

LOCAL OPTION SMALL GAMES OF CHANCE ACT - OMNIBUS AMENDMENTS
Act of Feb. 2, 2012, P.L. 7, No. 2 **Cl. 04**
Session of 2012
No. 2012-2

HB 169

AN ACT

Amending the act of December 19, 1988 (P.L.1262, No.156), entitled, as amended, "An act providing for the licensing of eligible organizations to conduct games of chance, for the licensing of persons to distribute games of chance, for the registration of manufacturers of games of chance, and for suspensions and revocations of licenses and permits; requiring records; providing for local referendum by electorate; and prescribing penalties," further providing for legislative intent, for definitions, for games of chance permitted, for prize limits, for limits on sales, for distributor licenses, for regulations, for licensing of eligible organizations and for special permits; providing for club licensees; further providing for revocation of licenses, for enforcement, for local option, for advertising and for prohibited persons; providing for civil penalties; further providing for penalties; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, is amended by adding a chapter heading to read:

CHAPTER 1
PRELIMINARY PROVISIONS

Section 2. Section 1 of the act is renumbered to read:
Section [1] **101**. Short title.

This act shall be known and may be cited as the Local Option Small Games of Chance Act.

Section 2.1. Section 2 of the act is renumbered and amended to read:

Section [2] **102**. Legislative intent.

The General Assembly hereby declares that the playing of [small] games of chance for the purpose of raising funds, by certain nonprofit associations, for the promotion of charitable or civic purposes, is in the public interest. **In some cases, the proceeds from games of chance may be utilized to support certain operating expenses of certain organizations.**

It is hereby declared to be the policy of the General Assembly that all phases of licensing, operation and regulation of [small] games of chance be strictly controlled, and that all laws and regulations with respect thereto as well as all gambling laws should be strictly construed and rigidly enforced.

The General Assembly recognizes the possibility of association between commercial gambling and organized crime, and wishes to discourage commercialization of [small] games of chance, prevent participation by organized crime and prevent the diversion of funds from the purposes herein authorized.

Section 3. The definitions of "civic and service associations," "club," "daily drawing," "eligible organizations," "fraternal organizations," "games of chance,"

"public interest purposes," "raffle" and "weekly drawing" in section 3 of the act, amended December 19, 1990 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), are amended and the section is renumbered and amended by adding definitions to read:

Section [3] **103. Definitions.**

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Civic and service [associations] **association.**" Any Statewide or branch, lodge or chapter of a nonprofit national or State organization which is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a civic or service purpose within this Commonwealth, which shall have existed in this Commonwealth for one year. The term also means a similar local nonprofit organization, not affiliated with a national or State organization, which is recognized by a resolution adopted by the governing body of the municipality in which the organization conducts its principal activities. The term shall include[, but not be limited to,] **Statewide or local** bona fide sportsmen's and wildlife associations, federations or clubs, [Statewide or local in nature,] volunteer fire companies, volunteer rescue squads and volunteer ambulance associations and [bona fide] senior citizens organizations. In the case of bona fide senior citizens organizations, the licensing authority may accept alternative documentation for proof of purposes when there are no bylaws or articles of incorporation in existence. The term shall also include nonprofit organizations which are established to promote and encourage participation and support for extracurricular activities within the established primary and secondary public, private and parochial school systems. Such organizations must be recognized by a resolution adopted by the appropriate governing body. In the case of organizations associated with the public school system, the governing body shall be the school board of the school district. In the case of private or parochial school organizations, that body shall be either the board of trustees or the Archdiocese.

"Club." [A club, as defined in section 102] **An organization that:**

(1) **is licensed to sell liquor under section 404** of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code[, that]; **and**

(2) qualifies as an exempt organization under section 501(c) or 527 of the Internal Revenue Code of [1954 (68A Stat. 3] **1986 (Public Law 99-514, 26 U.S.C. § 501(c) or 527)** [and is licensed to sell liquor at retail and has a charitable, religious or civic purpose or is organized to benefit a political party].

"**Club licensee.**" **A club that holds a license to conduct small games of chance.**

"Daily drawing." A game **of chance** in which a bona fide member selects or is assigned a number for a chance at a prize with the winner determined by [a] random drawing to take place on the **licensed** eligible organization's **licensed** premises during the same operating day. The term includes games **of chance** commonly known as "member sign-in lotteries" and "half-and-half lotteries." [Nothing in this act shall be construed to prohibit the carrying over of a jackpot where the winning number has not been entered in the game on a particular operating day.] Daily drawing winners may be determined with the aid of a passive

selection device or reference to drawings conducted by the department pursuant to the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law. Daily drawing chances may not be sold for an amount in excess of \$1, and no more than one chance **per individual** may be sold [to an individual during the same operating day] **per drawing. Nothing in this definition shall restrict an eligible organization from conducting more than one drawing per day.**

* * *

"Eligible [organizations." Includes qualifying nonprofit charitable, religious, fraternal and veterans organizations, clubs and civic and service associations as defined by this act] **organization." A charitable, religious, fraternal or veterans' organization, club, club licensee or civic and service association.** In order to qualify as an eligible organization for purposes of this act, an organization shall have been in existence and fulfilling its purposes for one year prior to the date of application for a license.

"Fraternal [organizations] **organization."** A nonprofit organization within this Commonwealth which is created and carried on for the mutual benefit of its members, has a limited membership and a representative form of government and is a branch, lodge or chapter of a national or State organization. Such organizations shall have been in existence in this Commonwealth and fulfilling their purposes for one year prior to the date of application for a license.

"Games of chance." Punchboards, daily drawings, weekly drawings, raffles and pull-tabs, as defined in this act, provided that no such game shall be played by or with the assistance of any mechanical or electrical devices or media other than a dispensing machine or passive selection device and further provided that the particular chance taken by any person in any such game shall not be made contingent upon any other occurrence or the winning of any other contest, but shall be determined solely at the discretion of the purchaser. This definition shall not be construed to authorize any other form of gambling currently prohibited under any provision of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) **or authorized under 4 Pa.C.S. (relating to amusements).** Nothing in this act shall be construed to authorize games commonly known as "slot machines" or "video poker."

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"Licensed distributor." **A distributor of games of chance licensed under section 307.**

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"Prize." **Cash or merchandise awarded for games of chance.**

"Proceeds." **The difference between:**

- (1) **the actual gross revenue collected by a licensed eligible organization from a game of chance; and**
- (2) **the actual amount of prizes paid by a licensed eligible organization from a game of chance, plus the cost to purchase games of chance.**

"Public interest [purposes] **purpose."** One or more of the following:

- (1) [Benefiting persons by enhancing their opportunity for religious or education advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical, emotional or social well-being, by assisting them in establishing themselves in life as worthy and useful citizens or by increasing their comprehension of and devotion to the principles upon which this nation was founded.] **The activities and operations of**

a nonprofit benevolent, religious, educational, philanthropic, humane, scientific, patriotic, social welfare, social advocacy, public health, public safety, emergency response, environmental or civic objective.

(2) Initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures.

(3) Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people.

(4) Improving, expanding, maintaining or repairing real property owned or leased by an eligible organization and **relating operational expenses** used for purposes specified in paragraphs (1), (2) and (3).

The term does not include the erection or acquisition of any real property, unless the property will be used exclusively for one or more of the purposes specified in this definition.

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"Raffle." A game **of chance** in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing of corresponding ticket stubs to take place at a location and date or dates printed upon each ticket. Such games **of chance** shall include lotteries but not daily drawings. Raffle winners may be determined by reference to drawings conducted by the department pursuant to the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

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"Weekly drawing." A game **of chance** in which a bona fide member selects or receives a number or numbers for a chance at a prize with the winner determined by a random drawing to take place on the **licensed** eligible organization's **licensed** premises at the end of a seven-day period. [Nothing in this act shall be construed to prohibit the carrying over of a jackpot where the winning number has not been entered in the game in a particular week.] Weekly drawing winners may be determined with the aid of a passive selection device or reference to drawings conducted by the Department of Revenue pursuant to the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law. Weekly drawing chances may not be sold for an amount in excess of \$1.

Section 4. The act is amended by adding a chapter heading to read:

CHAPTER 3 GAMES OF CHANCE

Section 5. Section 4 of the act, amended December 19, 1990 (P.L.812, No.195), is renumbered and amended to read:

Section [4] **301.** Games of chance permitted.

Every eligible organization to which a license has been issued under the provisions of this [act] **chapter** may conduct games of chance for the purpose of raising funds for public interest purposes. [All] **Except as provided in Chapter 5, all** proceeds of [games of chance] **a licensed eligible organization** shall be used exclusively for public interest purposes or for the purchase of games of chance as permitted by this act.

Section 6. Section 5 of the act, amended December 19, 1990 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is renumbered and amended to read:

Section [5] **302.** Prize limits.

(a) Individual prize limit.--[The] **Except as provided under subsections (d) and (d.1) , the** maximum [cash value] **prize** which may be awarded for any single chance shall be [\$500] **\$1,000.**

(b) [Weekly] **Aggregate prize limit.**--No more than [\$5,000] **\$25,000** in [cash or merchandise] **prizes** shall be awarded **from games of chance** by [any] **a licensed** eligible organization in any seven-day period.

(c) [Limit on raffles] **Raffle prize limit.**--[No more than \$5,000 in cash or merchandise shall] **Up to \$10,000 in prizes** may be awarded in raffles in any calendar month.

(c.1) Total limit.--**All prizes awarded under this section shall be subject to the aggregate prize limits under subsection (b) .**

(d) **Exception for raffles.**--[An] **Notwithstanding subsection (b) or (c), a licensed** eligible organization may conduct a raffle and award a prize or prizes valued in excess of [\$500] **\$1,000** each only under the following conditions:

(1) The licensing authority has issued a special permit for the raffle under section [11] **308.**

(2) [Eligible organizations] **A licensed eligible organization** shall be eligible to receive no more than [two] **eight** special permits in any licensed [year] **term** except that **a volunteer fire, ambulance [and] or rescue [organizations] organization that is not a club licensee** shall be eligible to receive [no more than three] **ten** special permits in any licensed [year] **term.**

(3) Only one raffle may be conducted under each special permit **issued under section 308.**

(4) [The] **Except as provided under subsection (d.1) , the total [cash value] of all prizes awarded under this subsection** shall be no more than \$100,000 per calendar year.

(d.1) Additional award.--**A volunteer fire, ambulance or rescue organization may, in addition to the total under subsection (d) (4), award up to \$50,000 from raffles which shall not be subject to the aggregate limit under subsection (b) , (c) or (d) .**

(e) **Limit on daily drawings.**--Daily drawings shall be governed by the prize limitations contained in subsections (a) and (b). An eligible organization shall not conduct daily drawings during a period when a weekly drawing is taking place.]

(f) [Exception] **Daily drawing carryover.**--The prize limitation contained in subsections (a) and (b) may be exceeded by a daily drawing under the following circumstances: a daily drawing may award a prize [where the cash value is] in excess of [\$500] **\$1,000** if such prize is the result of a carryover of a drawing [or drawings] which resulted from the winning number in such drawing [or drawings] not being among the eligible entrants in such drawings. Nothing contained herein shall authorize the prize [limitations] **limitation** as contained in subsections (a) and (b) to be exceeded as a result of a failure to conduct a drawing on an operating day during which chances were sold for a daily drawing or for a daily drawing for which chances were sold in excess of \$1 or for which more than one chance was sold to an eligible participant.

(g) [Daily drawing and weekly drawing] **Additional exception.**--When a daily drawing or weekly drawing is set up or conducted in such a manner as to pay out or award 100% of the gross revenues generated from such drawing, the [limitations] **limitation** contained in subsection (b) shall not apply.

(h) [Limit on weekly drawings] **Weekly drawing carryover exception.**--Weekly drawings shall be governed by the prize [limitations] **limitation** contained in subsection (b). The prize limitation contained in subsection (b) may be exceeded by a

weekly drawing under the following circumstances: a weekly drawing may award a prize where the cash value is in excess of [\$5,000] **\$25,000** if such prize is the result of a carryover of a drawing or drawings which resulted from the winning number or numbers in such drawing or drawings not being among the eligible entrants in such drawings. Nothing contained in this [act] **chapter** shall authorize the prize [limitations as contained in] **limitation under** subsection (b) to be exceeded as a result of a failure to conduct a drawing for a week during which chances were sold for a weekly drawing or for a weekly drawing for which chances were sold in excess of \$1. [An eligible organization shall not conduct weekly drawings during a period when a daily drawing is taking place.]

Section 7. Sections 6 and 7 of the act, amended December 19, 1990 (P.L.812, No.195), are renumbered and amended to read: Section [6] **303**. Sales limited.

(a) **General rule.**--No person shall sell, offer for sale or furnish games of chance for use within this Commonwealth except to an eligible organization or [distributor] licensed **distributor** under this [act] **chapter**.

(b) **Limitation .**--No game of chance, other than a raffle **under section 302(d)**, sold, offered for sale or furnished **to a licensed eligible organization** for use within this Commonwealth shall contain, permit, depict or designate a prize having a [cash value] **prize limit** in excess of [\$500] **\$1,000**.

Section [7] **304**. Distributor licenses.

(a) License required.--No person shall sell, offer for sale or furnish games of chance to eligible organizations licensed under this [act] **chapter** unless such person shall have obtained a distributor license as provided in this section.

(b) Application.--An applicant for the grant or renewal of a distributor license issued pursuant to this section shall provide to the department, upon the form prescribed, all of the following:

- (1) The applicant's State sales tax number.
- (2) The applicant's State corporate tax number.
- (3) The applicant's State employer withholding tax number.
- (4) The applicant's unemployment compensation account number.
- (5) A statement that:
 - (i) all State tax reports have been filed and all State taxes paid;
 - (ii) all State taxes are subject to a timely administrative or judicial appeal; or
 - (iii) all State taxes are subject to a duly approved deferred payment plan.
- (6) The names and business addresses of all owners, officers, directors, partners and sales personnel.

(c) Waiver of confidentiality.--An applicant for the grant or renewal of [any] **a distributor** license issued pursuant to this section shall, by the filing of an application insofar as it relates to the department, waive any confidentiality with respect to State tax information in the possession of the department, the Office of Attorney General or the Department of Labor and Industry regarding that applicant, regardless of the source of that information, and shall consent to the providing of that information to the department by the Office of Attorney General or the Department of Labor and Industry.

(d) Review of tax status.--Upon receipt of any application for the grant or renewal of [any] **a distributor** license issued pursuant to this section, the department shall review the State

tax status of the applicant. The department shall request State tax information regarding the applicant from the Office of Attorney General or the Department of Labor and Industry and that information shall be provided.

(e) Limitation on approval.--The department shall not approve any application for the grant or renewal of [any] **a distributor** license issued pursuant to this section where the applicant has failed to:

- (1) provide any of the information required by subsection (b);
- (2) file required State tax reports; or
- (3) pay any State taxes not subject to a timely administrative or judicial appeal or subject to a duly authorized deferred payment plan.

(f) Records.--[The] **A distributor** licensee shall keep such records, reports and books as the department shall prescribe. Applicants shall be required to make such records, reports and books available as required by the department pursuant to regulation.

(g) Ineligibility.--The department shall not issue or renew a distributor license for the sale of games of chance to a person, including any corporation, firm or partnership which has as an officer, director or other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor, who:

- (1) has been convicted of a felony in a state or Federal court within the past five years; or
- (2) has been convicted within ten years of the date of application in a state or Federal court of a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act or of a gambling-related offense under Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses) or other comparable State or Federal law.

(h) License and renewal fees.--The fee for a distributor license shall be \$1,000. Licenses shall be renewable on an annual basis.

(i) Exception.--This section shall not apply to the manufacture or distribution of raffle tickets.

Section 8. Section 8 of the act is renumbered to read: Section [8] **305**. Registration of manufacturers.

(a) Registration required.--No manufacturer of games of chance shall sell any games of chance to any person unless the manufacturer has registered with the department and has been issued a certificate of registration.

(b) Annual certificate; fee.--A certificate under this section shall be valid for one year. The annual fee for registration shall be \$2,000.

(c) Prohibited sales.--A manufacturer shall not sell games of chance to any person not licensed as a distributor unless the manufacturer is also a licensed distributor.

(d) Exception.--This section shall not apply to the manufacture or distribution of raffle tickets.

Section 9. Section 9 of the act, amended December 19, 1990 (P.L.812, No.195), is renumbered and amended to read: Section [9] **306**. Regulations of department.

(a) Authorization.--The department shall promulgate regulations to:

- (1) Impose minimum standards and restrictions applicable to games of chance manufactured for sale in this Commonwealth, which may include standards and restrictions which specify the maximum number of chances available to be

sold for any single game **of chance** or prize and such other standards and restrictions as the department deems necessary for the purposes of this [act] **chapter**. The department shall consider standards adopted by the National Association of Gambling Regulatory Agencies and other standards commonly accepted in the industry.

(2) Establish procedures by which manufacturers may register and distributors of games of chance may apply for licensure on forms which the department shall provide. **Procedures shall include a requirement that manufacturer and distributor applicants provide criminal history record information obtained from the Pennsylvania State Police under 18 Pa.C.S. § 9121(b) (relating to general regulations) for each officer and manager of the manufacturer's or distributor's organization and for any other individual specified by the department. As used in this paragraph, the term "criminal history record information" has the meaning given in 18 Pa.C.S. § 9102 (relating to definitions).**

(3) Provide for the suspension or revocation of distribution licenses or manufacturer certificates for violations of this act or regulations of the department.

(4) Carry out other provisions of this act.

(b) **Limitation on recordkeeping requirements.**--This section shall not be construed to authorize the department to promulgate regulations providing for recordkeeping requirements for **licensed** eligible organizations which require unreasonable or unnecessary information or a repetitious listing of information. The department shall strive to keep such recordkeeping requirements from being an undue hardship or burden on **licensed** eligible organizations. [Under no circumstances shall] **Except as provided under section 701(b)**, the department **may not** require the retention of records for a period in excess of two years.

(c) **Reporting requirements.**--**Each eligible organization shall submit an annual report to the department including:**

(1) **Prizes awarded as required under section 335 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.**

(2) **Amounts expended for public interest purposes.**

Section 10. Section 10 of the act, amended December 19, 1990 (P.L.812, No.195) and October 18, 2000 (P.L.602, No.79), is renumbered and amended to read:

Section [10] **307**. Licensing of eligible organizations to conduct games of chance.

(a) **License required.**--No eligible organization shall conduct or operate any games of chance unless such eligible organization has obtained and maintains a valid license **or limited occasion license** issued pursuant to this section. [Auxiliary groups within] **An auxiliary group of a licensed eligible [organizations] organization** shall be eligible to conduct [small] games of chance using the license issued to the eligible organization provided that the auxiliary group or groups are listed on the application and license of the eligible organization. **An auxiliary group is not eligible to obtain a license or a limited occasion license.** No additional licensing fee shall be charged for an auxiliary group's eligibility under this [act] **chapter**. Auxiliary groups shall not include branches, lodges or chapters of a Statewide organization.

(b) **Issuance and fees.**--The licensing authority shall license, upon application, within 30 days any eligible organization meeting the requirements for licensure contained in this [act] **chapter** to conduct and operate games of chance

at such locations within the county or in such manner as stated on the application as limited by subsection (b.1). The license fee to be charged to each eligible organization shall be \$100, except for limited occasion licenses which shall be \$10. Licenses shall be renewable annually upon the anniversary of the date of issue. **The license fee shall be used by the licensing authority to administer this act.**

(b.1) Location of [small] games of chance.--

(1) Every licensed eligible organization, except a limited occasion licensee, may conduct small games of chance only at a licensed premises. The licensed premises shall be indicated on the eligible organization's license application. Only one license shall be issued per licensed premises. Except as provided under paragraph (4), a licensed eligible organization may not share a licensed premises with another licensed eligible organization; and no licensed eligible organization may permit its premises to be used for small games of chance by another licensed eligible organization.

(2) Where there exists a location or premises which is the normal business or operating site of the eligible organization and the location or premises is owned or leased by that eligible organization to conduct its normal business, that site shall be the eligible organization's licensed premises [for small games of chance conducted by the eligible organization]. If that location consists of more than one building [and the eligible organization wishes to conduct its games in a different building at that location from the one that is listed on its application and license, the eligible organization must notify, in writing, the district attorney and the licensing authority of the change in building site and the dates and times that will be affected], the eligible organization shall choose the building that will be the licensed premises.

(3) When an eligible organization does not own or lease a specific location to conduct its normal business, [that] the eligible organization [may use another eligible organization's premises to conduct its games or] may make [such other] arrangements that are consistent with this act to establish a licensed premises, including[, but not limited to,] leasing a premise under a written agreement for a rental [which is not]; however, the rental may not be determined by either the amount of receipts realized from the [playing] conduct of games of chance [nor] or the number of people attending [except that an]. An eligible organization may lease a facility for a banquet [where a per head charge is applied] in connection with the serving of a meal based on a per-head charge. [When such eligible organization changes the site of its games from that which is listed on its application and license, the eligible organization must notify, in writing, the district attorney and licensing authority of the change in their games' site and dates and times that will be affected.]

(4) An eligible organization that has obtained a limited occasion license under subsection (b.3) may use another eligible organization's licensed premises to conduct its games of chance. When a licensed eligible organization is permitting a limited occasion licensee to use its licensed premises for purposes of games of chance, it shall cease the operation of its own games of chance during the period that the limited occasion licensee is conducting its games on the premises.

(b.2) Off-premises games of chance.--Notwithstanding any other provisions of this section, [an] **all of the following apply:**

(1) **A licensed** eligible organization may conduct [small] games of chance at a location off its premises when [such games] **the games of chance** are part of an annual carnival, fair, picnic or banquet held or participated in by that **licensed** eligible organization on a historical basis. The **licensed** eligible organization must notify, in writing, the district attorney and licensing authority of the location, date and times of [such events] **the event** where it will be conducting [small] games of chance.

(2) **Raffle tickets may be sold off the licensed premises in a municipality which has adopted the provisions of this act by an affirmative vote in a municipal referendum. A licensed eligible organization which plans to sell raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed shall notify that county's district attorney and licensing authority as to the location and the dates that the licensed eligible organization plans to sell raffle tickets.**

(b.3) Limited occasion licenses.--Eligible organizations which do not own their own premises or which do not lease a specific location to conduct their normal business may apply for a limited occasion license to conduct [small] games of chance on not more than three occasions covering a total of seven days during a licensed year. A limited occasion license entitles **an** eligible [organizations holding such a license] **organization** to conduct no more than two raffles during a licensed year where prizes may not exceed the established limits for regular monthly raffles. Holders of **a** limited occasion [licenses] **license** may not apply or be granted any other license or special permit under this act. No holder of a regular license or special permit under this act shall apply or be granted a limited occasion license.

(b.4) Gambling facility prohibited.--It shall be unlawful for a person, corporation, association, partnership or other business entity to offer for rent or offer for use a building or facility to be used exclusively for the [conducting] **conduct** of [small] games of chance. It shall also be unlawful for any eligible organization to lease under any terms a [facility or] building **or facility** which is used exclusively for the [conducting] **conduct** of [small] games of chance.

(c) Display.--Licenses issued pursuant to this section shall be publicly displayed at the site [of the small] **where** games of chance **are conducted.**

(d) Operation.--Each licensed eligible organization shall [comply with the following restrictions and rules governing the operation of games of chance] **be prohibited from the following:**

(1) [No] **Permitting any** person under 18 years of age [shall be permitted] to operate or play games of chance.

(2) [No eligible organization shall permit] **Permitting** any person who has been convicted of a felony in a Federal or State court within the past five years or has been convicted in a Federal or State court within the past ten years of a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act to manage, set up, supervise or participate in the operation of games of chance.

(3) [No eligible organization shall pay] **Paying** any compensation to any person for conducting any games of

chance. Games of chance may only be conducted by managers, officers, directors, bar personnel and bona fide members of the eligible organization.

(4) [Games shall be conducted only] **Conducting games of chance on any premises other than** on the licensed premises or as otherwise provided by this [act] **chapter.**

(5) [The eligible organization shall not lease such] **Leasing the licensed** premises under either an oral or a written agreement for a rental which is determined by either the amount of receipts realized from the playing of games of chance or the number of people attending, except that an eligible organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal. An eligible organization shall not lease such premises from any person who has been convicted of a violation of this act **or the Bingo Law** within the past ten years.

(6) [Games] **Purchasing games of chance,** other than raffles, daily drawings and weekly drawings, [shall be purchased only from manufacturers and distributors] **from any person other than a registered manufacturer or licensed distributor** approved by the department.

[(7) No licensed eligible organization shall permit its premises to be used for small games of chance by another licensed eligible organization at the same time that it is conducting small games of chance on the premises. When a licensed eligible organization is permitting another licensed eligible organization to use its premises for purposes of small games of chance, it must cease the operation of its own small games of chance during the period that the other licensed eligible organization is conducting its games on the premises.]

(8) Raffle tickets may be sold off the licensed premise in any municipality in this Commonwealth which has adopted the provisions of this act by an affirmative vote in a municipal referendum. A licensed eligible organization which plans to sell raffle tickets in a municipality located in a county other than the county in which the eligible organization is licensed must notify that county's district attorney and licensing authority as to the location and the dates that the eligible organization plans to sell raffle tickets.]

(d.1) Bank account and records.--The licensed eligible organization shall keep a bank account to hold the proceeds of games of chance, which shall be separate from all other funds belonging to the licensed eligible organization. Account records shall show all expenditures and income and shall be retained by the licensed eligible organization for at least two years.

(e) Application for license.--Each eligible organization shall apply to the licensing authority for a license on a form to be prescribed by the Secretary of Revenue. **For a club license, the application and each renewal application shall include the most recent annual report filed by the club licensee under Chapter 5.** The form shall contain an affidavit to be affirmed by the executive officer or secretary of the eligible organization stating that:

(1) No person under 18 years of age will be permitted by the eligible organization to operate or play games of chance.

(2) The facility in which the games of chance are to be played has adequate means of ingress and egress and adequate sanitary facilities available in the area.

(3) The eligible organization is not leasing such premises from the owner thereof under an oral agreement, nor is it leasing such premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance or by the number of people attending, except that an eligible organization may lease a facility for a banquet where a per head charge is applied in connection with the serving of a meal.

(e.1) Proceedings.--Proceedings before the licensing authority are subject to 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action).

(f) List of licensees.--The licensing authority, on a semiannual basis, shall send a copy of all licensees to the [Department of Revenue] **department.**

(g) List of municipalities.--The licensing authority shall include with any license or renewal **license** issued to an eligible organization, an up-to-date listing of those municipalities within the licensing county which have approved the referendum question on small games of chance.

(h) Background checks.--Each application for a license shall include the results of a criminal history record information check obtained from the Pennsylvania State Police, as defined in 18 Pa.C.S. § 9102 (relating to definitions) and permitted by 18 Pa.C.S. § 9121(b) (relating to general regulations), for the executive officer and secretary of the eligible organization making the application for a license or any other person required by the department.

Section 11. Section 11 of the act, amended December 19, 1990 (P.L.812, No.195), is renumbered and amended to read: Section [11] **308. Special permits.**

(a) Issuance and fee.--The licensing authority shall issue a special permit for each raffle in which the [licensee] **licensed eligible organization** proposes to award individual prizes [having a cash value] in excess of [\$500] **\$1,000.** The licensing authority may establish and collect a fee not to exceed \$25 for the issuance of special permits under this section.

(b) Permit application.--Each special permit application shall specify the location where the actual drawing will be held, the number of chances to be sold, the price per chance and the [cash value of the prize or prizes] **prize** to be awarded.

Section 12. The act is amended by adding a chapter to read:

CHAPTER 5

CLUB LICENSEES

Section 501. Club licensee.

(a) Report.--

(1) Beginning in 2013, a club licensee shall submit semiannual reports to the department for the preceding six-month period on a form and in a manner prescribed by the department.

(2) The report must be filed under oath or affirmation of an authorized officer of the club licensee.

(3) The report shall include all of the following information:

(i) The proceeds received by the club licensee from each game of chance conducted, itemized by week.

(ii) The amount of prizes paid from all games of chance, itemized by week.

(iii) Other costs incurred related to the conduct of games of chance.

(iv) The verification of amounts distributed for public interest purposes itemized under section 502(a)(1), itemized by the recipient.

(v) An itemized list of expenditures made or amounts retained and expenditures under section 502(a)(2).

(vi) The address and the county in which the club licensee is located.

(vii) Other information or documentation required by the department.

(b) Distribution.--The department shall provide a copy of the report to the Bureau of Liquor Control Enforcement.

(c) Posting.--The reports under subsection (a) shall be published on the department's Internet website.
Section 502. Distribution of proceeds.

(a) Distribution.--The proceeds from games of chance received by a club licensee shall be distributed as follows:

(1) No less than 70% of the proceeds shall be paid to organizations for public interest purposes in the calendar year in which the proceeds were obtained.

(2) No more than 30% of the proceeds obtained in a calendar year may be retained by a club licensee and used for the following operational expenses relating to the club licensee:

(i) Real property taxes.

(ii) Utility and fuel costs.

(iii) Heating and air conditioning equipment or repair costs.

(iv) Water and sewer costs.

(v) Property or liability insurance costs.

(vi) Mortgage payments.

(vii) Interior and exterior repair costs, including repair to parking lots.

(viii) New facility construction costs.

(ix) Entertainment equipment, including television, video and electronic games.

(x) Other expenses adopted in regulation by the department.

(a.1) Amounts retained.--Amounts retained by a club licensee under subsection (a)(2) shall be expended within the same calendar year unless the club licensee notifies the department that funds are being retained for a substantial purchase or project. Notification shall include a description of the purchase or project, the cost and the anticipated date of the purchase or project.

(b) Prohibition.--

(1) Proceeds shall not be used for wages, alcohol or food purchases or for the payment of any fine levied against the club licensee.

(2) An officer or employee of a club licensee who operates the game of chance shall not participate in the game. This paragraph shall not apply to a raffle.

Section 503. Records.

A club licensee shall maintain records as required by this act or by the department, including invoices for games of chance purchased. Records necessary to conduct an audit under section 702(b) shall be made available to the Bureau of Liquor Control Enforcement or other entity authorized to enforce this act.

Section 504. Raffle tickets.

A club licensee shall maintain records relating to the printing or purchase of raffle tickets. Records shall include a receipt or invoice from the place of purchase that shows the cost and number or amount of tickets purchased.

Section 505. Weekly drawings.

A club licensee shall maintain records relating to the printing or purchase of materials to be used for weekly drawings. Records shall include a receipt or invoice from the place of purchase that shows the cost and number or amount of materials purchased.

Section 13. The act is amended by adding a chapter heading to read:

**CHAPTER 7
ENFORCEMENT**

Section 14. Section 12 of the act, amended December 19, 1990 (P.L.812, No.195), is renumbered and amended to read: Section [12] **701**. Revocation of licenses.

(a) Grounds.--The [licensing authority shall revoke or refuse to renew the license of any eligible organization whenever the district attorney finds upon complaint and investigation that] **following shall be grounds for suspension, revocation or nonrenewal of a license:**

(1) Any of the [funds] **proceeds** derived from the operation of games of chance **by an eligible organization** are used for any purpose other than for:

(i) public interest purposes [or for];

(ii) the purchase of games of chance [as]; or

(iii) **a purpose** permitted by [this act] **Chapter 5**.

(1.1) Any of the funds derived from the operation of games of chance by a club licensee are used in a manner that does not comply with section 502.

(2) Any person under 18 years of age is operating or playing games of chance [as defined in this act].

(3) The eligible organization has permitted any person who has been convicted of a felony in a Federal or State court within the past five years or has been convicted in a Federal or State court within the past ten years of a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act, to manage, set up, supervise or participate in the operation of games of chance.

(4) The facility in which the games of chance are played does not have adequate means of ingress and egress and does not have adequate sanitary facilities available in the area.

(5) Any person or persons other than a manager, officer, director, bar personnel or a bona fide member of an eligible organization have been involved in managing, setting up, operating or running games of chance.

(6) Any person has received compensation for conducting games of chance.

(7) Any prize has been awarded in excess of the limits permitted under this act.

(8) The eligible organization has violated any condition of a special permit issued pursuant to section [11] **308**.

(9) The eligible organization conducts the games of chance under a lease which calls for:

(i) leasing such premises from the owner thereof under an oral agreement; or

(ii) leasing such premises from the owner thereof under a written agreement at a rental which is determined by the amount of receipts realized from the playing of games of chance.

(10) False or erroneous information was provided in the original application **or in any information provided to the licensing authority or the department in any report.**

(11) An eligible organization has been convicted of a violation of this act as evidenced by a certified record of the conviction.

(12) The eligible organization has permitted another eligible organization to conduct [small] games of chance on its licensed premises without suspending its own operation of [small] games of chance during the period that the other licensed eligible organization is conducting its games on the premises.

(13) **A club licensee has failed to file an accurate report under section 501(a).**

(14) **A club licensee has failed to comply with section 502.**

(15) **Failure to file reports under section 501.**

(b) Production of records.--The district attorney may require licensees to produce their books, accounts and records relating to the conduct of games of chance in order to determine [whether a license should be revoked or renewal thereof denied] **if a violation of this act has occurred.** Licensees shall also be required, **upon request,** to [produce] **provide** their license, books, accounts and records relating to the conduct of games of chance to [other] **the licensing authority, the Bureau of Liquor Control Enforcement or to a law enforcement [officials upon proper request] agency or official. A club licensee shall retain records for a period of five years.**

Section 15. Section 13 of the act is renumbered and amended to read:

Section [13] **702. Enforcement.**

[(a) District attorney.--The district attorney shall investigate alleged violations of this act. If the district attorney finds probable cause to believe that a violation has occurred, he may file a complaint against the alleged violator in the court of common pleas of said county, except in counties of the first class where the complaint may be filed in the municipal court. In addition, the district attorney shall prosecute said complaint in the manner provided by law.

(b) Other law enforcement officials.--Nothing in this act shall be interpreted to restrict the power of State, county or local law enforcement officials to conduct investigations and enforce the provisions of this act.]

(a) **Licensing authority.--The licensing authority may enforce the provisions of this act and may impose the penalties under subsection (d).**

(b) **Bureau of Liquor Control Enforcement.--If the licensee is a club licensee, the Bureau of Liquor Control Enforcement may enforce the provisions of this act. An administrative law judge under section 212 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, may impose the penalties under subsection (d) following the issuance of a citation by the bureau.**

(c) **Random audits.--The Bureau of Liquor Control Enforcement shall conduct annual random audits of 5% of all club licensees.**

(d) **Powers and duties.--The licensing authority, or, in the case of a club licensee, the Bureau of Liquor Control Enforcement, may impose the following penalties:**

(1) **A civil penalty.**

(2) **Suspension or revocation of the license.**

(e) District attorney.--The district attorney of the county that issued the license shall investigate alleged violations of this act. If the district attorney finds probable cause to believe that a criminal violation has occurred, the district attorney may file criminal charges and prosecute the complaint against the alleged violator in the court of common pleas of the county except in counties of the first class where the complaint may be filed in the municipal court.

(f) Law enforcement officials.--Nothing in this act may restrict or limit the power of a State, county or local law enforcement official to conduct investigations and file criminal charges under this act.

(g) General rule.--

(1) Except as provided in paragraph (2), a violation of this act by a club licensee shall not constitute a violation of the Liquor Code.

(2) If a club licensee has committed three or more violations of this act, the Bureau of Liquor Control Enforcement may enforce a violation of this act as a violation of the Liquor Code.

(3) A violation of this act shall not constitute a violation of the Liquor Code for the purposes of section 471(c) of the Liquor Code.

Section 16. Section 14 of the act, amended July 11, 1990 (P.L.449, No.108) and December 19, 1990 (P.L.812, No.195), is renumbered and amended to read:

Section [14] **703**. Local option.

(a) Election to be held.--In any municipality, an election may be held on the date of the primary election immediately preceding any municipal election, but not more than once in four years, to determine the will of the electors with respect to the issuance of licenses within the limits of such municipality under the provisions of this act. Where an election shall have been held at the primary election preceding a municipal election in any year, another election may be held under the provisions of this act at the primary election occurring the fourth year after such prior election. Whenever electors equal to at least 25% of the highest vote cast for any office in the municipality at the last preceding general election shall file a petition with the county board of elections of the county, or the governing body of the municipality adopts, by a majority vote, a resolution to place such a question on the ballot and a copy of the resolution is filed with the board of elections of the county, for a referendum on the question of issuing licenses, the county board of elections shall cause a question to be placed on the ballot or on the voting machine board and submitted at the primary election immediately preceding the municipal election. The question shall be in the following form:

Do you favor the issuance of licenses
to conduct small games of chance in the
of ?

(b) Vote.--If a majority of the electors voting on the question vote "yes," then licenses shall be issued by the licensing authority in such municipality, but if a majority of the electors voting on any such question vote "no," then the licensing authority shall have no power to issue or to renew, upon their expiration, any licenses in such municipality, unless and until, at a later election, a majority of the voting electors vote "yes" on such question.

(c) Voting proceedings.--Proceedings under this section shall be in accordance with the provisions of the act of June

3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(d) Applicability.--This act applies only to those eligible organizations located in municipalities which have adopted the provisions of this act by an affirmative vote in a municipal referendum in accordance with the provisions of this section.

(e) Withdrawal of approval.--The referendum procedure contained in this section shall also be available to withdraw the approval of the issuance of such licenses within such municipality which was granted through a prior referendum.

(f) Special exception.--Notwithstanding any other provision of this act to the contrary, in any municipality except a city of the first class where an election was held pursuant to this section on May 16, 1989, and a majority of the electors voted "NO" on the question, the municipality shall be able to resubmit the question, in accordance with the procedures set forth in this section, at the general election immediately following [the effective date of this amendatory act] **July 11, 1990.**

Section 17. Section 15 of the act, amended December 19, 1990 (P.L.812, No.195), is renumbered to read:
Section [15] **704. Advertising.**

It shall be unlawful for any eligible organization or person to advertise the prizes or their dollar value to be awarded in games of chance, provided that prizes may be identified on raffle tickets. Notwithstanding the prohibition of advertising contained within this section, an eligible organization may advertise prizes and values thereof in periodic publications which are limited in their circulation to members of the eligible organization.

Section 18. Section 16 of the act is renumbered and amended to read:

Section [16] **705. Certain persons prohibited.**

No **licensed** distributor nor any person who has been convicted of a felony or of a violation of the act of July 10, 1981 (P.L.214, No.67), known as the Bingo Law, or of this act or of any comparable State or Federal law shall have a pecuniary interest in the operation [or proceeds of games of chance] **or in proceeds.**

Section 19. The act is amended by adding a section to read:
Section 706. Civil penalties.

(a) **Penalty.--An eligible organization, other than a club licensee, that violates the provisions of this act shall be subject to the following civil penalties:**

- (1) For an initial violation, up to \$500.
- (2) For a second violation, up to \$1,000.
- (3) For a third or subsequent violation, up to \$1,500.

(b) **Club licensee.--A club licensee that violates the provisions of this act shall be subject to the following civil penalties:**

- (1) For an initial violation, up to \$800.
- (2) For a second violation, up to \$1,000.
- (3) For a third or subsequent violation, up to \$2,000.

(c) **Records.--The intentional or willful failure of a club licensee to provide accurate records shall result in a license suspension of a minimum of six months.**

Section 20. Section 17 of the act, amended December 19, 1990 (P.L.812, No.195), is renumbered and amended to read:
Section [17] **707. [Penalties] Criminal penalties.**

(a) **Eligible organizations and club licensees.--Any eligible organization violating the provisions of this act shall be guilty of a summary offense and, upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 [and shall] for**

a first offense[,] and \$1,500 for a subsequent offense. In addition:

(1) For a first offense, the eligible organization shall forfeit the license to conduct games of chance issued to the eligible organization for [the remainder of the licensing period or six months, whichever is longer, for] a period of not more than 30 days.

(2) For a second offense, the eligible organization shall forfeit [the] its license [issued to the eligible organization] for [the remainder of the current licensing period and be ineligible to be licensed for the following licensing period, for] a period of not less than 30 days nor more than 180 days.

(3) For a third or subsequent offense[,] within three years of the first offense, the eligible organization shall forfeit [the] its license [issued to the eligible organization] and be ineligible for a license renewal for 30 months thereafter.

(b) Individuals.--Any person who conducts or assists in the conducting of games of chance in violation of the provisions of this act is guilty of a summary offense for a first violation. A second violation of this act shall be punishable as a misdemeanor of the third degree. A third or subsequent violation shall be punishable as a misdemeanor of the first degree.

(c) Distributors and manufacturers.--Any person who distributes games of chance without a license or in violation of any provision of this act or applicable regulations, and any manufacturer of games of chance who delivers games of chance for sale or distribution in this Commonwealth who fails to register and obtain a permit therefor is guilty of a misdemeanor of the first degree, provided that no license or permit shall be required for the manufacture or distribution of raffle tickets.

(d) Rigging.--A person commits a misdemeanor of the first degree if, with intent to prevent a game of chance from being conducted in accordance with the requirements of this act or the rules and usages governing the game of chance, he:

(1) confers or offers or agrees to confer any benefit upon or threatens any injury to a participant or other person associated with the game of chance;

(2) tampers with any person or [games] game of chance;
or

(3) solicits, accepts or agrees to accept any benefit.

(e) Contingent fees.--Any person who distributes, manufactures or operates a small game of chance and who requires, for equipment furnished or to play a game of chance, payment equal to a percentage of the total winnings of any game of chance commits a misdemeanor of the first degree.

Section 21. The act is amended by adding a chapter heading to read:

CHAPTER 31 MISCELLANEOUS PROVISIONS

Section 22. Section 18 of the act is renumbered to read: Section [18] 3101. Effective date.

This act shall take effect in 60 days.

Section 23. This act shall take effect in 30 days.

APPROVED--The 2nd day of February, A.D. 2012.

TOM CORBETT