



A Raffle by Any Other

BY ELIJAH TREDUP, ESQ.

“Raffles.” “Drawings.” “Casino Nights.” These activities have long been in the toolkit of organizations to both drive community engagement as well as raise funds for a common purpose motivating that community. Because many do not think of raffles by their more legally charged name – lotteries – many remain unaware that for decades, the law has set out certain compliance measures that must be taken if hosting such an event.

The information below is not an all-encompassing treatise on the applicability of charitable lottery and game regulation, but is presented to give practitioners and the public a sense of awareness that these laws even exist. Individuals and groups should confer with counsel on precise questions of applicability—does the group desiring to conduct the charitable lottery or game fall within the scope of a “qualified organization?” Does the activity fall within the statutory definition of “charitable game” or “charitable lottery?” If it does not, is it an activity that would require a gaming license, or does it fall outside of the gaming regulators’ jurisdiction? In addition to counsel, the Operations Unit of the Nevada Gaming Control Board’s Enforcement Division stands ready to help all organizations ensure they are in compliance, and may be reached at (702) 486-2020, or by email at ops@gcb.nv.gov.¹

Background

Charitable Lotteries

Since the founding of the state, Section 24 of Article IV of the Nevada Constitution has broadly prohibited lotteries. This constitutional provision remained unchanged until the 1990 general election, when Nevada voters approved an amendment granting the Nevada Legislature the authority to authorize those engaged in charitable or not-for-profit activities to operate lotteries provided that the proceeds must be used “only to benefit charitable or nonprofit activities in this State.”

Nevada Revised Statute Chapter 462 (Lotteries) was likewise amended the following year to provide a statutory scheme under which “qualified organizations” could operate a charitable lottery. Under these statutes, both the Nevada Gaming Control Board and the Nevada Gaming Commission are

directed to administer the provisions of Chapter 462 and adopt regulations therewith. By the end of the year, the commission adopted Nevada Gaming Commission Regulation 4A (Reg. 4A), which established procedures for the review and appeal of applications to conduct charitable lotteries.

Lotteries are defined, in part, as “any scheme for the disposal or distribution of property, by chance, among persons who have paid or promised to pay any valuable consideration for the chance in obtaining that property ...” However, qualified organizations and their counsel should consider the entirety of NRS 462.105, particularly subsection 3, as it sets out certain activities that would not meet the element of “paid or promised to pay any valuable consideration.”²

Name ...

Charitable Gaming & Charitable Bingo

The Nevada Gaming Control Board has had statutory authority since 1969 to approve the operation of games by a charitable or educational organization. Such functions, however, were limited to one event or function per organization, per calendar year.

After the change in landscape regarding charitable lotteries in 1991, Chapter 463 (Licensing and Control of Gaming) was amended during the 1993 legislative session to allow qualified organizations to operate charitable bingo, with provisions that were in part modeled off of those made to Chapter 462 two years prior. This new statutory scheme also provided an exception to the one event per year rule set out in NRS 463.409.³

Assembly Bill 117

With the exception of minor amendments, the charitable lottery,

gaming and bingo statutes remained largely unchanged until the 2019 legislative session where Assembly Bill 117 (AB 117) folded the charitable bingo and charitable games provisions of Chapter 463 into a revised Chapter 462, creating a unified statutory scheme for such charitable activities.

Some of the more notable provisions or changes in AB 117 include, but are not limited to:

- Specifically defining “charitable games” as encompassing bingo, poker or blackjack.
- Revising the definition of “qualified organization” to “*an alumni, charitable, civic, educational, fraternal, patriotic, religious, or veterans’ organization or a state or local bar association that has been certified by the Department of Taxation or the Internal Revenue Service as not operated for profit.*” Political organizations have been removed from the previous definition.
- Distinguishing qualified organizations that are “affiliated and co-branded with a professional sports team franchise” which “plays the majority of home games” in Nevada as being “qualified professional sports organizations.”
- Raising the maximum total value of all prizes that can be offered in charitable games or charitable lotteries. Qualified organizations may award up to \$500,000 in charitable game prizes and \$500,000 in charitable lottery prizes during a calendar year. Qualified professional sports organizations may offer up to \$2 million in charitable lottery prizes.
- Significant streamlining of application criteria. Previously, different levels of authorization, along with different fees, applied for charitable lotteries and bingo based on a combination of factors such as the value of prizes awarded, the number of lotteries held in a calendar year, and the scope of to whom tickets were sold. This is simplified to a single type of approval with a flat fee, which is now set forth in regulation rather than statute.⁴

Amending Regulation 4A

After the passage of AB 117, the commission, with the advice and assistance of the board, executed its rulemaking powers to amend Reg. 4A. After taking significant amounts of comment and testimony over the course of several hearings and workshops, the commission, at its October 2019 meeting, adopted a Reg. 4A amendment package that stands as a positive example of the regulators’ ability to balance the interest of many different stakeholders, while at the same time carrying out the board’s and commission’s mandate of strict regulation of gaming in Nevada.⁵

What is required?

Registration

To operate a charitable lottery or charitable game, qualified organizations must file a Form ENF-115 (Charitable Event Application) with the Nevada Gaming Control Board’s Operations Unit at least 30 days prior to the commencement of such event. This application along with submission instructions may be located at <http://www.gaming.nv.gov/index.aspx?page=49>.

Fees

Qualified organizations applying to conduct charitable lotteries or charitable gaming are required to submit an application fee to help cover board expenses in

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processing the applications. The chart below summarizes what fees a qualified organization, or qualified professional sports organization, is responsible for.

| | Qualified Organizations | Qualified Professional Sports Organizations |
|-----------------------------------|--|---|
| Charitable Lottery | \$25 per day Applicable for days on which a winner is drawn/prizes are awarded | \$200 per day Applicable for any day that a person may purchase entry into the charitable lottery |
| Charitable Game | \$25 per day Applicable for days on which games are exposed for play | \$200 per day Applicable for days on which games are exposed for play |
| Charitable Game Tournament | \$25 per charitable game tournament | \$200 per charitable game tournament |

In recognition of the burden such fees may impose on smaller qualified organizations, the commission found it appropriate to include a waiver provision for these fees subject to the board chair’s discretion.⁶

Ticket sales

If a qualified organization receives registration approval from the board chair, it may begin selling tickets or buy-ins for a charitable lottery or charitable game. Qualified organizations may sell lottery tickets statewide, but the purchaser must be “physically located within Nevada at the time of purchase.”

Qualified organizations may include a written request to conduct online ticket sales when filing an application, wherein it must detail certain controls that will be in place, such as purchaser age and location verification.

Qualified professional sports organizations are much more limited with regard to charitable lottery ticket sales, which are restricted to being sold on the premises of the arena serving as the home game location for the affiliated professional sports team franchise.⁷

Prizes

There are several requirements of registered qualified organizations regarding prizes. As stated earlier, qualified organizations may award up to \$500,000 in prizes in a calendar year, and qualified professional sports organizations may offer up to \$2 million. For any non-cash prizes valued at more than \$1,000, the qualified organization must provide documentation of value, such as an invoice, receipt or bill of sale, to the board. Such documentation can be submitted up to seven days after conducting the event.

One avenue through which the board oversees the integrity of these events is by requiring qualified organizations to include in their application a plan for the disposition of advertised prizes that are not distributed during the charitable event—i.e. what will that qualified organization do with a prize unclaimed by the winner? In the event a qualified organization is unable to distribute the prize pursuant to its plan, it has the responsibility to notify the chair and may be given direction with regard to the undistributed prize.

Qualified organizations should take note of how prizes can impact who can participate in a charitable lottery as discussed below.⁸

Age Restrictions

Persons under the age of 21 are prohibited from “playing, placing wagers on, collecting winnings from, or participating in the administration of, whether personally or through an agent, any charitable game.” Charitable lotteries likewise have a minimum age requirement—those under 18 years of age cannot purchase “tickets for entry into or collect winnings from any charitable lottery offering a *cash prize*.” This age restriction does not extend to charitable lotteries for noncash prizes.⁹

Review and Appeal

The provisions granting applicants the right to board review of a denied registration, and subsequent appeal to the commission are carried over from the prior incarnation of Reg. 4A and were expanded to include charitable games.¹⁰

1. The author would like to thank Board Member Philip Katsaros, Enforcement Division Deputy Chief Kristi Marusich and Special Agent Ryan Sullivan, for their valuable input researching and compiling this article.
2. NEV. CONST. art. IV, § 24 (amended 1990); NRS 463.130(1), (2)(b) (2019); NRS 462.105(1), (3) (2019); 1991 Nev. Stat. 2257–63; STATE OF NEV., OFFICE OF THE SEC’Y OF STATE, NEVADA BALLOT QUESTIONS 1990 4–5, 16–17 (1990), <https://www.leg.state.nv.us/Division/Research/VoteNV/BallotQuestions/1990.pdf>. See generally NEV. GAMING COMM’N REG. 4A (hereinafter NGC REG. 4A).
3. NRS 463.409 (1969); 1993 Nev. Stat. 1159–62; *Hearing on Assemb. Bill 196 Before the Assemb. Comm. on Judiciary*, 1993 Leg., 67th Sess. 7 (Nev. 1993). See 1969 Nev. Stat. 465.
4. See generally 2019 Nev. Stat. 956–65; Assemb. B. 117, 2019 Leg., 80th Sess. (Nev. 2019).

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5. Notice to Licensees 2019-80, *Adoption of Amendments to Regulations of the Nev. Gaming Control Bd. and Nev. Gaming Comm'n* (Nov. 5, 2019), <https://gaming.nv.gov/modules/showdocument.aspx?documentid=15423>; See generally Transcript of Nev. Gaming Control Bd. Workshop (Aug. 7, 2019); Transcript of Nev. Gaming Comm'n Hearing 175-250 (Sept. 26, 2019); Transcript of Nev. Gaming Control Bd. Workshop (Oct. 3, 2019); Transcript of Nev. Gaming Comm'n Hearing 97-127 (Oct. 24, 2019).
6. NGC REG. 4A.020; Transcript of Nev. Gaming Control Bd. Workshop 40-43 (Aug. 7, 2019).
7. NGC REG. 4A.050.
8. NRS 462.140(1)(b) (2019); NRS 462.155(2) (2019); NGC REG. 4A.030(5), (6); NGC REG. 4A.040(2).
9. NGC REG. 4A.040(1).
10. See *Proposed New Regulation Sections to Regulation 4A, Proposed Amendments to Regulations 4A.010, 4A.100, 4A.110 - Adopted* (Oct. 24, 2019), <https://gaming.nv.gov/modules/showdocument.aspx?documentid=15449>; NGC REG. 4A.100; NGC REG. 4A.110.

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