

The Legalized Games of Chance Control Commission

Community Groups, Organizations, Service Groups and Churches engage in various fund raising activities every day, from car washes and bake sales to bingo and raffles. In representing non-profits it is important to know what types of fund-raising activities the organization can engage in without violating the laws of this state.

New Jersey allows certain types of gaming by specific types of non-profit organizations. There are detailed licensing procedures, however, that must be followed, as well as significant restrictions on how the proceeds derived from permitted games of chance may be used. A large number of non-profits that would qualify to conduct games of chance are unaware of the licensing requirements imposed by law and the significant civil penalties that may be assessed for conducting such gaming without a license.

A majority of gaming by non-profits is conducted in the form of bingo and raffles. Accordingly, this article focuses specifically on gaming under the Bingo Licensing Law¹ and the Raffles Licensing Law² (together referred to as bingo and raffles licensing laws), and the corresponding regulations established under them.³

The Licensing Process

The bingo and raffles licensing laws provide a dual licensing mechanism, in which the municipality where the gaming will be conducted ultimately issues the license to qualified, fund-raising organization. Thus, the location in which the gaming activity is conducted is extremely important, because the particular municipality determines whether the gaming will or will not be permitted. The bingo and raffles licensing laws operate only in those municipalities where they have been adopted by public referendum.

Organizations desiring to be licensed to conduct bingo or raffles must begin with the Legalized Games of Chance Control Commission, established under the Department of Law and Public Safety to administer the bingo and raffles licensing laws.⁴

In order for an organization to apply for a municipal license it first must register with and obtain an “**identification number**” from the Commission

In order to register, the organization must submit a completed application, including a non-refundable, biennial registration fee of \$100.00 dollars.⁵, a copy of its constitution and bylaws; a list of the names, addresses and ages of each member of its organization; and if incorporated, a copy of its articles of incorporation filed with the Secretary of State.⁶

The Commission will then analyze whether the organization is a “qualified” non-profit organization, as discussed below.

Qualified Organizations

Not all non-profit organizations are qualified to conduct games of chance pursuant to the bingo and raffles licensing laws. Qualified organizations include bona fide organizations or associations of veterans of any war in which the United States has been engaged, churches and or religious congregations and religious organizations, charitable, educational and fraternal organizations, civic and service clubs, senior citizen associations and clubs, officially recognized volunteer fire companies and officially recognized volunteer first aid or rescue squads.⁷ If the Commission determines that an organization falls within one of the enumerated categories, it will review the following:

1. If the organization is incorporated, whether it is incorporated in New Jersey as a religious corporation or an association not-for-pecuniary profit, and is empowered by its articles of incorporation to further one or more of the authorized purposes defined by the regulations. If incorporated out of the state of New Jersey a form 12A must be completed.
2. If it is not incorporated, whether it is organized in New Jersey as a religious or other organization not-for-pecuniary profit, and is authorized by its written constitution, bylaws or charter to further one or more of the authorized purposes. A letter from the National Organization indicating that the organization is in good standing and a dissolution statement.
3. Whether the organization is comprised of a membership of not less than 5 persons.
4. Whether it relies primarily on funds from sources other than the conduct of games of chance for furthering its authorized purpose.⁸

* If the application meets these criteria, the Commission will issue the organization an identification number, which is valid for two years, allowing it to apply to a municipality for a license to conduct gaming. There is no requirement in the bingo and raffles licensing laws or the regulations that the organization be a corporation which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 as amended, in order to be issued an identification number. Additionally, the term “membership” is not defined by the regulations,

nor is there any mechanism to obtain a waiver of the of the 5-member requirement. For these reasons, the Commission has been reluctant to issue identification numbers to applicants which are not comprised of at least 5 persons who possess voting power in the corporation or association.

The Municipal License

Neither registration nor assignment of an identification number entitles a qualified organization to hold or conduct a game of chance. Organizations must first obtain the approval of the municipality in which the game of chance is to be held, operated or conducted.

The application filed with the municipality in which the game will be held generally requires the same information required by the Commission, together with a description of the gaming to be conducted, including a sample ticket, if it is a raffle.

The application also must designate an active member or members of the organization under whom the game of chance will be conducted, including a statement by the member or members that they will be responsible for the conduct of the game in accordance with the bingo and raffles licensing laws and the regulations if a license is granted.

After a complete application is filed, the municipal governing body must investigate the merits of each application and make specific findings, including that the applicant is a qualified organization and the designated member or members are bona fide members of the organization, of good moral character and never convicted of a crime.⁹

If the municipal governing board makes the requisite findings with respect to an application for a gaming license, the board must adopt a resolution authorizing issuance of the license.¹⁰ the license shall be valid for a period of no more than one year from the date of issuance.

Conducting Bingo and Raffles

The regulation governing the conduct of bingo and raffles under the bingo and raffles licensing laws are quite comprehensive. Detailed below are some fundamental requirements for conducting bingo or raffles of which licensees should be aware.

The licensee must designate a specific representative will be responsible for insuring that all gaming is conducted in accordance with applicable statutes and regulations. Only bona fide members of the organization may operate the game, and no person can be paid for conducting or assisting in conducting the game. The exception to this rule applies to Casino Night events that require trained licensed operators known as dealers. Proceeds derived from gaming

operations may be used only to further the organization's authorized purpose. Further, supplies necessary to the gaming operation may be purchased or leased only from vendors approved by the Commission.

The bingo and raffles licensing laws also limit the prizes that may be awarded in the aggregate and in any one particular game. Specifically, no licensee may offer a prize having a retail value greater than \$100,000 in any one raffle conducted by drawing, or \$500 in any raffle not conducted by drawing. Further, no licensee shall offer prizes that, in aggregate, amount to a value greater than \$500,000 in any 12-month period. Finally, all tickets or rights to participate in a raffle must be sold at a uniform unit price, and discounts for purchases of more than one ticket are prohibited.¹¹ As for bingo games, no prize may be offered exceeding \$1,000 in one particular game, nor may prizes exceeding \$3,000 in the aggregate for one occasion be offered.¹² as for the premises and equipment used for bingo, unless the licensee is the sole owner, or it is donated, the person leasing the premises and equipment, and the price for the same, must be approved by the Commission.

Report of Operations

No later than the 15th day of the calendar month following the month in which a game of chance is conducted, the organization conducting the game and the member or members responsible for the conduct of the game must file a report of operation with the Commission.¹³ The report must include the gross receipts derived from each game; the expenses incurred and to whom such amounts were paid; the net profit from each game; the uses to which the net profit has been or will be applied; and a list of the prizes offered or given and the respective value of each.

Fines and Penalties

A violation of the bingo and raffles licensing laws or regulations carries a fine of up to \$7,500 for a first offense and up to \$15,000 for the second and each subsequent offense. In addition, the Commission is authorized to order restitution to an aggrieved party.¹⁴ All penalties may be collected in a summary manner pursuant to the Penalty Enforcement Act.¹⁵

Conclusion

New Jersey non-profit organizations can successfully raise funds through bingo or raffles. However, if the organization does not adhere to the bingo and raffles licensing laws or the regulations, the penalty may wipe out any profits realized. Care should be taken, therefore, to understand and comply with all applicable laws and regulations.

Endnotes

1. N.J.S.A. 5:8-24 et seq.
2. N.J.S.A. 5:8-50 et seq.
3. N.J.A.C. 13:47-1.1 et seq.
4. N.J.S.A. 5:8-1.
5. A senior citizen association or club requesting registration is exempt from the biennial registration fee. N.J.A.C. 13:47-2.3(b).
6. N.J.A.C. 13:47-2.3(a).
7. N.J.S.A. 5:8-25 and 51.
8. An “authorized purpose” is an educational, charitable, patriotic, religious or public-spirited purpose, defined to be a purpose that benefits an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by helping them establish themselves in life, or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government, or in the case of a senior citizen association or club, the support of such organization. An authorized purpose does not include the erection, acquisition, repair improvement or maintenance of property, real personal or mixed, unless such property is and shall be used exclusively for one or more of the purposes stated above. N.J.A.C. 13:47-1-1.
9. N.J.S.A. 5:8-27 and 53
10. Id
11. N.J.A.C. 13:47-8.3 Note that these limits do not apply to on premise raffles where all of the prizes are wholly donated.
12. N.J.A.C. 13:47-7.2 Progressive Jackpot Bingo and 50/50 bingo games are not subject to this limitation.
13. N.J.S.A. 5:8-37 and 64
14. N.J.S.A. These penalty provisions do not apply to violations that are committed by organizations that hold a valid license at the time the offense is allegedly committed.
15. N.J.S.A. 2A:58-1 et seq.