

**OHIO ATTORNEY GENERAL
CHARITABLE LAW SECTION
POLICY 201: GAMES OF CHANCE**

1.0 Purpose

This procedure establishes the policy and guidelines for the dissemination of information regarding the conduct of games of chance pursuant to Revised Code Section 2915.02 by qualifying charitable organizations. Charitable Law Section employees will use this procedure in responding to public inquiries regarding the conduct of games of chance and in reviewing or auditing the records of games of chance.

2.0 Revision History

<u>Date</u>	<u>Rev. No.</u>	<u>Modification</u>
3/04/05	1.0	New Document

3.0 Persons, Units Affected

- A. All charitable organizations that plan to conduct games of chance, all veteran, fraternal, and sporting organizations and governmental units that plan to lease their premises for the conduct of games of chance, and members of the public seeking information on the statutory requirements for the conduct of games of chance.
- B. All Attorney General employees who, in response to public inquiries, provide information regarding the statutory requirements for the conduct of games of chance by charitable organizations.

4.0 Policy

It is the policy of the Attorney General's Charitable Law Section that the conduct of games of chance for profit is statutorily limited to qualifying charitable organizations under the restrictions set forth by statute in R.C. § 2915.02(D) . Recognizing that the legal conduct of games of chance by qualifying charitable organizations is an allowable and effective means of raising funds to further charitable programs in the community, it is the policy of the Attorney General's Charitable Law Section to provide complete information to persons and entities planning to conduct games of chance for profit, so that such games may be conducted in compliance with Ohio law, which requires all of the following:

- a) The games of chance may be conducted only by a *charitable organization* that is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization

is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

- b) The games of chance may not include craps for money or roulette for money;
- c) The games of chance are conducted at *festivals* of the charitable organization;
- d) The games of chance are conducted by the charitable organization either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days not more than once a year;
- e) The games of chance are conducted by the charitable organization on premises that are either:
 - 1) Owned by the charitable organization conducting the games of chance for at least one year immediately preceding the conduct of the games of chance, or
 - 2) Leased from a *governmental unit*, or
 - 3) Leased from a veteran's or fraternal organization for a rental rate not to exceed the lesser of 45% of the gross receipts of the games of chance or \$600 per day of the festival, provided that the premises have been owned by the veteran's or fraternal organization for at least one year immediately preceding the conduct of the games of chance and have not already been leased by the veteran's or fraternal organization four times during the preceding year for the conduct of games of chance;
- f) The only expense that may be deducted from the money or assets received from the games of chance are the prizes paid out during the conduct of the games of chance. All of the remaining funds must be used by, or given, donated or otherwise transferred to an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- g) The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only;
- h) No person receives any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance; and

- i) The charitable organization maintains all records regarding the games of chance required by R.C. § 2915.10, as follows:
 - 1) An itemized list of the gross receipts of each game of chance;
 - 2) A list of all prizes awarded during each game of chance conducted by the charitable organization, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars or more in value;
 - 3) An itemized list of the recipients of the net profit of the game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the money or assets received from the game of chance for any charitable or other purpose set forth in division (D) of section 2915.02, a list of each purpose and an itemized list of each expenditure for each purpose;
 - 4) The number of persons who participate in any game of chance that is conducted by the charitable organization.
 - 5) The charitable organization shall maintain these records for a period of three years from the date on which the game of chance is conducted, and shall keep the records at its principal place of business in this state or at its headquarters in this state and shall notify the Attorney General of the location at which those records are kept.

The Attorney General's Charitable Law Section adopts the following policies with respect to the interpretation of the provisions of R.C. § 2915.02:

- R.C. § 2915.02(D) was enacted to allow qualifying charitable organizations to conduct games of chance to raise funds to support charitable and public programs.
- Games of chance may be conducted only by qualifying charitable organizations, and the charitable organization cannot transfer its right to conduct games of chance to any other person or entity.
- Qualifying charitable organizations may conduct games of chance only at festivals of the charitable organization, as that term is defined below.
- A governmental unit is not limited in the number of times per year that it may lease premises to qualifying charitable organizations for the conduct of games of chance.
- A governmental unit is not statutorily required to own the premises it leases to qualifying charitable organizations for the conduct of games of chance.
- A governmental unit may lease premises to a qualifying charitable organization for the conduct of games of chance for a rental rate that is not more than is customary and reasonable for the lease of similar premises for similar purposes. In determining what constitutes a customary and reasonable rental rate for the use of similar premises for similar purposes, the rental rate that a veteran's or fraternal organization may charge for the use of its premises for the conduct of games of chance may be considered.

- A governmental unit that is described in R.C. § 2915.02(D)(1)(d) is qualified to receive distributions from the proceeds of the games of chance, even if the governmental unit is the lessor of the premises at which the games of chance were conducted.
- No person may be compensated in any manner, directly or indirectly, for operating or assisting in the operation of a game of chance. Compensated employees of a business that provides equipment and supplies to a charitable organization for the conduct of games of chance shall not operate or assist in the operation of the games of chance on behalf of that charitable organization.
- No deductions may be taken from the money or assets received from the games of chance except for the prizes paid out on the games of chance. No other expenses may be paid or payments made from the money or assets received from the games of chance. All of the remaining money or assets received from the games of chance must be distributed in accordance with R.C. § 2915.02(D)(1)(d).
- Expenses incurred in the conduct of the games of chance, such as rent for the premises, purchase or lease of equipment or supplies necessary for the conduct of the games of chance, or advertising, may be paid only from a source of funds other than the money or assets received from the games of chance, and only to the extent that the amount paid is not more than is customary and reasonable for the goods or services provided.
- If participants in the games of chance are required to pay an admission or entry fee to enter the festival and/or to participate in the games of chance, the admission fees paid by all such participants shall be included in the “money or assets received from the games of chance.”

5.0 Definitions

- A. *Game of chance* shall have the same meaning as defined in R.C. § 2915.01(D): poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.
- B. *Game of chance for profit* shall have the same meaning as defined in R.C. § 2915.01(E): any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

Card games conducted for profit at Texas Hold ‘Em Tournaments, Las Vegas Nights, and similar events are “games of chance conducted for profit.”

- C. *Scheme of chance* shall have the same meaning as defined in R.C. § 2915.01(C): a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable

consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

No person or organization can legally conduct a scheme of chance in Ohio. Under Ohio law, slot machines, machines that are not skill-based amusement machines, pools conducted for profit, and numbers games are examples of a scheme of chance when a participant gives a valuable consideration for a chance to win a prize.

- D. *Charitable organization* shall have the same meaning as defined in Section 2915.01(H) of the Revised Code: any tax exempt religious, educational, veteran's fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization. An organization is tax exempt if the organization is, and has received from the internal revenue service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, or if the organization is a sporting organization that is exempt from federal taxation under subsection 501(a) and is described in subsection 501(c)(7) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer firefighter's organization, shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under section 2915.08 of the Revised Code or the conducting of any game of chance as provided in division (D) of section 2915.02 of the Revised Code. A charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization does not have to have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under section 2915.08 of the Revised Code or the conducting of any game of chance as provided in division (D) of section 2915.02 of the Revised Code.
- E. *Veteran's organization* shall have the same meaning as defined in Section 2915.01(K) of the Revised Code: any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit has been in continuous existence in this state for at least two years and incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with

the national veteran's association or has received a letter from the national veteran's organization indicating that the state headquarters is in good standing with the national veteran's association. As used in this division, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.

F. *Fraternal organization* shall have the same meaning as defined in Section 2915.01(M) of the Revised Code: any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in this state for a period of five years.

G. *Qualifying charitable organization* shall mean a charitable organization that is also recognized as a 501(c)(3) public charity by the Internal Revenue Service and has a current determination letter to that effect from the Internal Revenue Service.

Only 501(c)(3) charities that are one of fourteen types of charitable organization separately defined in R.C. Chapter 2915 may legally conduct games of chance for profit. The fourteen types of charitable organization are: religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization.

H. *Governmental unit* shall mean any department or agency of the United States, a state, or any political subdivision of a state. A governmental unit may also include a joint venture between two or more governmental units, if the joint venture does not include persons or entities that are not governmental units.

I. *Year* shall mean twelve consecutive months.

J. *Preceding year* shall mean the twelve consecutive month period immediately prior to and including the period for which a veteran's or fraternal organization proposes to lease premises owned by the veteran's or fraternal organization to a qualifying charitable organization for the conduct of games of chance.

K. *Festival* shall mean an event or celebration which may recur at regular intervals, and that consists of a program containing multiple elements, such as performances, cultural exhibitions, musical performances, art and

craft displays, children's games, competitions, dancing, agricultural displays or programs, historical exhibitions, or religious celebrations. A festival shall include at least two types of activities conducted by the charitable organization that do not include games of chance. An event that is held solely for the purpose of conducting games of chance and providing food and beverages to the participants of the games of chance is not a festival.

6.0 Responsibilities

- A. Attorney General employees who provide information to the public with respect to the conduct of games of chance pursuant to R.C. § 2915.02, shall provide complete and accurate information concerning the statutory requirements set forth in that section, consistent with this policy.
- B. Attorney General employees who audit or review the use of the money or assets received from the conduct of games of chance conducted by charitable organizations, shall determine that the games of chance were conducted by the charitable organization in compliance with all of the statutory requirements of Chapter 2915 of the Revised Code, consistent with this policy.

7.0 Procedures

- A. Attorney General employees who provide information to the public regarding the conduct of games of chance for profit shall advise the public that such games of chance may be conducted only if all of the requirements of R.C. § 2915.02 are satisfied.
- B. Attorney General employees who provide information to the public regarding the conduct of games of chance for profit shall advise the public that violation of the requirements of R.C. § 2915.02 may result in criminal penalties, and that criminal enforcement of Revised Code Chapter 2915 lies not with the Attorney General, but with local law enforcement authorities.
- C. Attorney General employees who audit or review the use of the money or assets received from the conduct of games of chance conducted by a charitable organization shall determine that the charitable organization conducted the games of chance in accordance with R.C. § 2915.02(D) and this policy.

- D. Attorney General employees who audit or review the use of the money or assets received from the games of chance conducted by charitable organizations shall verify that no expenses other than the prizes paid out from the games of chance were paid from the money or assets received from the games of chance and shall verify that all money or assets received from the games of chance were used or distributed in conformance with R.C. § 2915.02(D)(1)(d).
- E. Attorney General employees who audit or review the records of the games of chance conducted by charitable organizations shall determine if all records required pursuant R.C. § 2915.10 were accurately maintained by the charitable organization.
- F. Any failure to comply with the statutory requirements and this policy discovered by the Attorney General employee's compliance with the procedures set forth in items "C" through "E" above shall be noted in the employee's report on the audited organization.