

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION

Gaming Control Board

Statutory Authority: 28 Delaware Code, Section 1122 (28 **Del.C.** §1122)
10 **DE Admin. Code** 102

FINAL

ORDER

102 Regulations Governing Raffles

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on Thursday, August 4, 2011, at a scheduled meeting of the Delaware Board of Charitable Gaming, to receive comments and to review written comments submitted by the public, if any, regarding proposed amendments to the Board's Rules.

The proposed amendments to 10 **DE Admin. Code** 102 state that the Board's regulations apply if the value of prizes to be awarded in a raffle exceed \$5,000 and the cost of a ticket for a single drawing is more than \$5.00, or the cost of a ticket for a series of drawings exceeds \$15.00.

The proposed amendments were published in the *Register of Regulations*, Volume 15, Issue 1, on July 1, 2011.

Summary of the Evidence and Information Submitted

No written comments were received by the Board. No member of the public appeared to testify at the hearing.

Findings of Fact and Conclusions of Law

1. The public was given notice and an opportunity to provide written comments and testimony on the proposed amendments.
2. The Board finds that the proposed amendments are necessary and in the public interest.
3. Pursuant to 28 **Del.C.** §1122, the Board has statutory authority to promulgate regulations governing charitable gaming, including bingo and raffles.

Decision and Effective Date

The Board hereby adopts the proposed amendments to this rule in the manner to be published in the *Register of Regulations* in September, 2011, to be effective ten days after publication of the Order in the *Register of Regulations*.

Text and Citation

The text of the revised rule shall be as published in the *Register of Regulations* in September, 2011, as attached hereto as Exhibit A.

SO ORDERED this 10th day of August, 2011.

DELAWARE BOARD OF CHARITABLE GAMING

James Greene, Chair

Scott Angelucci, Member

Janet Williams-Coger, Member

Deborah Messina, Member

Sharon McDowell, Member

102 Regulations Governing Raffles

These regulations shall apply to any raffle conducted under 28 **Del.C.** §1130 in which the value of the prize or prizes to be awarded is \$5,000 or more or in which the ticket price is more than \$5.00 ~~or more~~ for a single drawing for prizes, or more than \$15.00 ~~or more~~ for a series of drawings for prizes occurring on a periodic schedule exceeding one month. These regulations are issued pursuant to the authority granted the Delaware Gaming Control Board in 28 **Del.C.** §1122(2).

2 DE Reg. 1224 (1/1/99)

1.0 Definitions

“Board” The Delaware Gaming Control Board.

“Prize” Any item or items chosen by a Sponsoring Organization as the subject of a raffle, which the organization announces it will award to a person selected by chance from among those purchasing tickets to the raffle.

“Qualified Member” For the purposes of eligibility to participate in managing or otherwise assisting in the operation of raffle, a person is a bona fide member of the licensed organization only when he or she:

Has become a member prior to the commencement of the function and such membership was not dependent upon, or in any way related to the payment or consideration to participate in, any gambling activity; and

Has held full and regular membership status in the licensed organization for a period of not less than three (3) consecutive months prior to the subject function; and

Has paid any reasonable initiation or admission fees for membership, and/or any dues, consistent with the nature and purpose of the licensed organization and with the type of membership obtained and is not in arrears in payment of any such fees or dues; and

Has met all other conditions required by the licensed organization for membership and is in all respects a member in good standing at the time of the subject function; and

Is a bona fide member of a bona fide charitable or bona fide nonprofit organization affiliated with or auxiliary to his or her sponsoring organization, or to which his or her own organization is auxiliary, when he or she meets all of the standards set out above respecting his or her own organization.

“Raffle” A form of lottery in which a number of persons buy one or more chances attempting to win the same prize. Any game such as so called "Nevada cards" or "pull cards" where the amount of the prize is determined by the contents of the ticket purchased are not raffles.

An organization may conduct a raffle which will not be completed in one night. An organization may sell a chance good for an extended period of time with a series of drawings, with a chance to win a prize multiple times during that period, provided all chances are sold at the same time. However, any such raffle must first be approved by the Board.

“Related Party” Includes:

An officer, director, or trustee (or an individual having powers or responsibilities similar to those of officers, directors, or trustees) of the organization.

A spouse other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance; a child including legally adopted children; grandchildren; parents; and grandparents of parties described in (a) above.

A corporation, trust, estate or partnership more than 35% of which is owned or held by any of the preceding.

“Sponsoring Organization” Any veterans, religious, or charitable organization, volunteer fire company or fraternal society as defined in Article II, §17A or §17B of the State Constitution.

13 DE Reg. 1355 (04/01/10)

2.0 Disclosure

- 2.1 In any raffle conducted pursuant to 28 Del.C. §1130, the sponsoring organization must disclose the following information on the raffle ticket itself:
 - 2.1.1 A full and fair description of the prize;
 - 2.1.2 The appraised value of the prize;
 - 2.1.3 If there is a minimum number of tickets to be sold, what the minimum is and the procedure to be employed to secure a refund in the event the minimum is not reached;
 - 2.1.4 The drawing date for the raffle;
 - 2.1.5 The exact nature of the charitable purpose for which the proceeds will be used.

3.0 Obligations of the Sponsoring Organization

- 3.1 If for any reason the raffle is not completed and a prize is not awarded on the scheduled drawing date, the sponsoring organization must take all steps necessary to notify ticket purchasers of that fact and return all money received from ticket purchasers within thirty days.
- 3.2 Members, employees and their immediate family members may purchase raffle tickets, but may not sell raffle tickets to members of their immediate family. The sale of tickets alone shall not constitute the promotion and

operation of a raffle for purposes of this section. Nothing in this section prohibits the award of a prize to a person for selling a winning ticket.

- 3.3 The sponsoring organization shall take such steps as are necessary under the circumstances to insure that each ticket purchaser has a chance to be selected as the prize winner and that prize winner is selected in an entirely random manner.
- 3.4 In cases where the sponsoring organization purchases the prize from a third party, the Board may require that the sponsoring organization arrange for an independent appraisal of the value of the prize from a person licensed to render such appraisals, or if there is no applicable licensing requirement, from a person qualified to render such appraisals.
- 3.5 If the sponsoring organization purchases a prize from a related party, the price to be paid must be at cost or substantially less than the appraised value of the prize.
- 3.6 No sponsoring organization or its employees, members, agents or servants, shall give away tickets to a raffle without receiving the full established price for them unless all members of the public have an equal chance to receive bonus chances or books of chances when buying a certain number of chances or books of chances.
- 3.7 The sponsoring organization shall structure the raffle in such a way that it may reasonably be anticipated that the sponsoring organization will retain a percentage of the gross proceeds which is reasonable under the circumstances and shall retain all of the net proceeds (gross proceeds minus the direct expenses of the raffle) for the purpose specified in their application under 28 **Del.C.** §1130.

13 DE Reg. 1355 (04/01/10)

4.0 Record Keeping, Financial Control

- 4.1 A record keeper shall be designated from among the members of the organization as defined in **1.0 “Qualified Member”** and shall have been a member for a minimum of two (2) years prior to the commencement of the raffle. The record keeper or his designee shall be responsible for the keeping and distribution of raffle tickets to be sold, the safekeeping of paid-for and completed ticket stubs, and the maintenance of the records prescribed by this section during and after the completion or suspension of the raffle for a period of at least two years.
- 4.2 The raffle ticket shall have at least two parts, one of which is to be retained by the purchaser, and the other to be retained by the record keeper. The record keeper's part must at a minimum contain the purchaser's name, address, and telephone number. All such parts shall be imprinted with sequential serial numbers commencing with the numeral "1" through the maximum number of tickets to be sold.
- 4.3 The record keeper shall maintain and periodically update as the need arises, the following types of records:
 - 4.3.1 all documents, bills of sale, agreements, appraisals or other documents concerning the purchase of the article or articles to be raffled;
 - 4.3.2 all permits, licenses, and any other documents prescribed or required by law as necessary for the lawful conduct of a raffle;
 - 4.3.3 a list or access to a list of all persons authorized to sell raffle tickets or participating in any way in the promotion or operation of the raffle. If raffle tickets are given to one person to sell and this person recruits other persons to help sell raffle tickets, the record keeper need only keep a list of those persons to whom the record keeper has directly distributed raffle tickets.
 - 4.3.4 a ledger book or other suitable record keeping device listing the number of tickets distributed, and the number of tickets returned as sold.
 - 4.3.5 the ticket stubs used to conduct the drawing for a period of not less than six months.
- 4.4 Financial records shall be maintained by the record keeper sufficient to show:
 - 4.4.1 the current amount of proceeds received on account of the raffle;
 - 4.4.2 all expenses related to the conduct of the raffle including printing costs, advertising costs, lawyers fees, appraisal costs, insurance premiums, and any other costs reasonably attributable to the raffle.

5.0 Violations of Regulations

Failure to comply with any of the Regulations shall subject the violator to suspension or revocation of any valid license issued under 28 **Del.C.** §1130 and criminal prosecution.

6.0 Application

- 6.1 All applications for a license to conduct a raffle shall be submitted on a form approved by the Board. The information supplied must include the name, address, and phone number of the sponsoring organization, the prize to be awarded, the value of the prize, the maximum number of tickets to be sold, the cost of each raffle ticket, the date the prize will be awarded, the exact nature of the charitable purpose for which the proceeds will

be used, and the name, address and phone number of the person in charge of the organization, and the person designated to be the record keeper for the raffle.

- 6.1.1 An application must be submitted sufficiently in advance of the proposed date of the function as to allow the Board to consider the application at two consecutive board meetings before deciding to approve or deny the application.
- 6.2 There shall be a license fee of \$15 for each raffle application submitted to the Board for approval.
- 6.3 The Board shall make an investigation of the qualifications of each applicant and the merits of each application. The Board shall consider the impact, if any, of the approval of a new raffle license application on existing licensees within the applicant's geographical location prior to granting the approval, and may deny the application if it concludes that approval of the application would be detrimental to existing licensees.
- 6.4 The Board may issue a license only after it determines that:
 - 6.4.1 The applicant is duly qualified to conduct raffles under the State Constitution, statutes, and rules and regulations governing raffles; and
 - 6.4.2 The member or members of the applicant who intend to conduct the games are bona fide active members of the applicant and are persons of good moral character and have never been convicted of crimes involving moral turpitude; and
 - 6.4.3 The proceeds are to be disposed of as provided in the State Constitution and statutes; and
 - 6.4.4 No salary, compensation or reward whatever will be paid or given to any member under whom the game is conducted.
- 6.5 No raffle license application shall be effective for a period of more than one year from the date it was issued.
- 6.6 No raffle license shall be effective after the organization to which it was granted has become ineligible to conduct the game under any provision of Article II, §17A or §17B of the State Constitution.

2 DE Reg. 1224 (1/1/99)

12 DE Reg. 357 (09/01/08)

13 DE Reg. 1355 (04/01/10)

7.0 Reports After the Drawing

Within thirty (30) days of the date for awarding the prize as specified in the license application, the record keeper shall furnish in writing to the Board, the name and address of each person to whom a prize was awarded, the gross receipts derived from the selling of raffle tickets, and the total expenses incurred for the raffle.

13 DE Reg. 107 (07/01/09)

8.0 Suspension & Revocation of Licenses

- 8.1 Proceedings to suspend or to revoke a license shall be brought by notifying the licensee of the ground thereof and the date set forth for hearing thereon. The Board may stop the operation of a raffle pending a hearing, in which case the hearing must be held within five (5) days after such action.
- 8.2 The Board shall cause the notice of hearing to be served personally on an officer of the licensee or the member in charge of the conduct of the raffle or to be sent by registered or certified mail to the licensee at the address shown in the license. All hearing procedures shall be subject to the requirements of the Administrative Procedures Act, 29 **Del.C.** §10131.
- 8.3 When suspension or revocation proceedings are begun before the Board, it shall hear the matter and make written findings in support of its decision. The licensee shall be informed of the decision, and of the effective date of the suspension or revocation.
- 8.4 When a license is suspended or revoked, the licensee shall surrender up the license to the Board on or before that effective date set forth in the notice of the decision. In no case shall any license be valid beyond the effective date of suspension or revocation, whether surrendered or not.
- 8.5 Upon finding of the violation of these rules and regulations or the Delaware statutes, such as would warrant the suspension or revocation of a license, the Board may in addition to any other penalties imposed, declare the violator ineligible to conduct a raffle and to apply for a license under said law for a period not exceeding thirty (30) months thereafter. Such declaration of the ineligibility may be extended to include, in addition to the violator, any of its subsidiary organizations, its parent organization and any other organization having a common parent organization or otherwise affiliated with the violator, when in the opinion of the Board, the circumstances of the violation warrant such action.

2 DE Reg. 1224 (1/1/99)

9.0 Severability

If any provision of these Regulations or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of these Regulations and the applicability of such provision to other persons or circumstances shall not be affected thereby.

15 DE Reg. 368 (09/01/11) (Final)