

1 AN ACT relating to charitable gaming.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 238.535 is amended to read as follows:

4 (1) Any charitable organization conducting charitable gaming in the Commonwealth of
5 Kentucky shall be licensed by the department. **A charitable organization or chapter**
6 **thereof possessing a tax exempt status under 26 U.S.C. sec. 501(c)(3) and where**
7 **the charitable organization's only charitable gaming is conducting raffles and**
8 **charitable fundraising events without special limited games or bingo shall be**
9 **exempt from this chapter.** A charitable organization qualifying under subsection
10 (12) of this section but not exceeding the limitations provided in this subsection
11 shall be exempt from the licensure requirements when conducting the following
12 charitable gaming activities:

- 13 (a) Bingo in which the gross receipts do not exceed a total of twenty-five
14 thousand dollars (\$25,000) per year;
- 15 (b) A raffle or raffles for which the gross receipts do not exceed twenty-five
16 thousand dollars (\$25,000) per year; and
- 17 (c) A charity fundraising event or events that do not involve special limited
18 charitable games and the gross gaming receipts for which do not exceed
19 twenty-five thousand dollars (\$25,000) per year.

20 However, at no time shall a charitable organization's total limitations under this
21 subsection exceed twenty-five thousand dollars (\$25,000).

22 (2) (a) Any charitable organization exempt from the process of applying for a license
23 under subsection (1) of this section, shall notify the department in writing, on
24 a simple form issued by the department, of its intent to engage in exempt
25 charitable gaming and the address at which the gaming is to occur. Any
26 charitable organization exempt from the process of applying for a license
27 under subsection (1) of this section, shall comply with all other provisions of

1 this chapter relating to the conduct of charitable gaming, except:

- 2 1. Payment of the fee imposed under the provisions of KRS 238.570; and
- 3 2. The quarterly reporting requirements imposed under the provisions of
- 4 KRS 238.550(7), unless the exempt charitable organization obtains a
- 5 retroactive license pursuant to subsection (9) of this section.

6 (b) Before January 31 of the year immediately following the year of exemption, a

7 charitable organization exempt from licensure under the provisions of

8 subsection (1) of this section shall file a financial report with the department,

9 on a form issued by the department, that contains the following information:

- 10 1. The type of gaming activity in which it engaged during that year;
- 11 2. The total gross receipts derived from gaming;
- 12 3. The amount of charitable gaming expenses paid;
- 13 4. The amount of net receipts derived; and
- 14 5. The disposition of those net receipts.

15 (3) An exemption that has been granted to a charitable organization for the preceding

16 calendar year shall be automatically renewed on January 1 of the following year.

17 (4) If upon receipt of the financial report the department determines that the

18 information appearing on the financial report renders the charitable organization

19 ineligible to possess an exemption, the department shall notify the charitable

20 organization that its exemption is rescinded. The organization may request an

21 appeal of this rescission pursuant to KRS 238.565.

22 (5) If the annual financial report is not received by January 31, the exemption is

23 automatically rescinded unless an extension of no more than thirty (30) days is

24 granted by the department. The organization may request an appeal of this

25 rescission pursuant to KRS 238.565.

26 (6) If an exemption is revoked because an organization has exceeded the limit imposed

27 in subsection (1) of this section, the organization shall apply for a retroactive license

1 in accordance with subsection (7) of this section.

2 (7) If an organization exceeds the limit imposed by any subsection of this section it
3 shall:

4 (a) Report the amount to the department; and

5 (b) Apply for a retroactive charitable gaming license.

6 (8) Upon receipt of a report and application for a retroactive charitable gaming license,
7 the department shall investigate to determine if the organization is otherwise
8 qualified to hold the license.

9 (9) If the department determines that the applicant is qualified, it shall issue a charitable
10 gaming license retroactive to the date on which the exemption limit was exceeded.
11 The retroactive charitable gaming license shall be issued in the same manner as
12 regular charitable gaming licenses.

13 (10) If the department determines that the applicant is not qualified it shall deny the
14 license and take enforcement action, if appropriate.

15 (11) Once a retroactive or regular gaming license is issued to an organization, that
16 organization shall not be eligible for exempt status in the future and shall maintain a
17 charitable gaming license if it intends to continue charitable gaming activities,
18 unless the charitable organization has not exceeded the exemption limitations of
19 subsection (1) of this section for a period of two (2) years prior to its exemption
20 request.

21 (12) (a) In order to qualify for licensure, a charitable organization shall:

22 1. a. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3),
23 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered
24 under a group ruling issued by the Internal Revenue Service under
25 authority of those sections;~~or~~

26 b. Be organized within the Commonwealth of Kentucky as a
27 common school as defined in KRS 158.030, as an institution of

1 higher education as defined in KRS 164A.305, or as a state college
2 or university as provided for in KRS 164.290; or

3 *c. Be a chapter of an organization that possesses a tax exempt*
4 *status under 26 U.S.C. sec. 501(c)(3). Such chapters need not*
5 *meet the other qualifications of this section if the parent*
6 *organization does.*

7 2. Have been established and continuously operating within the
8 Commonwealth of Kentucky for charitable purposes, other than the
9 conduct of charitable gaming, for a period of three (3) years prior to
10 application for licensure. For purposes of this paragraph, an applicant
11 shall demonstrate establishment and continuous operation in Kentucky
12 by its conduct of charitable activities from an office physically located
13 within Kentucky both during the three (3) years immediately preceding
14 its application for licensure and at all times during which it possesses a
15 charitable gaming license. However, a charitable organization that
16 operates for charitable purposes in more than ten (10) states and whose
17 principal place of business is physically located in a state other than
18 Kentucky may satisfy the requirements of this paragraph if it can
19 document that it has:

20 a. Been actively engaged in charitable activities and has made
21 reasonable progress, as defined in subparagraph 3. of this
22 paragraph, in the conduct of charitable activities or the expenditure
23 of funds within Kentucky for a period of three (3) years prior to
24 application for licensure; and

25 b. Operated for charitable purposes from an office or place of
26 business in the Kentucky county where it proposes to conduct
27 charitable gaming for at least one (1) year prior to application for

1 licensure, in accordance with subparagraph 4. of this paragraph
2 and paragraph (c) of this subsection;

3 3. Have been actively engaged in charitable activities during the three (3)
4 years immediately prior to application for licensure and be able to
5 demonstrate, to the satisfaction of the department, reasonable progress in
6 accomplishing its charitable purposes during this period. As used in this
7 paragraph, "reasonable progress in accomplishing its charitable
8 purposes" means the regular and uninterrupted conduct of activities
9 within the Commonwealth or the expenditure of funds within the
10 Commonwealth to accomplish relief of poverty, advancement of
11 education, protection of health, relief from disease, relief from suffering
12 or distress, protection of the environment, conservation of wildlife,
13 advancement of civic, governmental, or municipal purposes, or
14 advancement of those purposes delineated in KRS 238.505(3). In order
15 to demonstrate reasonable progress in accomplishing its charitable
16 purposes when applying to renew an existing license, a licensed
17 charitable organization shall additionally provide to the department a
18 detailed accounting regarding its expenditure of charitable gaming net
19 receipts for the purposes described in this paragraph; and

20 4. Have maintained an office or place of business, other than for the
21 conduct of charitable gaming, for at least one (1) year in the county in
22 which charitable gaming is to be conducted. The office or place of
23 business shall be a separate and distinct address and location from that
24 of any other licensee of the Department of Charitable Gaming; except
25 that up to three (3) licensed charitable organizations may have the same
26 address if they legitimately share office space.

27 (b) 1. A charitable organization that has established and maintained an office

1 or place of business in the county for a period of at least one (1) year
2 may hold a raffle drawing or a charity fundraising event, including
3 special limited charity fundraising events, in a Kentucky county other
4 than that in which the organization's office or place of business is
5 located.

6 2. For raffles, the organization shall notify the Department of Charitable
7 Gaming in writing of the organization's intent to change the drawing's
8 location at least thirty (30) days before the drawing takes place. This
9 written notification:

10 a. May be transmitted in any commercially reasonable means,
11 authorized by the department, including facsimile and electronic
12 mail; and

13 b. Shall set out the place and the county in which the drawing will
14 take place.

15 Approval by the department shall be received prior to the conduct of the
16 raffle drawing at the new location.

17 (c) Any charitable organization that was registered with the county clerk to
18 conduct charitable gaming in a county on or before March 31, 1992, shall
19 satisfy the requirement contained in paragraph (a)4. of this subsection if it
20 maintained a place of business or operation, other than for the conduct of
21 charitable gaming, for one (1) year prior to application in a Kentucky county
22 adjoining the county in which they were registered.

23 (13) In applying for a license, the information to be submitted shall include but not be
24 limited to the following:

25 (a) The name and address of the charitable organization;

26 (b) The date of the charitable organization's establishment in the Commonwealth
27 of Kentucky and the date of establishment in the county or counties in which

- 1 charitable gaming is to be conducted;
- 2 (c) A statement of the charitable purpose or purposes for which the organization
3 was organized. If the charitable organization is incorporated, a copy of the
4 articles of incorporation shall satisfy this requirement;
- 5 (d) A statement explaining the organizational structure and management of the
6 organization. For incorporated entities, a copy of the organizations' bylaws
7 shall satisfy this requirement;
- 8 (e) A detailed accounting of the charitable activities in which the charitable
9 organization has been engaged for the three (3) years preceding application for
10 licensure;
- 11 (f) The names, addresses, dates of birth, and Social Security numbers of all
12 officers of the organization;
- 13 (g) The names, addresses, dates of birth, and Social Security numbers of all
14 employees and members of the charitable organization who will be involved
15 in the management and supervision of charitable gaming. No fewer than two
16 (2) employees or members of the charitable organization who are involved in
17 the management and supervision of charitable gaming, along with the chief
18 executive officer or the director of the applicant organization, shall be
19 designated as chairpersons;
- 20 (h) The address of the location at which charitable gaming will be conducted and
21 the name and address of the owner of the property, if it is owned by a person
22 other than the charitable organization;
- 23 (i) A copy of the letter or other legal document issued by the Internal Revenue
24 Service to grant tax-exempt status;
- 25 (j) A statement signed by the presiding or other responsible officer of the
26 charitable organization attesting that the information submitted in the
27 application is true and correct and that the organization agrees to comply with

1 all applicable laws and administrative regulations regarding charitable
2 gaming;

3 (k) An agreement that the charitable organization's records may be released by the
4 Federal Internal Revenue Service to the department; and

5 (l) Any other information the department deems appropriate.

6 (14) An organization or a group of individuals that does not meet the licensing
7 requirements of subsection (12) of this section may hold a raffle if the gross receipts
8 do not exceed one hundred fifty dollars (\$150) and all proceeds from the raffle are
9 distributed to a charitable organization. The organization or group of individuals
10 may hold up to three (3) raffles each year, and shall be exempt from complying with
11 the notification, application, and reporting requirements of subsections (2) and (13)
12 of this section.

13 (15) The department may issue a license for a specified period of time, based on the type
14 of charitable gaming involved and the desired duration of the activity.

15 (16) The department shall charge a fee for each license issued and renewed, not to
16 exceed three hundred dollars (\$300). Specific fees to be charged shall be prescribed
17 in a graduated scale promulgated by administrative regulations and based on type of
18 license, type of charitable gaming, actual or projected gross receipts, or other
19 applicable factors, or combination of factors.

20 (17) (a) A licensed charitable organization may place its charitable gaming license in
21 escrow if:

22 1. The licensee notifies the department in writing that it desires to place its
23 license in escrow; and

24 2. The license is in good standing and the department has not initiated
25 disciplinary action against the licensee.

26 (b) During the escrow period, the licensee shall not engage in charitable gaming,
27 and the escrow period shall not be included in calculating the licensee's

1 retention rate under KRS 238.536.

2 (c) A charitable organization may apply for reinstatement of its active license and
3 the license shall be reinstated provided:

- 4 1. The charitable organization continues to qualify for licensure;
- 5 2. The charitable organization has not engaged in charitable gaming during
6 the escrow period; and
- 7 3. The charitable organization pays a reinstatement fee established by the
8 department.

9 ➔Section 2. KRS 238.545 is amended to read as follows:

10 (1) A licensed charitable organization shall be limited by the following:

11 (a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week,
12 for a period not to exceed five (5) consecutive hours in any day and not to
13 exceed ten (10) total hours per week:

- 14 1. No licensed charitable organization shall conduct bingo at more than one
15 (1) location during the same twenty-four (24) hour period;
- 16 2. No licensed charitable organization shall award prizes for bingo that
17 exceed five thousand dollars (\$5,000) in fair market value per twenty-
18 four (24) hour period, including the value of door prizes; and
- 19 3. No person under the age of eighteen (18) shall be permitted to purchase
20 bingo supplies or play bingo unless he or she is playing for noncash
21 prizes and is accompanied by a parent or legal guardian and only if the
22 value of any noncash prize awarded does not exceed ten dollars (\$10);

23 (b) 1. A licensed charitable organization may provide card-minding devices
24 for use by players of bingo games.

25 2. If a licensed charitable organization offers card-minding devices for use
26 by players, the devices shall be capable of being used in conjunction
27 with bingo cards or paper sheets at all times.

- 1 3. The department shall have broad authority to define and regulate the use
2 of card-minding devices and shall promulgate an administrative
3 regulation concerning use and control of them;
- 4 (c) Charity game tickets shall be sold only at the address of the location
5 designated on the license to conduct charitable gaming;
- 6 (d) Charity game tickets may be sold, with prior approval of the department:
- 7 1. At any authorized special charity fundraising event conducted by a
8 licensed charitable organization at any off-site location; or
- 9 2. By a licensed charitable organization possessing a special limited
10 charitable gaming license at any off-site location; and
- 11 (e) An automated charity game ticket dispenser may be utilized by a licensed
12 charitable organization, with the prior approval of the department, only at the
13 address of the location designated on the license to conduct charitable gaming.
14 The department shall promulgate administrative regulations regulating the use
15 and control of approved automated charity game ticket dispensers.
- 16 (2) (a) No prize for an individual charity game ticket shall exceed five hundred
17 ninety-nine dollars (\$599) in value, not including the value of cumulative or
18 carryover prizes awarded in seal card games.
- 19 (b) Cumulative or carryover prizes in seal card games shall not exceed two
20 thousand four hundred dollars (\$2,400).
- 21 (c) Information concerning rules of the particular game and prizes that are to be
22 awarded in excess of fifty dollars (\$50) in each separate package or series of
23 packages with the same serial number and all rules governing the handling of
24 cumulative or carryover prizes in seal card games shall be posted prominently
25 in an area where charity game tickets are sold. A legible poster that lists prizes
26 to be awarded, and on which prizes actually awarded are posted at the
27 completion of the sale of each separate package shall satisfy this requirement.

- 1 (d) Any unclaimed money or prize shall return to the charitable organization.
- 2 (e) No paper charity game ticket shall be sold in the Commonwealth of Kentucky
3 that does not conform to the standards for opacity, randomization, minimum
4 information, winner protection, color, and cutting established by the
5 department.
- 6 (f) No electronic pulltab device representation of a charity game ticket shall be
7 sold in the Commonwealth of Kentucky that does not conform to the
8 construction standards set forth in an administrative regulation promulgated
9 by the department. Electronic pulltab devices shall only be used for charitable
10 gaming.
- 11 (g) No person under the age of eighteen (18) shall be permitted to purchase, or
12 open in any manner, a charity game ticket.
- 13 (3) (a) Tickets for a raffle shall be sold separately, and each ticket shall constitute a
14 separate and equal chance to win. **For raffles with multiple prizes, a winning**
15 **ticket may be returned to the pool of tickets to be drawn for an additional**
16 **chance to win, provided that this procedure is stated in the published rules**
17 **for the raffle.**
- 18 (b) All raffle tickets shall be sold for the price stated on the ticket, and no person
19 shall be required to purchase more than one (1) ticket or to pay for anything
20 other than a ticket to enter a raffle.
- 21 (c) Raffle tickets and tickets for charity fundraising raffle games approved by the
22 department which are offered exclusively at charity fundraising events and
23 special limited charity fundraising events **or raffle tickets offered by a**
24 **charitable organization possessing a tax exempt status under 26 U.S.C. sec.**
25 **501(c)(3)** are not required to be sold separately and may be sold at discounted
26 package rates.
- 27 (d) Raffle tickets shall have a unique identifier on each ticket.

- 1 (e) Winners shall be drawn at random at a date, time, and place announced in
2 advance or printed on the ticket. **A raffle may have multiple drawing dates,**
3 **provided the dates are announced in advance or printed on the ticket.**
- 4 (f) All prizes for a raffle shall be identified in advance of the drawing and all
5 prizes identified shall be awarded.
- 6 **(g) In addition to purchased tickets, a raffle may include prizes for the same or**
7 **additional raffles as prizes.**
- 8 **(h) The department shall not promulgate or enforce any administrative**
9 **regulation affecting raffle tickets more restrictive than the provisions of this**
10 **section.**
- 11 (4) With respect to charity fundraising events, a licensed charitable organization shall
12 be limited as follows:
- 13 (a) No licensed charitable organization shall conduct a charity fundraising event
14 or a special limited charity fundraising event unless they have a license for the
15 respective event issued by the department;
- 16 (b) No special license shall be required for any wheel game, such as a cake wheel,
17 that awards only noncash prizes the value of which does not exceed one
18 hundred dollars (\$100);
- 19 (c) The department may grant approval for a licensed charitable organization to
20 play bingo games at a charity fundraising event. Cash prizes for bingo games
21 played during a charity fundraising event may not exceed five thousand
22 dollars (\$5,000) for the entire event. No person under the age of eighteen (18)
23 shall be permitted to play bingo at a charity fundraising event unless
24 accompanied by a parent or legal guardian;
- 25 (d) The department may grant approval for a licensed charitable organization to
26 play special limited charitable games at a charity fundraising event authorized
27 under this section. The department shall not grant approval for the playing of

1 special limited charitable games under the provisions of a charity fundraising
2 event license unless the proposed event meets the definition of a charity
3 fundraising event held for community, social, or entertainment purposes apart
4 from charitable gaming in accordance with KRS 238.505(8);

5 (e) Except for state, county, city fairs, and special limited charity fundraising
6 events, a charity fundraising event license issued under this section shall not
7 exceed seventy-two (72) consecutive hours. A licensed charitable organization
8 shall not be eligible for more than eight (8) total charity fundraising event
9 licenses per year, including two (2) special limited charity fundraising event
10 licenses. No person under eighteen (18) years of age shall be allowed to play
11 or conduct any special limited charitable game. The department shall have
12 broad authority to regulate the conduct of special limited charity fundraising
13 events in accordance with the provisions of KRS 238.547; and

14 (f) Charity fundraising events may be held:

- 15 1. On or in the premises of a licensed charitable organization;
- 16 2. In a licensed charitable gaming facility, subject to restrictions contained
17 in KRS 238.555(7); or
- 18 3. At an unlicensed facility which shall be subject to the requirements
19 stipulated in KRS 238.555(3), and subject to the restrictions contained in
20 KRS 238.547(2). Charity fundraising events at an unlicensed facility
21 shall be limited to:
 - 22 a. No more than one (1) such event per week; and
 - 23 b. No more than seven (7) such events per year, with no more than
24 five (5) licensed charitable organizations conducting such events at
25 an unlicensed facility per year.

26 (5) Presentation of false, fraudulent, or altered identification by a minor shall be an
27 affirmative defense in any disciplinary action or prosecution that may result from a

1 violation of age restrictions contained in this section, if the appearance and
2 character of the minor were such that his or her age could not be reasonably
3 ascertained by other means.

4 ➔Section 3. KRS 238.550 is amended to read as follows:

5 (1) All adjusted gross receipts from charitable gaming shall be handled only by
6 chairpersons, officers, or employees of the licensed charitable organization.

7 (2) ~~Within two (2) business days after the completion of a charitable gaming event or~~
8 ~~session,~~ All gross receipts and adjusted gross receipts shall be deposited into one
9 checking account devoted exclusively to charitable gaming. This checking account
10 shall be designated the "charitable gaming account," and the licensed charitable
11 organization shall maintain its account at a financial institution located in the
12 Commonwealth of Kentucky. No other funds may be deposited or transferred into
13 the charitable gaming account. **Deposits may be made by chairpersons, officers, or**
14 **employees of the licensed charitable organization.**

15 (3) All payments for charitable gaming expenses, payments made for prizes purchased,
16 and any charitable donations from charitable gaming receipts shall be made from
17 the charitable gaming account and the payments or donations shall be made only by
18 bona fide officers of the organization **or their designees** by checks having
19 preprinted consecutive numbers and made payable to specific persons or
20 organizations. No check drawn on the charitable gaming account may be made
21 payable to "cash," or "bearer," except that a licensed charitable organization may
22 withdraw start-up funds for a charitable gaming event or session from the charitable
23 gaming account by check made payable to "cash" or "bearer," if these start-up funds
24 are redeposited into the charitable gaming account together with all adjusted gross
25 receipts derived from the particular event or session. Checks shall be imprinted with
26 the words "charitable gaming account" and shall contain the organization's license
27 number on the face of each check. Payments for charitable gaming expenses, prizes

1 purchased, and charitable donations may be made by electronic funds transfer if the
2 payments are made to specific persons or organizations. The department may by
3 administrative regulation adopt alternative reporting requirements for charitable
4 gaming of limited scope or duration, if these requirements are sufficient to ensure
5 accountability for all moneys handled.

6 (4) A licensed charitable organization shall expend net receipts exclusively for
7 purposes consistent with the charitable, religious, educational, literary, civic,
8 fraternal, or patriotic functions or objectives for which the licensed charitable
9 organization received and maintains federal tax-exempt status, or consistent with its
10 status as a common school, an institution of higher education, or a state college or
11 university. No net receipts shall inure to the private benefit or financial gain of any
12 individual.

13 (5) Accurate records and books shall be maintained by each organization exempt from
14 licensure under KRS 238.535(1) and each licensed charitable organization for a
15 period of three (3) years. Department staff shall have access to these records at
16 reasonable times. Licensed charitable organizations and exempt organizations shall
17 maintain their charitable gaming records at their offices or places of business within
18 the Commonwealth of Kentucky as identified in their license applications or
19 applications for exempt status. An exempt organization shall submit a yearly
20 financial report in accordance with KRS 238.535(2), and failure to file this report
21 shall constitute grounds for revocation of the organization's exempt status.

22 (6) All licensed charitable organizations that have annual gross receipts of two hundred
23 thousand dollars (\$200,000) or less and do not have a weekly bingo session shall
24 report to the department annually at the time and on a form established in
25 administrative regulations promulgated by the department.

26 (7) All other licensed charitable organizations shall submit reports to the department at
27 least quarterly at the time and on a form established in administrative regulations

1 promulgated by the department.

2 (8) Failure by a licensed charitable organization to file reports required under this
3 chapter shall constitute grounds for revocation of the organization's license or denial
4 of the organization's application to renew its license in accordance with KRS
5 238.560(3). Reports filed by a licensed charitable organization shall include but
6 shall not be limited to the following information:

7 (a) All gross receipts received from charitable gaming for the reporting period,
8 classified by type of gaming activity;

9 (b) The names and addresses of all persons who are winners of prizes having a
10 fair market value of six hundred dollars (\$600) or more;

11 (c) All expenses paid and the names and addresses of all persons to whom
12 expenses were paid;

13 (d) All net receipts retained and the names and addresses of all charitable
14 endeavors that received money from the net receipts; and

15 (e) Any other information the department deems appropriate.

16 (9) No licensed charitable organization shall incur charitable gaming expenses, except
17 as provided in this chapter. No licensed charitable organization shall be permitted to
18 expend amounts in excess of prevailing market rates for the following charitable
19 gaming expenses:

20 (a) Charitable gaming supplies and equipment;

21 (b) Rent;

22 (c) Utilities;

23 (d) Insurance;

24 (e) Advertising;

25 (f) Janitorial services;

26 (g) Bookkeeping and accounting services;

27 (h) Security services;

- 1 (i) Membership dues for its participation in any charitable gaming trade
2 organization; and
- 3 (j) Any other expenses the department may determine by administrative
4 regulation to be legitimate.
- 5 (10) No licensed charitable organization shall expend receipts from charitable gaming
6 activities nor incur expenses to form, maintain, or operate as a labor organization.