitable purposes of the organization only if
22 directed to a cause, deed, or activity that is consistent with the federal
23 tax exemption the organization obtained under 26 U.S.C. Section 501 and under
24 which the organization qualifies as a nonprofit organization as defined by
25 law. If the organization is not required to obtain a federal tax exemption
26 under 26 U.S.C. Section 501, the organization's net proceeds are dedicated to
27 the charitable purposes of the organization only if directed to a cause,
28 deed, or activity that is consistent with the purposes and objectives for
29 which the organization qualifies as an authorized organization.

30
31 23-114-905. Use of proceeds by recipient.

32 A person given bingo proceeds for a charitable purpose may not use the
33 donation:

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

36 (2) For a purpose that would not constitute a charitable purpose

1 if the activity were conducted by the donor organization.

2
3 23-114-906. Use of proceeds by licensed authorized organization.

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

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

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

10 (3) Influence or attempt to influence legislation.

11
12 23-114-907. Items of expense.

13 (a) An item of expense may not be incurred or paid in connection with
14 the conduct of bingo except an expense that is reasonable or necessary to
15 conduct bingo, including an expense for:

16 (1) Advertising, including the cost of printing bingo gift
17 certificates;

18 (2) Security;

19 (3) Repairs to premises and equipment;

20 (4) Bingo supplies and equipment;

21 (5) Prizes;

22 (6) Stated rental or mortgage and insurance expenses;

23 (7) Bookkeeping, legal, or accounting services related to bingo;

24 (8) Fees for callers, cashiers, ushers, janitorial services, and
25 utility supplies and services;

26 (9) License fees;

27 (10) Attending a bingo seminar or convention; and

28 (11) Debit card transaction fees.

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

32
33 23-114-908. Expenses paid from bingo account.

34 (a) The following items of expense incurred or paid in connection with
35 the conduct of bingo must be paid from an organization's bingo account:

36 (1) Advertising, including the cost of printing bingo gift

1 certificates;

2 (2) Security during a bingo occasion;

3 (3) The purchase or repair of bingo supplies and equipment;

4 (4) Prizes, other than authorized cash prizes;

5 (5) Stated rental expenses;

6 (6) Bookkeeping, legal, or accounting services;

7 (7) Fees for callers, cashiers, and ushers;

8 (8) Janitorial services;

9 (9) License fees; and

10 (10) Payment for services provided by a system service provider.

11
12 SUBCHAPTER 10. -- Taxes and prize fees.

13
14 23-114-1001. Prize fee.

15 A licensed authorized organization shall collect from a person who wins
16 a bingo prize a fee in the amount of one and one half (1 1/2%) percent of the
17 amount or value of the prize.

18
19 23-114-1002. Payment and reporting of fee.

20 (a) A fee authorized or imposed under this subchapter is due and is
21 payable by the license holder or a person conducting bingo without a license
22 to the Department of Finance and Administration quarterly on or before the
23 25th day of the month succeeding each calendar quarter.

24 (b) The report of a fee must be filed under oath on forms prescribed
25 by the Department of Finance and Administration.

26 (c) The Department of Finance and Administration shall adopt rules for
27 the payment of the fees.

28 (d) The Department of Finance and Administration shall deposit the
29 revenue collected under this section to the credit of the general revenue
30 fund.

31
32 23-114-1003 Report of expenses.

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

36 (1) The amount of the gross receipts derived from bingo;

1 (2) Each item of expense incurred or paid;

2 (3) Each item of expenditure made or to be made, the name and
3 address of each person to whom each item has been paid or is to be paid, and
4 a detailed description of the merchandise purchased or the services rendered;

5 (4) The net proceeds derived from bingo;

6 (5) The use to which the proceeds have been or are to be
7 applied; and

8 (6) A list of prizes offered and given, with their respective
9 values.

10 (b) A license holder shall:

11 (1) Maintain records to substantiate the contents of each
12 report; and

13 (2) Furnish a copy of each report to the appropriate governing
14 body.

15
16 23-114-1004. Record of prize winner.

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

20
21 23-114-1005. Collection and disbursement of prize fee.

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

25
26 23-114-1006. Determination if no return made.

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

34 (b) The estimate shall be based on any information covering any period
35 possessed by the Department of Finance and Administration or that may come
36 into the possession of the Department of Finance and Administration.

1 (c) On the basis of the Department of Finance and Administration's
2 estimate, the Department of Finance and Administration shall compute and
3 determine the amount of taxes or fees required to be paid to the state and
4 shall add to that amount a penalty of 10 percent of the amount.

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

7
8 23-114-1007. Jeopardy determination.

9 (a) If the Department of Finance and Administration believes that the
10 collection of a fee on prizes, an amount of the fee on prizes required to be
11 remitted to the state, or the amount of a determination will be jeopardized
12 by delay, the Department of Finance and Administration shall make a
13 determination of the fee on prizes or amount of the fee required to be
14 collected, noting the finding of jeopardy on the determination. The
15 determined amount is due and payable immediately.

16 (b) If a license holder against whom the determination is made does
17 not pay the amount specified by a determination on or before the 20th day
18 after the date of service of the determination on the license holder, the
19 amount becomes final at the end of the 20th day unless the license holder
20 files a petition for redetermination on or before the 20th day after service
21 of notice of the determination.

22 (c) A delinquency penalty of 10 percent of the fee on prizes interest
23 at the rate of 10 percent a year attaches to the amount of the fee on prizes.

24
25 23-114-1008. Security.

26 (a) To secure payment of the fee on prizes imposed under this
27 subchapter, each license holder shall furnish to the Department of Finance
28 and Administration:

29 (1) A cash bond;

30 (2) A bond from a surety company chartered or authorized to do
31 business in this state;

32 (3) Certificates of deposit;

33 (4) Certificates of savings;

34 (5) United States treasury bonds;

35 (6) Subject to the approval of the Department of Finance and
36 Administration, an assignment of negotiable stocks or bonds; or

1 (7) Other security as the Department of Finance and
2 Administration considers sufficient.

3 (b) The Department of Finance and Administration shall set the amount
4 of the bond or other security, taking into consideration the amount of money
5 that has or is expected to become due from the license holder. The amount
6 required by the Department of Finance and Administration may not exceed three
7 times the amount due according to the license holder's average quarterly
8 reports.

9 (c) On a license holder's failure to pay the fee on prizes imposed
10 under this subchapter, the Department of Finance and Administration may
11 notify the license holder and any surety of the delinquency by jeopardy or
12 deficiency determination. If payment is not made when due, the Department of
13 Finance and Administration may forfeit all or part of the bond or security.

14 (d) If the license holder ceases to conduct bingo and relinquishes the
15 license holder's license, the Department of Finance and Administration shall
16 authorize the release of all bonds and other security on a determination that
17 no amounts of the gross rentals tax or the fee on prizes remain due and
18 payable under this subchapter.

19
20 SUBCHAPTER 11. -- Enforcement.

21
22 23-114-1101. Unlawful bingo offense.

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

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

30 (1) Under a license issued under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

22 (c) An offense under subsection (b) of this section is a Class C
23 felony.

24 (d) An exempted game is not required to be licensed under this
25 chapter.

26 (e) An exempted game is subject to the following restrictions:

27 (1) A person licensed or required to be licensed under this
28 chapter or having an interest in a license under this chapter may not be
29 involved, directly or indirectly, in bingo;

30 (2) The Charitable Bingo and Raffle Oversight Commission by rule
31 may require a person conducting or involved in conducting the game to:

32 (A) Notify the Department of Finance and Administration
33 of:

34 (i) The persons involved in conducting the game;

35 (ii) The manner in which the game is to be
36 conducted; and

1 (iii) Any other information required by the
2 Charitable Bingo and Raffle Oversight Commission; and

3 (B) Keep records of all transactions connected with the
4 game available for Department of Finance and Administration inspection.

5
6 23-114-1102. Fraudulent award of prizes -- Offense.

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

10 (b) An offense under this section is a Class C felony.

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

14
15 23-114-1103. Other offenses -- Revocation of license.

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

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

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

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

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

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

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

36

1 23-114-1104. Exemption from prosecution.

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

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

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

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

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

18
19 23-114-1105. Inspection of premises.

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

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

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

25
26 23-114-1106. Injunction -- Civil penalty.

27 (a) If the Department of Finance and Administration has reason to
28 believe that this chapter has been or is about to be violated, the Department
29 of Finance and Administration may petition a court for injunctive relief to
30 restrain the violation.

31 (b) Venue for an action seeking injunctive relief is in a Circuit
32 Court in Pulaski County.

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

1 (d) If the court finds that this chapter has been knowingly violated,
2 the court shall order all proceeds from the illegal bingo to be forfeited to
3 the Department of Finance and Administration as a civil penalty.

4
5 23-114-1107. REMEDIES NOT EXCLUSIVE.

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

9
10 23-114-1108. Examination of records -- Disclosure of information.

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

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

21 (c) If the Department of Finance and Administration determines that a
22 person is not complying with this chapter, the Department of Finance and
23 Administration shall notify the attorney general and the governing body of
24 the appropriate political subdivision.

25
26 SUBCHAPTER 12. -- Administrative penalty.

27
28 23-114-1201. Imposition of penalty.

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

33
34 23-114-1202. Amount of penalty.

35 (a) The amount of the administrative penalty may not exceed \$1,000 for
36 each violation. Each day a violation continues or occurs may be considered a

1 separate violation for purposes of imposing a penalty.

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

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

6 (2) The history of previous violations;

7 (3) The amount necessary to deter future violations;

8 (4) Efforts to correct the violation; and

9 (5) Any other matter that justice may require.

10
11 23-114-1203. Notice of violation and penalty.

12 (a) If, after investigating a possible violation and the facts
13 surrounding that possible violation, the Director of Bingo Operations
14 determines that a violation has occurred, the Director of Bingo Operations
15 may issue a violation report stating the facts on which the conclusion that a
16 violation occurred is based, recommending that an administrative penalty be
17 imposed on the person alleged to have committed the violation, and
18 recommending the amount of the proposed penalty. The Director of Bingo
19 Operations shall base the recommended amount of the proposed penalty on the
20 seriousness of the violation determined by consideration of the factors set
21 out in § 23-114-120(b).

22 (b) Not later than the 14th day after the date on which the report is
23 issued, the Director of Bingo Operations shall give written notice of the
24 report to the person alleged to have committed the violation.

25 (c) The notice must:

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

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

28 and

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

31
32 23-114-1204. Penalty to be paid or hearing requested.

33 (a) Not later than the 20th day after the date the person receives the
34 notice, the person may:

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

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

2 (b) If the person accepts the determination of the Director of Bingo
3 Operations, the Director of Bingo Operations by order shall approve the
4 determination and impose the proposed penalty.

5
6 23-114-1205. Hearing.

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

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

14
15 23-114-1206. Decision by Director of Bingo Operations.

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

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

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

22 (b) The Director of Bingo Operations shall give notice of the order to
23 the person. The notice must include:

24 (1) separate statements of the findings of fact and conclusions
25 of law;

26 (2) The amount of any penalty imposed;

27 (3) A statement of the right of the person to judicial review of
28 the order; and

29 (4) Other information required by law.

30
31 23-114-1207. Options following decision -- Pay or appeal.

32 (a) Not later than the 30th day after the date on which the order
33 becomes final, the person shall:

34 (1) Pay the administrative penalty;

35 (2) Pay the penalty and file a petition for judicial review
36 contesting the finding that a violation occurred, the amount of the penalty,

1 or both; or

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

5 (b) Within the 30-day period, a person who acts under Subsection
6 (a)(3) may:

7 (1) Stay enforcement of the penalty by:

8 (A) Paying the penalty to the court for placement in an
9 escrow account; or

10 (B) Giving to the court a supersedeas bond approved by the
11 court for the amount of the penalty that is effective until all judicial
12 review of the order is final; or

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

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

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

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

27
28 23-114-1208. Collection of penalty.

29 If the person does not pay the administrative penalty and the
30 enforcement of the penalty is not stayed, the Director of Bingo Operations
31 may refer the matter to the attorney general for collection of the penalty.

32
33 23-114-1209. Determination by court.

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

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

3
4 23-114-1210. Remittance of penalty and interest.

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

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

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

11 (A) If the penalty is not upheld; or

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

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

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