

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 qualifying
6 under subsection (12) of this section but not exceeding the limitations provided in
7 this subsection shall be exempt from the licensure requirements when conducting
8 the following charitable gaming activities:

9 (a) Bingo in which the gross receipts do not exceed a total of twenty-five
10 thousand dollars (\$25,000) per year;

11 (b) A raffle or raffles for which the gross receipts do not exceed twenty-five
12 thousand dollars (\$25,000) per year; and

13 (c) A charity fundraising event or events that do not involve special limited
14 charitable games and the gross gaming receipts for which do not exceed
15 twenty-five thousand dollars (\$25,000) per year.

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

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

25 1. Payment of the fee imposed under the provisions of KRS 238.570; and

26 2. The quarterly reporting requirements imposed under the provisions of
27 KRS 238.550(7), unless the exempt charitable organization obtains a

1 retroactive license pursuant to subsection (9) of this section.

2 (b) Before January 31 of the year immediately following the year of exemption, a
3 charitable organization exempt from licensure under the provisions of
4 subsection (1) of this section shall file a financial report with the department,
5 on a form issued by the department, that contains the following information:

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

11 (3) An exemption that has been granted to a charitable organization for the preceding
12 calendar year shall be automatically renewed on January 1 of the following year.

13 (4) If upon receipt of the financial report the department determines that the
14 information appearing on the financial report renders the charitable organization
15 ineligible to possess an exemption, the department shall notify the charitable
16 organization that its exemption is rescinded. The organization may request an
17 appeal of this rescission pursuant to KRS 238.565.

18 (5) If the annual financial report is not received by January 31, the exemption is
19 automatically rescinded unless an extension of no more than thirty (30) days is
20 granted by the department. The organization may request an appeal of this
21 rescission pursuant to KRS 238.565.

22 (6) If an exemption is revoked because an organization has exceeded the limit imposed
23 in subsection (1) of this section, the organization shall apply for a retroactive license
24 in accordance with subsection (7) of this section.

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

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

- 1 (b) Apply for a retroactive charitable gaming license.
- 2 (8) Upon receipt of a report and application for a retroactive charitable gaming license,
3 the department shall investigate to determine if the organization is otherwise
4 qualified to hold the license.
- 5 (9) If the department determines that the applicant is qualified, it shall issue a charitable
6 gaming license retroactive to the date on which the exemption limit was exceeded.
7 The retroactive charitable gaming license shall be issued in the same manner as
8 regular charitable gaming licenses.
- 9 (10) If the department determines that the applicant is not qualified it shall deny the
10 license and take enforcement action, if appropriate.
- 11 (11) Once a retroactive or regular gaming license is issued to an organization, that
12 organization shall not be eligible for exempt status in the future and shall maintain a
13 charitable gaming license if it intends to continue charitable gaming activities,
14 unless the charitable organization has not exceeded the exemption limitations of
15 subsection (1) of this section for a period of two (2) years prior to its exemption
16 request.
- 17 (12) (a) In order to qualify for licensure, a charitable organization shall:
- 18 1. a. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3),
19 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered
20 under a group ruling issued by the Internal Revenue Service under
21 authority of those sections; or
- 22 b. Be organized within the Commonwealth of Kentucky as a
23 common school as defined in KRS 158.030, as an institution of
24 higher education as defined in KRS 164A.305, or as a state college
25 or university as provided for in KRS 164.290;
- 26 2. Have been established and continuously operating within the
27 Commonwealth of Kentucky for charitable purposes, other than the

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

12 a. Been actively engaged in charitable activities and has made
13 reasonable progress, as defined in subparagraph 3. of this
14 paragraph, in the conduct of charitable activities or the expenditure
15 of funds within Kentucky for a period of three (3) years prior to
16 application for licensure; and

17 b. Operated for charitable purposes from an office or place of
18 business in the Kentucky county where it proposes to conduct
19 charitable gaming for at least one (1) year prior to application for
20 licensure, in accordance with subparagraph 4. of this paragraph
21 and paragraph (c) of this subsection;

22 3. Have been actively engaged in charitable activities during the three (3)
23 years immediately prior to application for licensure and be able to
24 demonstrate, to the satisfaction of the department, reasonable progress in
25 accomplishing its charitable purposes during this period. As used in this
26 paragraph, "reasonable progress in accomplishing its charitable
27 purposes" means the regular and uninterrupted conduct of activities

1 within the Commonwealth or the expenditure of funds within the
2 Commonwealth to accomplish relief of poverty, advancement of
3 education, protection of health, relief from disease, relief from suffering
4 or distress, protection of the environment, conservation of wildlife,
5 advancement of civic, governmental, or municipal purposes, or
6 advancement of those purposes delineated in KRS 238.505(3). In order
7 to demonstrate reasonable progress in accomplishing its charitable
8 purposes when applying to renew an existing license, a licensed
9 charitable organization shall additionally provide to the department a
10 detailed accounting regarding its expenditure of charitable gaming net
11 receipts for the purposes described in this paragraph; and

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

19 (b) 1. A charitable organization that has established and maintained an office
20 or place of business in the county for a period of at least one (1) year
21 may hold a raffle drawing or a charity fundraising event, including
22 special limited charity fundraising events, in a Kentucky county other
23 than that in which the organization's office or place of business is
24 located.

25 2. For raffles, the organization shall notify the Department of Charitable
26 Gaming in writing of the organization's intent to change the drawing's
27 location at least thirty (30) days before the drawing takes place. This

1 written notification:

- 2 a. May be transmitted in any commercially reasonable means,
3 authorized by the department, including facsimile and electronic
4 mail; and
- 5 b. Shall set out the place and the county in which the drawing will
6 take place.

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

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

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

- 17 (a) The name and address of the charitable organization;
- 18 (b) The date of the charitable organization's establishment in the Commonwealth
19 of Kentucky and the date of establishment in the county or counties in which
20 charitable gaming is to be conducted;
- 21 (c) A statement of the charitable purpose or purposes for which the organization
22 was organized. If the charitable organization is incorporated, a copy of the
23 articles of incorporation shall satisfy this requirement;
- 24 (d) A statement explaining the organizational structure and management of the
25 organization. For incorporated entities, a copy of the organizations' bylaws
26 shall satisfy this requirement;
- 27 (e) A detailed accounting of the charitable activities in which the charitable

1 organization has been engaged for the three (3) years preceding application for
2 licensure;

3 (f) The names, addresses, dates of birth, and Social Security numbers of all
4 officers of the organization;

5 (g) The names, addresses, dates of birth, and Social Security numbers of all
6 employees and members of the charitable organization who will be involved
7 in the management and supervision of charitable gaming. No fewer than two
8 (2) employees or members of the charitable organization who are involved in
9 the management and supervision of charitable gaming, along with the chief
10 executive officer or the director of the applicant organization, shall be
11 designated as chairpersons;

12 (h) The address of the location at which charitable gaming will be conducted and
13 the name and address of the owner of the property, if it is owned by a person
14 other than the charitable organization;

15 (i) A copy of the letter or other legal document issued by the Internal Revenue
16 Service to grant tax-exempt status;

17 (j) A statement signed by the presiding or other responsible officer of the
18 charitable organization attesting that the information submitted in the
19 application is true and correct and that the organization agrees to comply with
20 all applicable laws and administrative regulations regarding charitable
21 gaming;

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

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

25 (14) (a) An organization or a group of individuals that does not meet the licensing
26 requirements of subsection (12) of this section may hold a raffle if:

27 1. The gross receipts do not exceed five~~one~~ hundred~~—fifty~~ dollars

1 ~~(\$500); [(\$150) and]~~

2 2. All proceeds from the raffle are distributed to a charitable organization;
3 and[-]

4 3. The organization or group of individuals ***holds no more than***[-may hold
5 ~~up to~~] three (3) raffles each year, and shall be exempt from complying
6 with the notification, application, and reporting requirements of
7 subsections (2) and (13) of this section; or

8 (b) An organization or a group of individuals that does not meet the licensing
9 requirements of subsection (12) of this section may hold a raffle if:

10 1. The organization holds a special event raffle license issued by the
11 department and complies with the regulatory requirements in this
12 chapter, including but not limited to the quarterly reporting
13 requirements of KRS 238.550(7), the retention requirements of KRS
14 238.536, and payment of the fee imposed by KRS 238.570;

15 2. The organization possesses a tax-exempt status under 26 U.S.C. sec.
16 501(c)(7);

17 3. The organization holds no more than twelve (12) raffles per year;

18 4. Each raffle complies with the department's raffle standards in KRS
19 238.545 and administrative regulations promulgated thereunder and
20 is approved by the department in writing prior to the sale of the first
21 raffle ticket;

22 5. The gross receipts of each raffle do not exceed five hundred thousand
23 dollars (\$500,000); and

24 6. One hundred percent (100%) of the net receipts of each raffle shall be
25 distributed to a charitable organization licensed by the department
26 pursuant to subsection (12) of this section to conduct charitable
27 gaming as follows:

- 1 a. All distributed net receipts shall be maintained by the recipient
2 licensed charitable organization in a separate account to be
3 designated as the "raffle recipient account";
- 4 b. All distributed net receipts shall be expended by the recipient
5 licensed charitable organization to further the charitable
6 purpose of the recipient licensed charitable organization as
7 required by KRS 238.550(4); and
- 8 c. All distributed net receipts, and the expenditure thereof, shall be
9 reported to the department and be subject to the department's
10 auditing and investigative authority consistent with the
11 provisions of this chapter.
- 12 (c) An applicant qualifying under paragraph (b) of this subsection shall
13 submit an application for a special event raffle license, and the
14 information to be submitted shall include but not be limited to the
15 following:
- 16 1. The name and address of the organization;
- 17 2. The date of the organization's establishment in the
18 Commonwealth of Kentucky and the date of the organization's
19 establishment in the county or counties in which charitable
20 gaming is to be conducted;
- 21 3. A statement of the purpose or purposes for which the
22 organization was organized and identification of the licensed
23 charitable organization to which the applicant will distribute its
24 net receipts. If the organization is incorporated, a copy of the
25 articles of incorporation shall satisfy this requirement;
- 26 4. A statement explaining the organizational structure and
27 management of the organization. For incorporated entities, a

- 1 copy of the organization's bylaws shall satisfy this requirement.
- 2 5. The names, addresses, dates of birth, and Social Security
- 3 numbers of all officers of the organization;
- 4 6. The names, addresses, dates of birth, and Social Security
- 5 numbers of all employees and members of the organization who
- 6 will be involved in the management and supervision of
- 7 charitable gaming. No fewer than two (2) employees or members
- 8 of the organization who are involved in the management and
- 9 supervision of charitable gaming, along with the chief executive
- 10 officer or the director of the applicant organization, shall be
- 11 designated as chairpersons;
- 12 7. The address of the location at which charitable gaming will be
- 13 conducted and the name and address of the owner of the
- 14 property, if it is owned by a person other than the organization;
- 15 8. A copy of the letter or other legal document issued by the
- 16 Internal Revenue Service to grant tax-exempt status;
- 17 9. A statement signed by the presiding or other responsible officer
- 18 of the organization attesting that the information submitted in
- 19 the application is true and correct and that the organization
- 20 agrees to comply with all applicable laws and administrative
- 21 regulations regarding charitable gaming;
- 22 10. An agreement that the organization's records may be released by
- 23 the Federal Internal Revenue Service to the department; and
- 24 11. Any other information as determined by the department through the
- 25 promulgation of administrative regulations.

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

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

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

- 8 1. The licensee notifies the department in writing that it desires to place its
9 license in escrow; and
- 10 2. The license is in good standing and the department has not initiated
11 disciplinary action against the licensee.

12 (b) During the escrow period, the licensee shall not engage in charitable gaming,
13 and the escrow period shall not be included in calculating the licensee's
14 retention rate under KRS 238.536.

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

- 17 1. The charitable organization continues to qualify for licensure;
- 18 2. The charitable organization has not engaged in charitable gaming during
19 the escrow period; and
- 20 3. The charitable organization pays a reinstatement fee established by the
21 department.

22 ➔Section 2. This Act takes effect January 1, 2019.