

Proposed Rules
of the
Department of State-1360
Division of Charitable Solicitations
Charitable Gaming Section

Chapter 1360-3-3
Procedures for Operating Charitable Gaming Events

Presented herein are proposed rules of the Charitable Solicitations Division submitted pursuant to T.C.A. §§4—5—202 and 3-17-115(a) in lieu of a rulemaking hearing. It is the intent of the Charitable Solicitations Division to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed in the Division of Charitable Solicitations, Eighth Floor, Tennessee Tower, William Snodgrass Building, located at 312 8th Avenue North, Nashville, TN 37243, and in the Department of State, Eighth Floor, Tennessee Tower, William Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Judy Bond-McKissack, Acting Director, Division of Charitable Solicitations and Gaming, Department of State, 8th Floor, William R. Snodgrass Building, Nashville, TN 37243, Charitable Solicitations Division, and 615-741-2555.

The text of the proposed rules is as follows:

New Rules

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1360-3-3-.01 Definitions.

- (1) “Amended annual event application” means those items of information submitted to the Secretary for the purpose of revising, correcting, adding to, or otherwise supplementing an annual event application in order to meet the requirements of the Tennessee Charitable Gaming Implementation Law.
- (2) “Conformed copy” A conformed copy is a copy that agrees with the original and all amendments to it. If the original document required a signature, the copy shall contain the signatures and dates as shown on the originals. A certificate of incorporation shall be date stamped and show approval by an appropriate state official.
- (3) “Compensation” for purposes of TCA § 3-17-103(a)5(A)(i)(b) means anything of value received as a result of work performed on behalf of a §501(c)(3) organization, including, but not limited to, tips, reductions, and waivers of fees.
- (4) “Directors or officers of the organization” for purposes of TCA §3-17-104 (a)(12) means the entire slate of members of the governing body of an organization. An executive committee or subcommittee of a governing board shall not qualify as the directors or officers of the organization, unless the organization’s by-laws authorize an executive committee to act on behalf of the full board.
- (5) “Fair Market Value” means a price at which an unrelated buyer and seller would agree to a transaction; a valuation that is reasonable to all parties involved in a transaction, none of which are under a compulsion to buy or sell while having a reasonable knowledge of the relevant facts.
- (6) “Games of chance associated with casinos” includes casino night parties (also known as “Vegas Nights”, “Las Vegas Nights”, “Monte Carlo Nights”)
- (7) “Notice”, unless otherwise indicated, shall mean a written communication forwarded by U.S. mail, certified return receipt requested.
- (8) “Operate” means
 - (a) To run or control, directly or indirectly, the functioning of an annual gaming event;

- (b) To bring about a desired or proper effect including, but not limited to, planning, promoting, advertising, marketing, authorizing or entering into agreements, purchasing supplies, telephone services, gaming records or devices, buying or leasing services, facilities or locations, printing of materials and tickets, shares, chances or similar records and the transporting of such records and other devices;
 - (c) To conduct the affairs of an event including, but not limited to, on-site or off-site management;
- (9) “Organizational document” shall mean the record that establishes the organization as a legal entity and shall include, but not be limited to, a certified copy of the Articles of Incorporation (or charter), constitution, or trust agreement.
 - (10) “Physical Presence” means an organization has a tangible office established and located within the state of Tennessee where regular business within the organization’s stated mission is transacted. The existence of a post office mailing address or drop box location is not sufficient to create a physical presence.
 - (11) “Pull-tab” means gaming pieces used in a game of chance that are made completely of paper or paper products with concealed numbers or symbols which must be exposed by the player to determine wins or losses. Pull tabs may also be known as break-opens, hard cards, banded tickets, jar tickets, pickle cards, Lucky Seven Cards, Nevada Club tickets, instant bingo cards.
 - (12) “Secretary” means the Secretary of state or the Secretary’s authorized representative.

Authority: TCA §§ 3-17-103(a)(3)(B)(i), 3-17-103(a)(5)(A)(i)(a), 3-17-103(a)(5)(B)(i), 3-17-102(A), 3-17-102(8)(A), and 3-17-103(d)(1)(B); TCA §3-17-104 (a)(12); TCA § 3-17-105(d)(2)(B); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.02 Application Sliding Fee Scale.

An application to hold an annual gaming event shall be submitted with the appropriate filing fee according to the organization’s gross revenue for the annual event based on the following scale:

Event Gross Revenue	Filing Fee
\$0.00 to \$5,000.00	\$150.00
\$5001.00 to \$10,000.00	\$300.00
\$10,001.00 to \$20,000.00	\$450.00
over \$20,001.00	\$600.00

Authority: Public Chapter 207 § 14, 2005; TCA §3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.03 Applications for Authorization to hold an Annual Gaming Event- Time to Submit Applications.

- (1) Application Period. An application for authorization to hold an annual gaming event shall be submitted beginning July 1 and ending October 31st of each year.
- (2) Last Date to File. When the first or last day to file an application is a non-business day (e.g., weekend, holiday), the first or last day to file is the first business day immediately following the date established by statute. (Example: July 1, the first day to file an application, is a Sunday. The first filing day is the first business day following Sunday.)
- (3) Timely Filing. The postmark date on the annual event application shall determine whether an amendment is timely filed. An application submitted beyond the time set forth in the Act shall be automatically rejected.
- (4) Incomplete application. An application that does not comply with the provisions of the Act shall be rejected. The Secretary shall notify the applicant of the reasons for rejection of the application. Corrections to a deficient application shall be submitted no later than 12:00 noon, February 1 in the year subsequent to the filing of the application. If this date falls on a non-business day, the last day to file an amendment shall be 12:00 noon the last business day preceding the deadline date.

Authority: 3-17-105(a)(1) and (d)(2)(B); TCA §§ 3-17-115(a); Public Chapter 207 §§ 3 and 9, 2005. Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.04 Proof of Active and Continuous Existence.

- (1) Acceptable Proof. In addition to the requirements set out in Public Chapter 476, as amended, §3-17-101 et. seq., an organization may submit as proof of its continuous and active existence, including, but not limited to, the following types of information:
 - (a) A copy of the last five (5) annual Forms 990, 990-EZ, or 990-PF filed with the Internal Revenue Service for the five (5) year period immediately preceding the date of application;

- (b) If the organization is a corporation, a copy of the last five (5) annual reports filed with the Secretary's Business Services Division for the five (5) year period immediately preceding the date of application;
 - (c) Copies of the organization's written authorization to conduct charitable solicitation for the five (5) year period under consideration and which covers the five (5) year period immediately preceding the date of application.
 - (d) Copies of published annual reports of the organization for the five (5) year period under consideration and which covers the five (5) year period immediately preceding the date of application;
 - (e) Copies of audited financial statements prepared by an independent certified public accountant and which covers the five (5) year period immediately preceding the date of application;
 - (f) Copies of minutes of annual meetings duly recorded and attested to by the secretary of the organization and which covers the five (5) year period immediately preceding the date of application;
 - (g) Copies of grant approval and continuation notices received by the organization and which covers the five (5) year period immediately preceding the date of application; and/or
 - (h) Copies of printed advertisements for the organization showing the date of publication of the advertisement and which covers the five (5) year period immediately preceding the date of application.
- (2) Multiple Forms of Proof. An organization may submit copies of documents from two or more types as indicated above, so long as documents cover the five (5) year period immediately preceding the date of application. (Example: Organized in 1995, organization was not required to file IRS Form 990 until Year 2001. An annual event application is filed July 1, 2004. It may submit Forms 990 for years 2001, 2002, 2003 and annual reports filed with Business Services Division for years 1999 and 2000.
- (3) Authentic Documents. Acceptable documents must be authentic, genuine or bona fide documents. Copies of documents must be conformed copies.

Authority: TCA § 3-17-104(a)(6); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.05 Proof of §501(c)(3) Tax Exempt Status and Purpose(s).

- (1) Chapters or Affiliates. An organization which is a chapter or affiliate operating under a Section 501(c)(3) group exemption must have its own federal employer identification number and shall submit the following documents in support of its tax exempt status:
 - (a) The Letter of Determination of the parent organization assigned by the Internal Revenue Service which includes the group's 4-digit tax exemption number;
 - (b) A list of all chapters and affiliates under the group exemption as submitted by the parent organization to the Internal Revenue Service, including the federal tax identification number and physical address of each chapter or affiliate;
 - (c) A written statement from the parent organization that the applicant is in good standing with the parent organization;
 - (d) A properly executed Affidavit of the organization's 501(c)(3) status [Secretary of State Form SS-6060]; and,
 - (e) A copy of the organizational document.

- (2) Recognition Prior to 1969. An organization recognized as exempt from federal income taxation by the Internal Revenue Service prior to October 9, 1969, that would otherwise qualify as a 501(c)(3) organization shall, in addition to the requirements of TCA §3-17-103, submit the following documents in lieu of IRS form 1023 in support of its tax exempt status/purpose(s):
 - (a) A detailed narrative of all of the activities of the organization. List each activity in order of importance based on the relative time and resources devoted to the activity. Indicate the percentage of time for each activity; and
 - (b) A Statement of Revenue and Expenses for the five (5) years immediately preceding the period under consideration.

- (3) Exempt Purposes. For purposes of clarification, these regulations adopt the following language of the Internal Revenue Service: The exempt purposes of §501 (c)(3) organizations are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and the prevention of cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; lessening of neighborhood tensions; elimination of prejudice and discrimination; defense of

human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

- (4) **Nature of Operation.** To be tax-exempt as an organization described in IRC Section 501(c)(3), an organization must be organized and operated exclusively for one or more of the purposes set forth in this code section and none of the earnings of the organization may benefit or provide any advantage to any private shareholder or individual.

Authority: TCA § 3-17-102(1); § 3-17-104(a)(6); TCA § 3-17-115(a); I.R.C. § 501.
Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.06 Description of the Games.

Severe penalties may be imposed for violation of the Act including the playing of an unauthorized type of game. Therefore it is essential that any chosen game of chance fall within the permissive language of the Act. Every application seeking authorization to hold an annual gaming event must provide a detailed written explanation and description of the game. Relevant information should include the details of what the game is, how it is operated by the organization and how it is played by a contestant or player.

Authority: TCA § 3-17-102(8)(A)(i)-(iv), (B); TCA § 3-17-104(a)(14)(A); TCA § 3-17-115(a).
Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.07 Prohibited/Allowed Types of Games.

- (1) The playing of bingo or a similar game under another name (e.g. “Lotteria”) at an annual gaming event is expressly prohibited. The following types of games are also prohibited during the conduct of any annual gaming event:
 - Video lottery
 - Slot machines
 - Roulette wheels
 - Other games of chance associated with casinos
 - Pull tabs
 - Punchboards
 - Instant bingo
 - Instant and on-line lottery games of a type operated by the Tennessee education lottery corporation
- (2) The following list provides some guidance as to the types of games which shall be allowed. This list is not intended to include every type of authorized game.
 - Raffles

- Reverse Raffles
- Lotteries
- Sweepstakes
- Duck Races
- Cakewalks
- Cake wheels

- (3) All organizations must comply with the provisions of the Act, including an organization that intends to conduct a cash or prize giveaway and give some, but not all, persons wishing to participate an opportunity to do so without requiring the payment of any money or other consideration, the making of a donation, or the purchasing of a product or service.

Authority: TCA § 3-17-102(8)(A)(i)-(iv); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.08 Action by Board of Directors.

- (1) Majority Vote Required. Governing body (e.g., board of directors, trustees). The organization must disclose in the annual event application the total number of members of its governing body for the period in question and the name and address of each member.
- (2) Meeting Minutes. The governing body shall meet, either by regular or special meeting, if it intends to operate an annual gaming event. Unless otherwise provided by its by-laws, the meeting may be conducted through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. Action taken by consent without a meeting (e.g., consent communicated by e-mail or facsimile transmission) is not authorized by the Act.
- (3) Majority Vote Required. The minutes shall reflect an affirmative vote by a majority of all current members of the governing body and must be signed and attested by the board secretary.
- (4) Affidavit in Lieu of Minutes. In lieu of regular or special minutes of the board of directors, an organization shall submit an affidavit (Secretary of State Form SS-6062) indicating the date of the meeting, the total number of directors or trustees present, and the number casting an affirmative vote to operate a gaming event. The affidavit must bear the notarized signatures of all members of the governing body, whether or not a member attended the meeting or voted in the affirmative to operate an event.

Authority: TCA §§ 3-17-104(a)(10) and 3-17-104(a)(12); TCA § 3-17-115(a); Public Chapter 207 § 10, 2005. Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.09 Amendment Process- Conflicting Locations, Other Amendments.

- (1) **Timely Communication.** In addition to the requirements §§3-17-104 and 3-17-105(b), all organizations must provide either an e-mail address or fax number in order to facilitate speedy communication. Organizations must respond to requests from the Secretary within 10 days but in no event shall a response be received later than 24 hours prior to any filing deadline.
- (2) **Form of Amendment.** An amendment form (SOS Form No. SS-6065) shall be used to notify the Secretary of a change of location, or any other amendment. An organization may fax a completed amendment form to the Charitable Gaming Section at 615-253-5173. Forms may be obtained from the Charitable Gaming Section and are also available on the Secretary of State's website: <http://www.state.tennessee.gov/sos/charity/gaming.htm>.
- (3) **Filing of Amendments.** Amendments shall be accepted for filing until 12:00 Noon, February 1 of each year subsequent to the filing of the application. The date and time stamp endorsement of the Secretary shall determine whether an amendment is timely filed. In accordance with the provisions of §3-17-105(d)(2)(A), the Secretary shall have no authority to accept, and shall not accept, an annual event application, or an amendment thereto, submitted after the application deadline has passed for the appropriate annual event period.
- (4) **Annual Event Location Changes:**
 - (a) Only two annual events can be held at any location during a calendar month. Only one organization can use a location that has previously been approved for another organization during that month. Example: ABC organization has an event at 1 Highway, Anytown, Tennessee on July 4, 2004. A second organization has also scheduled an annual event in July at that location. No other organization can use the same location for its event during the month of July, 2004, even if the event is on a different date.
 - (b) An address which has multiple suites or units at the same location shall be counted as one location for purposes of choosing an annual gaming event location. If it becomes necessary for an organization to change the date of its annual gaming event due to a conflict or unavailability of a chosen location, an amendment form (SOS Form No. SS-6065) must be filed with the Secretary specifying the location which caused the conflict and the full address/location of the new proposed location which has been chosen. Amendments shall not be accepted for filing after the amendment deadline.

(5) Annual Event Date Changes:

- (a) **Conflicting Dates.** Only two organizations shall be allowed to hold an annual gaming event at a facility during any calendar month. Annual gaming event dates will be approved on a first-come, first-serve basis as determined by the date stamp on the application. If the Secretary receives an application which designates the same location for an event which has already been approved for two other organizations, notice will be provided to the organization of the conflict. In order to expedite the notice process, the Secretary will provide notice by e-mail or facsimile message. If an organization must change its annual gaming event date in order to correct or avoid a conflict with another organization, an amendment form must be filed with the Secretary specifying the event date which caused the conflict, the full address/location of the proposed event and the new date which has been chosen. Amendments shall not be accepted for filing after the application deadline. Because amendments cannot be accepted after the application deadline, an organization should plan carefully and file its application well in advance of the October 31st deadline for receipt of applications and the February 1st deadline for receipt of amendments so that a change of event date will not be barred by the filing deadline.
- (b) **Changes of Event Date within Fourteen (14) days of Event.** Tennessee Code Annotated § 3-17-102 (d)(1)(A) allows an organization to hold an event within fourteen (14) days of the date listed in its application. All event date amendments must be filed with the office of the Secretary of State including changes for an event date scheduled within 14 days of the original annual event date. In addition, notice of event date changes must be filed with the local law enforcement officer. In accordance with the provisions of §3-17-102(a)(1), except as indicated above, the Secretary shall have no authority to accept, and shall not accept, an annual event application, or an amendment thereto, submitted after the application deadline has passed for the appropriate annual event period.
- (c) **Determining the Fourteen (14) Day Period.** The fourteen (14) calendar day period prescribed by §3-17-102(d)(1)(A), within which an organization must hold an annual gaming event, may be counted beginning fourteen days prior to the event date listed in the annual event application or fourteen days after the event date listed in the annual event application.

Authority: TCA § 3-17-103(a)(3)(B)(i),(iii); TCA § 3-17-103(d)(1)(B); TCA § 3-17-105(b)(1),(2); TCA § 105(d)(2)(B); TCA § 3-17-115(a); Public Chapter 207 § 15, 2005. Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.10 Conduct of the Games.

- (1) Advertising. Nothing in the act shall be construed as prohibiting an organization from accepting donations of advertising services. For purposes of the Act and these rules, however, granting permission to post flyers for an event on the premises of a vendor shall not be construed as donating advertising services.
- (2) Ticket Sales and Sale of Similar Records. Persons under the age of eighteen (18) are prohibited from selling or purchasing tickets and similar records for charitable gaming activities.
- (3) Officer(s) Responsible for Gross Receipts. The authorized organization shall duly designate an officer/officers of said organization to be in full charge and primarily responsible for the proper accounting, use and disposition of all gaming event receipts. Such officer(s) name shall appear on the list required under TCA §3-17-104 (a) (20) and (21).
- (4) Payment of Workers Prohibited. No commission, salary, compensation, reward, recompense, reimbursement of expenses, or gift or other consideration shall be paid directly or indirectly, to any person for conducting or assisting in the conduct of any annual gaming event except as hereinafter provided for bookkeepers or accountants who assist by rendering their professional services.
No tip, gratuity or gift or other consideration shall be given or accepted by any person conducting or assisting in the conduct of an annual gaming event either directly or indirectly.
- (5) Regular Salary or Wages for Employee not “Compensation”. The regular salary or wages of a regular and full time employee, or a regular but part-time employee shall not be considered to be “compensation” “within the meaning of the Act when it is performed by a person who has been regularly employed by the authorized organization and when all of the following conditions are met:
 - (a) The position held by the employee has been created for the purposes unrelated to the conduct of the annual gaming event and the required performance of duties is generally unrelated to the annual gaming event. The employee’s contribution to an annual gaming event must be an incidental part of his or her total duties consisting of less than 10% of the total time worked for the organization; and
 - (b) The employee is paid on a recurring basis at a regular and established rate of pay throughout the calendar year, unrelated to the income produced by the annual gaming event; and
 - (c) The employee does not operate any game of chance at any function conducted by the organization but confines his or her services in

connection with the annual gaming event to assisting the organization's other employees with the overall planning and organization of the event with supervision of the supporting services for the event.

Authority: TCA §§ 3-17-103(a)(5)(A)(i)(a)-(b), and 3-17-103(a)(5)(B)(i); TCA § 3-17-104(a)(20)-(21); TCA § 3-17-115(a); TCA §§ 39-17-602-603. Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.11 Criminal Background Checks.

- (1) Effective Date. Beginning July 1, 2005, criminal background checks conducted by the TBI may be required by the Secretary.
- (2) Persons Subject to Criminal Background Checks. Fingerprint-based criminal background checks may be required of officers, directors, trustees, staff and any person operating an annual event on behalf of a 501(c)(3) organization. Persons who do not receive any compensation for their duties associated with the 501(c)(3) organization shall not be subject to criminal background checks.
- (3) Criteria for requiring Criminal Background Checks. Upon a determination by the Secretary that a criminal background check is required of a person in connection with an annual gaming event held by a 501 (c) (3) organization, the application of such organization shall not be considered until such background check has been completed and the results of the background check are received in the office of the Secretary of state. In the event that information is revealed in the background check which would be a violation of a provision of the Act, the Secretary shall give notice to the affected organization and allow them an opportunity to cure the disqualifying situation by disassociating such person or persons from taking any action on behalf of such organization. The organization shall submit to the Secretary, an affidavit, signed by the chief operating officer and the treasurer of the organization, setting forth what action has been undertaken by the organization to disassociate the individual/ individuals.
- (4) Procedure for Obtaining Criminal Background Checks. Upon notification by the Secretary that a criminal background check is required, the person notified shall take immediate steps to secure the background check. Persons who receive a request from the Secretary to submit to a criminal background check shall contact the then current state of Tennessee fingerprinting service to obtain information on the proper location and procedure for having the background check run. The current vendor for the state of Tennessee is Sylvan Identix Fingerprinting Centers. The toll free number is 1-866-226-2937. Persons must provide identifying information, the reason for being printed and name of the "Division of Charitable Solicitations, Charitable Gaming Section" as the entity for whom the prints are requested. Background checks will include data from a dual TBI & FBI search. At the time of the printing, the person must provide identification to verify his/her

identity. A driver's license, passport, military ID or similar identification should be provided. The applicant shall be responsible for paying all costs associated with obtaining a criminal history background check.

The results of the background search will be provided directly to the Secretary of State's Division of Charitable Solicitations, Charitable Gaming Section. Results of background checks may be challenged by contacting the TBI. A form is available for download from the TBI web site at www.tbi.state.tn.us or by contacting the TBI directly.

- (5) Information from Law Enforcement Agency. The Secretary may require a criminal background check on any person based upon information received from a local, state or federal law enforcement agency indicating a violation of the law involving theft, misappropriation of funds, or any matter which would impact the legitimate operation of an annual gaming event. For purposes of this provision, law enforcement agency shall include the Internal Revenue Service.
- (6) Denial of Application to Conduct Annual Gaming Event. The Secretary may deny an application to operate an annual gaming event based upon the results of a criminal background check. In addition, the Secretary may impose a civil penalty if the background check shows a violation of the Charitable Gaming Implementation Law.

Penalties shall be determined based upon the rules for disqualification located below at section 1360-3-2-.14.

Authority: TCA § 3-17-114(a)-(c), (e)(1)(2); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.12 Accounting Procedures.

(1) Records:

- (a) Record Keeping. Accurate records shall be kept by each authorized organization in a manner which shows in detail the amount and source of gross receipts, the expenses incurred and the name and address of each person receiving a prize over fifty (\$50.00) dollars and the value of the prize. Prize information shall be reported on the Acknowledgement of Prize Winner form (SOS Form SS 3037).
- (b) Access to Records. The Secretary of State, the Attorney General and Reporter and the Tennessee Bureau of Investigation or their authorized agents or representatives shall at all times have access to all books and records of any authorized organization for the purpose of examining and checking them.

- (c) Period of Retention of Records. All records, books of account, bank statements and all other papers related to the operation of an annual gaming event shall be retained and available for inspection by the Secretary of State and the Tennessee Bureau of Investigation or their authorized agents or representatives for a period of at least five (5) years after the date of the annual gaming event to which they relate.
- (d) Bank Accounts. Gaming proceeds are restricted funds in accordance with generally accepted accounting principles. All receipts less the amount awarded as cash prizes and proceeds from the sale of tickets, shares, chances, or similar records from the annual gaming event shall be deposited no later than the next business day. All prizes, whether paid by cash or check, shall be paid from this account. Money shall be withdrawn from this special account for only the following purposes:
 - 1. Payment of allowable expenses; and
 - 2. Disbursement from Net Proceeds for a lawful charitable purpose;
- (e) Payment of Allowable Expenses. Money for reasonable and necessary expenses may be paid from gross receipts only by checks having preprinted consecutive numbers drawn on the organization's account. Said checks must be made payable to the specific person providing the goods or rendering the service which gives rise to the expense item and at no time may checks be payable to "cash" or "bearer".
- (f) Prizes, Donated Prizes, Goods, or Services. The organization shall disclose the fair market value of all prizes, goods and services as revenue (cash or in-kind) on the Financial Accounting form (SOS Form SS-6066).

Authority: TCA § 3-17-103(a)(5)(B)(i); TCA §§ 3-17-106(a),(b)(1)-(4), (c)(1)-(4); TCA § 3-17-108(a)(1)-(2); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. Repeal and new rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.13 Proof That Net Event Proceeds Were Used for Charitable Purpose.

- (1) Statement of Charitable Purpose Required. An organization applying to hold an annual gaming event must state its charitable purpose. An organization's charitable purpose shall not conflict with the purpose approved by the Internal Revenue Service in response to the organization's application for recognition of exempt status. An organization may use a copy of its IRS form 1023 application, Part II. Activities and Operational Information to prove its charitable purpose. A tax exempt charitable organization which was created prior to October 9, 1969 may submit a copy of documents listed in 1360-3-2-.04(1) above.

- (2) Expenditures for Charitable Purpose. The Charitable Gaming Section will look first to the Charitable Gaming Financial Accounting Report form (SOS Form SS-6066) to determine what expenditures the organization considered as being used for its charitable purpose.
- (3) Proof. Documentation may include:
 - (a) Cancelled checks which state the purpose of the payment and which are endorsed by and identify the payee shall be one form of acceptable documentation;
 - (b) Signed and attested board minutes.
 - (c) A copy of the organization's balance sheets and monthly statements should be provided to substantiate that funds have been earmarked.

Authority: TCA § 3-17-104(a)(19); TCA § 3-17-106(c)(2); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.14 Disqualifications/Civil Penalties.

- (1) Any violation of the Tennessee Charitable Gaming Implementation Law shall be a basis for disqualification or the imposition of civil penalties. Civil penalties may be assessed for the violation of either civil or criminal provisions of the Act.
- (2) An organization that loses its tax exempt status shall be ineligible to hold an annual gaming event. The years for which the tax exempt status was not in effect shall not be countable as part of the period of active and continuous operation. If the Internal Revenue Service revokes an organization's tax exempt status and the revocation is made retroactive, the period of retroactivity will not be countable as part of the period of active and continuous operation.
- (3) Organizations which are tax exempt under a provision of the Internal Revenue Code other than section (501)(c)(3) are not eligible to conduct annual gaming events.
- (4) A period of disqualification shall run from the date of application, the date of discovery of the violation or the date of imposition of the disqualification, whichever is later.

Authority: TCA § 3-17-111(a)-(b); TCA § 3-17-113(a); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

1360-3-3-.15 Co-operation with other State Agencies.

- (1) All information submitted to the Division of Charitable Solicitations, Charitable Gaming Section shall be available to federal, state or local agencies for the purpose of assisting in carrying out the provisions of TCA 3-17-102 et. seq. and TCA 39-16-702 and TCA 39-16-703 and TCA title 39, chapter 17 Parts 5 and 6, TCA § 39-17-502(b), TCA § 39-17-505, TCA § 39-17-506(a), TCA § 39-17-601, TCA § 39-17-651 et. seq. and Title 3, Chapter 15, or any provision of federal law.
- (2) The Secretary shall assist and co-operate with the Tennessee Bureau of Investigation and/or the Internal Revenue Service in the conduct of any investigation.

Authority: TCA § 3-17-113(a)-(b); TCA § 3-17-115(a). Administrative History: Emergency rule filed March 4, 2005. New rule filed July 14, 2005; effective November 28, 2005.

The proposed rules set out herein were properly filed in the Department of State on the 7th day of October, 2005, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of February, 2006.