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Bill Analysis
Legislative Service Commission

H.B. 384

126th General Assembly
(As Introduced)

Reps. Hartnett, Wagner, Distel, Bocchieri, Yuko, Faber, Skindell, Collier, Fende, Otterman, S. Patton, Allen, Carano, Sayre

BILL SUMMARY

- Allows certain social clubs to qualify to be issued bingo licenses to conduct regular bingo and instant bingo.

CONTENT AND OPERATION

Definition of a social club

The bill adds a social club to the list of various organizations that, under current law, are defined as a "charitable organization" (see **COMMENT 1**) and qualify to be issued a license to conduct regular bingo games and instant bingo if certain continuous existence and tax-exempt status requirements are satisfied (R.C. 2915.01(H)). The bill defines a "social club" for this purpose as an organization that is not organized for profit, that is organized and operated exclusively to provide recreational, patriotic, historical, cultural, or ancestral activities for its members, and that has been in *continuous existence in Ohio since 1970* (R.C. 2915.01(H) and (EEE) and 2915.08(A)(2)(b)). Further, a social club must be, and must have received from the Internal Revenue Service a determination letter that currently is in effect stating that it is, exempt from federal income taxation under subsection 501(a) and be described in subsection 501(c)(7) (see **COMMENT 1**) of the Internal Revenue Code (R.C. 2915.01(H)).

Authority of a social club to conduct regular bingo and instant bingo

The bill treats a social club within the Charitable Bingo Law in the same way that current law (a) treats other charitable organizations for purposes of conducting regular bingo and instant bingo (R.C. 2915.09 and R.C. 2915.091--not in the bill), (b) treats charitable organizations that are not described in subsection 501(c)(3) (see **COMMENT 1**) of the Internal Revenue Code for purposes of distributing the net profit from regular bingo (see **COMMENT 2**) (R.C. 2915.01(Z) and 2915.09(A)(3)), and (c) treats fraternal organizations, sporting

organizations, and veteran's organizations for purposes of distributing the net profit from instant bingo (see **COMMENT 2**) (R.C. 2915.101(A)). For example, under the bill, a social club may do both of the following:

- Allow its employees to sell instant bingo tickets or cards to the club's members or invited guests as long as no portion of the employees' compensation is paid from any bingo receipts (R.C. 2915.09(D)(3)).
- Conduct instant bingo at *other than a bingo session* (1) if the social club (a) is authorized to conduct regular bingo and instant bingo at a bingo session, (b) limits the sale of instant bingo to 12 hours during any day beginning not earlier than 10 a.m. and ending not later than 2 a.m., (c) limits the sale of instant bingo to its own premises and to its own members and invited guests, and (d) is raising money for a specified type of organization described in the Internal Revenue Code that is either a governmental unit or an organization that maintains its principal place of business in Ohio, that is exempt from federal income taxation and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in Ohio, and (2) the social club executes a specified written contract with that organization (R.C. 2915.095 and 2915.13).

Miscellaneous

The bill adds necessary references to a social club throughout the Charitable Bingo Law for conforming purposes, including references to treat tax-exempt subsection 501(c)(3) organizations created by a social club in a similar manner to subsection 501(c)(3) organizations created by a fraternal organization, sporting organization, or veteran's organization (R.C. 2915.01(H) and (XX) and 2915.101(B) and (C)).

COMMENT

1. Under the Charitable Gambling Law, "charitable organization" means any tax-exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, amateur athletic, youth athletic, or youth athletic park organization. A charitable organization must be tax exempt under subsection 501(a) and be described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. (R.C. 2915.01(H).)

The following are descriptions of relevant subsections of the Internal Revenue Code:

Subsection 501(c)(3) concerns corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in, any political campaign on behalf of or in opposition to any candidate for public office.

Subsection 501(c)(4) describes civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Subsection 501(c)(7) describes clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for these purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Subsection 501(c)(8) describes fraternal organizations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, that provide payment of life, sick, accident, or other benefits to their members and their members' dependents, and subsection 501(c)(10) describes domestic fraternal organizations operating under the lodge system that devote their net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes and do not provide for the payment of life, sick, accident, or other benefits.

Subsection 501(c)(19) describes certain veteran organizations and their auxiliaries.

2. Under the Charitable Bingo Law, only subsection 501(c)(3) charitable organizations are allowed to distribute all of the *net profit* of regular bingo and instant bingo they conduct *to themselves* and use that net profit for their own purposes (R.C. 2915.01(Z)(1), 2915.09(A)(3), and 2915.101(B)). Generally, under the Law, the various categories of charitable organizations, such as fraternal, sporting, and veteran's organizations, must distribute the *net profit* of regular bingo and instant bingo they conduct (a) to specified governmental units or subsection 501(c)(3) organizations, or to certain veteran's, fraternal, or volunteer firefighter's organizations, *in the case of regular bingo*, and (b) in specified percentages to specified governmental units or departments or agencies of the federal government, the state, or any political subdivision or subsection 501(c)(3)

organizations, *in the case of instant bingo*. But, with respect to instant bingo, the Law specifically allows a veteran's, fraternal, or sporting organization to keep specified percentages of specified portions of its net profit (a) for *reimbursement* of or for its *expenses* in conducting an instant bingo game and (b) for distribution for its *own charitable purposes* or to a community action agency. (R.C. 2915.01(Z)(1), (2), (3), and (4), 2915.09(A)(3), and 2915.101.)

HISTORY

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