As Introduced

133rd General Assembly
Regular Session 2019-2020

H. B. No. 73

Representative Cera
Cosponsors: Representatives Rogers, Patterson, Riedel, Miller, A., Seitz, Scherer, O'Brien, Lepore-Hagan

A BILL

To amend sections 2915.08 and 2915.09 of the Revised Code to make changes to instant bingo fees and licensing requirements for charitable organizations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2915.08 and 2915.09 of the Revised Code be amended to read as follows:

Sec. 2915.08. (A)(1) Annually before the first day of January, a charitable organization that desires to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session shall make out, upon a form to be furnished by the attorney general for that purpose, an application for a license to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session and deliver that application to the attorney general together with a license fee as follows:

(a) Except as otherwise provided in this division, for a license for the conduct of bingo, two hundred dollars;
(b) For a license for the conduct of instant bingo at a
bingo session or instant bingo other than at a bingo session for
a charitable organization that previously has not been licensed
under this chapter to conduct instant bingo at a bingo session
or instant bingo other than at a bingo session, a license fee of
five hundred dollars, and for any other charitable organization,
a license fee that is based upon the gross profits received by
the charitable organization from the operation of instant bingo
at a bingo session or instant bingo other than at a bingo
session, during the one-year period ending on the thirty-first
day of October of the year immediately preceding the year for
which the license is sought, and that is one of the following:

(i) Five hundred dollars, if the total is fifty thousand
dollars or less;

(ii) One thousand two hundred fifty dollars plus one-
fourth per cent of the gross profit, if the total is more than
fifty thousand dollars but less than two hundred fifty thousand
one dollars;

(iii) Two thousand two hundred fifty dollars plus one-half
per cent of the gross profit, if the total is more than two
hundred fifty thousand dollars but less than five hundred
thousand one dollars;

(iv) Three thousand five hundred dollars plus one per cent
of the gross profit, if the total is more than five hundred
thousand dollars but less than one million one dollars;

(v) Five thousand dollars plus one per cent of the gross
profit, if the total is one million one dollars or more.

(c) A reduced license fee established by the attorney
general pursuant to division (G) of this section.
(d) For a license to conduct bingo for a charitable organization that prior to July 1, 2003, has not been licensed under this chapter to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session, a license fee established by rule by the attorney general in accordance with division (H) of this section;

(e) For a license to conduct instant bingo at a bingo session or instant bingo other than at a bingo session on five or fewer days in a calendar year, a license fee of fifty dollars.

(2) The application shall be in the form prescribed by the attorney general, shall be signed and sworn to by the applicant, and shall contain all of the following:

(a) The name and post-office address of the applicant;

(b) A statement that the applicant is a charitable organization and that it has been in continuous existence as a charitable organization in this state for two years immediately preceding the making of the application;

(c) The location at which the organization will conduct bingo, and if the application is for a license to conduct instant bingo at a bingo session or instant bingo other than at a bingo session on five or fewer days in a calendar year, any alternate location at which the applicant may conduct bingo, which location shall be within the county in which the principal place of business of the applicant is located, the days of the week and the times on each of those days when bingo will be conducted, whether the organization owns, leases, or subleases the premises, and a copy of the rental agreement if it leases or subleases the premises;
(d) A statement of the applicant's previous history, record, and association that is sufficient to establish that the applicant is a charitable organization, and a copy of a determination letter that is issued by the Internal Revenue Service and states that the organization is tax exempt under subsection 501(a) and 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;

(e) A statement as to whether the applicant has ever had any previous application refused, whether it previously has had a license revoked or suspended, and the reason stated by the attorney general for the refusal, revocation, or suspension;

(f) A statement of the charitable purposes for which the net profit derived from bingo, other than instant bingo, will be used, and a statement of how the net profit derived from instant bingo will be distributed in accordance with section 2915.101 of the Revised Code;

(g) Other necessary and reasonable information that the attorney general may require by rule adopted pursuant to section 111.15 of the Revised Code;

(h) If the applicant is a charitable trust as defined in section 109.23 of the Revised Code, a statement as to whether it has registered with the attorney general pursuant to section 109.26 of the Revised Code or filed annual reports pursuant to section 109.31 of the Revised Code, and, if it is not required to do either, the exemption in section 109.26 or 109.31 of the Revised Code that applies to it;

(i) If the applicant is a charitable organization as defined in section 1716.01 of the Revised Code, a statement as
to whether it has filed with the attorney general a registration statement pursuant to section 1716.02 of the Revised Code and a financial report pursuant to section 1716.04 of the Revised Code, and, if it is not required to do both, the exemption in section 1716.03 of the Revised Code that applies to it;

(j) In the case of an applicant seeking to qualify as a youth athletic park organization, a statement issued by a board or body vested with authority under Chapter 755. of the Revised Code for the supervision and maintenance of recreation facilities in the territory in which the organization is located, certifying that the playing fields owned by the organization were used for at least one hundred days during the year in which the statement is issued, and were open for use to all residents of that territory, regardless of race, color, creed, religion, sex, or national origin, for athletic activities by youth athletic organizations that do not discriminate on the basis of race, color, creed, religion, sex, or national origin, and that the fields were not used for any profit-making activity at any time during the year. That type of board or body is authorized to issue the statement upon request and shall issue the statement if it finds that the applicant's playing fields were so used;

(k) In the case of an applicant seeking a license to conduct instant bingo at a bingo session or instant bingo other than at a bingo session on five or fewer days in a calendar year, the specific days during the calendar year and times on those days at which instant bingo shall be conducted.

(3) The attorney general, within thirty days after receiving a timely filed application from a charitable organization that has been issued a license under this section
that has not expired and has not been revoked or suspended,  
shall send a temporary permit to the applicant specifying the  
date on which the application was filed with the attorney  
general and stating that, pursuant to section 119.06 of the  
Revised Code, the applicant may continue to conduct bingo until  
a new license is granted or, if the application is rejected,  
until fifteen days after notice of the rejection is mailed to  
the applicant. The temporary permit does not affect the validity  
of the applicant's application and does not grant any rights to  
the applicant except those rights specifically granted in  
section 119.06 of the Revised Code. The issuance of a temporary  
permit by the attorney general pursuant to this division does  
not prohibit the attorney general from rejecting the applicant's  
application because of acts that the applicant committed, or  
actions that the applicant failed to take, before or after the  
issuance of the temporary permit. The issuance of a temporary  
permit by the attorney general pursuant to this division does  
not allow an applicant for a license to conduct instant bingo at  
a bingo session or instant bingo at other than a bingo session  
on five or fewer days in a calendar year to conduct instant  
bingo on any days and times other than those approved by the  
attorney general under this section.

(4) Within thirty days after receiving an initial license  
application from a charitable organization to conduct bingo,  
instant bingo at a bingo session, or instant bingo other than at  
a bingo session, the attorney general shall conduct a  
preliminary review of the application and notify the applicant  
regarding any deficiencies. Once an application is deemed  
complete, or beginning on the thirtieth day after the  
application is filed, if the attorney general failed to notify  
the applicant of any deficiencies, the attorney general shall
have an additional sixty days to conduct an investigation and
either grant or deny the application based on findings
established and communicated in accordance with divisions (B)
and (E) of this section. As an option to granting or denying an
initial license application, the attorney general may grant a
temporary license and request additional time to conduct the
investigation if the attorney general has cause to believe that
additional time is necessary to complete the investigation and
has notified the applicant in writing about the specific
concerns raised during the investigation.

(B)(1) The attorney general shall adopt rules to enforce
sections 2915.01, 2915.02, and 2915.07 to 2915.13 of the Revised
Code to ensure that bingo or instant bingo is conducted in
accordance with those sections and to maintain proper control
over the conduct of bingo or instant bingo. The rules, except
rules adopted pursuant to divisions (A)(2)(g) and (G) of this
section, shall be adopted pursuant to Chapter 119. of the
Revised Code. The attorney general shall license charitable
organizations to conduct bingo, instant bingo at a bingo
session, or instant bingo other than at a bingo session in
conformance with this chapter and with the licensing provisions
of Chapter 119. of the Revised Code.

(2) The attorney general may refuse to grant a license to
any organization, or revoke or suspend the license of any
organization, that does any of the following or to which any of
the following applies:

(a) Fails or has failed at any time to meet any
requirement of section 109.26, 109.31, or 1716.02, or sections
2915.07 to 2915.11 of the Revised Code, or violates or has
violated any provision of sections 2915.02 or 2915.07 to 2915.13
of the Revised Code or any rule adopted by the attorney general pursuant to this section;

(b) Makes or has made an incorrect or false statement that is material to the granting of the license in an application filed pursuant to division (A) of this section;

(c) Submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license;

(d) Maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to divisions (A) and (C) of section 2915.10 of the Revised Code, if applicable;

(e) The attorney general has good cause to believe that the organization will not conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session in accordance with sections 2915.07 to 2915.13 of the Revised Code or with any rule adopted by the attorney general pursuant to this section.

(3) For the purposes of division (B) of this section, any action of an officer, trustee, agent, representative, or bingo game operator of an organization is an action of the organization.

(C) The attorney general may grant licenses to charitable organizations that are branches, lodges, or chapters of national charitable organizations.

(D) The attorney general shall send notice in writing to the prosecuting attorney and sheriff of the county in which the organization will conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session, as
stated in its application for a license or amended license, and to any other law enforcement agency in that county that so requests, of all of the following:

(1) The issuance of the license;

(2) The issuance of the amended license;

(3) The rejection of an application for and refusal to grant a license;

(4) The revocation of any license previously issued;

(5) The suspension of any license previously issued.

(E) A license issued by the attorney general shall set forth the information contained on the application of the charitable organization that the attorney general determines is relevant, including, but not limited to, the location at which the organization will conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session, any alternate locations identified by organizations applying for a license to conduct instant bingo at a bingo session or instant bingo other than at a bingo session on five or fewer days in a calendar year, and the days of the week and the times on each of those days when bingo will be conducted. If the attorney general refuses to grant or revokes or suspends a license, the attorney general shall notify the applicant in writing and specifically identify the reason for the refusal, revocation, or suspension in narrative form and, if applicable, by identifying the section of the Revised Code violated. The failure of the attorney general to give the written notice of the reasons for the refusal, revocation, or suspension or a mistake in the written notice does not affect the validity of the attorney general's refusal to grant, or the revocation or suspension of, a license.
If the attorney general fails to give the written notice or if there is a mistake in the written notice, the applicant may bring an action to compel the attorney general to comply with this division or to correct the mistake, but the attorney general's order refusing to grant, or revoking or suspending, a license shall not be enjoined during the pendency of the action.

(F)(1) A charitable organization that has been issued a license pursuant to division (B) of this section, except a license to conduct instant bingo at a bingo session or instant bingo other than at a bingo session on five or fewer days in a calendar year, but that cannot conduct bingo or instant bingo at the location, or on the day of the week or at the time, specified on the license due to circumstances that make it impractical to do so, or that desires to conduct instant bingo other than at a bingo session at additional locations not identified on the license, may apply in writing, together with an application fee of two hundred fifty dollars, to the attorney general, at least thirty days prior to a change in or addition of a location, day of the week, or time, and request an amended license. As applicable, the application shall describe the causes making it impractical for the organization to conduct bingo or instant bingo in conformity with its license and shall indicate the location, days of the week, and times on each of those days when it desires to conduct bingo or instant bingo and, as applicable, shall indicate the additional locations at which it desires to conduct instant bingo other than at a bingo session. Except as otherwise provided in this division, the attorney general shall issue the amended license in accordance with division (E) of this section, and the organization shall surrender its original license to the attorney general. The attorney general may refuse to grant an amended license.
according to the terms of division (B) of this section.

(2) A charitable organization that has been issued a license to conduct instant bingo at a bingo session or instant bingo other than at a bingo session on five or fewer days in a calendar year and desires to conduct instant bingo on a different day, time, or at a different location than is identified on the license may apply in writing to the attorney general for an amended license at least thirty days before a change in day, time, or location of any of the five instant bingo days. As applicable, the applicant shall indicate the day, time, and locations of each of the days on which the organization desires to conduct instant bingo that do not appear on the original license. The attorney general shall issue the amended license in accordance with division (E) of this section, and the organization shall surrender its original license to the attorney general.

(G) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, shall establish a schedule of reduced license fees for charitable organizations that desire to conduct bingo or instant bingo during fewer than twenty-six weeks in any calendar year.

(H) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, shall establish license fees for the conduct of bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session for charitable organizations that prior to July 1, 2003, have not been licensed to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session under this chapter.

(I) The attorney general may enter into a written contract with any other state agency to delegate to that state agency the
powers prescribed to the attorney general under Chapter 2915. of the Revised Code.

(J) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, may adopt rules to determine the requirements for a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code to be in good standing in the state.

Sec. 2915.09. (A) No charitable organization that conducts bingo shall fail to do any of the following:

(1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;

(2) Except as otherwise provided in division (A)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct a bingo session, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in division (GG) of section 2915.01 of the Revised Code, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (O)(1) of section 2915.01 of
the Revised Code, the charitable organization may deduct from
the total amount of the gross receipts from each session a sum
equal to the lesser of six hundred dollars or forty-five per
cent of the gross receipts from the bingo described in that
division as consideration for the use of the premises.

(3) Use, or give, donate, or otherwise transfer, all of
the net profit derived from bingo, other than instant bingo, for
a charitable purpose listed in its license application and
described in division (V) of section 2915.01 of the Revised
Code, or distribute all of the net profit from the proceeds of
the sale of instant bingo as stated in its license application
and in accordance with section 2915.101 of the Revised Code.

(B) No charitable organization that conducts a bingo game
described in division (O)(1) of section 2915.01 of the Revised
Code shall fail to do any of the following:

(1) Conduct the bingo game on premises that are owned by
the charitable organization, on premises that are owned by
another charitable organization and leased from that charitable
organization for a rental rate not in excess of the lesser of
six hundred dollars per bingo session or forty-five per cent of
the gross receipts of the bingo session, on premises that are
leased from a person other than a charitable organization for a
rental rate that is not more than is customary and reasonable
for premises that are similar in location, size, and quality but
not in excess of four hundred fifty dollars per bingo session,
or on premises that are owned by a person other than a
charitable organization, that are leased from that person by
another charitable organization, and that are subleased from
that other charitable organization by the charitable
organization for a rental rate not in excess of four hundred
fifty dollars per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week.

(2) Display its license conspicuously at the premises where the bingo session is conducted;

(3) Conduct the bingo session in accordance with the definition of bingo set forth in division (O)(1) of section 2915.01 of the Revised Code.

(C) No charitable organization that conducts a bingo game described in division (O)(1) of section 2915.01 of the Revised Code shall do any of the following:

(1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary
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unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(2) Pay consulting fees to any person for any services performed in relation to the bingo session;

(3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;

(4) Except as otherwise provided in division (C)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the attorney general when it will conduct the sessions.

(5) Pay out more than six thousand dollars in prizes for bingo games described in division (O)(1) of section 2915.01 of the Revised Code during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo.

(6) Conduct a bingo session at any time during the eight-hour period between two a.m. and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to section 2915.12 of the Revised Code, at any
premises not specified on its license, or on any day of the week or during any time period not specified on its license. Division (A)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license, or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the attorney general for an amended license pursuant to division (F) of section 2915.08 of the Revised Code. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. A charitable organization licensed to conduct instant bingo at a bingo session or instant bingo other than at a bingo session on five or fewer days in a calendar year may apply for an amended license up to five times per calendar year to amend the days, times, or premises specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license.

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
(9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;

(10) Purchase or lease bingo supplies from any person except a distributor issued a license under section 2915.081 of the Revised Code;

(11)(a) Use or permit the use of electronic bingo aids except under the following circumstances:

(i) For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.

(ii) The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.

(iii) The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.

(iv) An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.

(v) An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
(vi) An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.

(b) The attorney general may adopt rules in accordance with Chapter 119. of the Revised Code that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the attorney general to verify the number of bingo cards or sheets played during each bingo session.

(12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in division (O)(1) of section 2915.01 of the Revised Code.

(D)(1) Except as otherwise provided in division (D)(3) of this section, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.

(2) Except as otherwise provided in division (D)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.
(3) Nothing in division (D) of this section prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.

(E) Notwithstanding division (B)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the attorney general in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the attorney general prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the attorney general prior to December 6, 1977.

(F) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.
(G) Whoever violates division (A)(2) of this section is guilty of illegally conducting a bingo game, a felony of the fourth degree. Except as otherwise provided in this division, whoever violates division (A)(1) or (3), (B)(1), (2), or (3), (C)(1) to (11), or (D) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (A)(1) or (3), (B)(1), (2), or (3), (C)(1) to (11), or (D) of this section, a violation of division (A)(1) or (3), (B)(1), (2), or (3), (C), or (D) of this section is a misdemeanor of the first degree. Whoever violates division (C)(12) of this section is guilty of a misdemeanor of the first degree, or if the offender previously has been convicted of a violation of division (C)(12) of this section, a felony of the fourth degree.

Section 2. That existing sections 2915.08 and 2915.09 of the Revised Code are hereby repealed.