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Ohio School Boards Association

The recently enacted House Bill (HB) 110 contained an amendment to Ohio Revised Code (RC) 2915.092, which appears to remove a school district's ability to conduct raffles. Specifically, the bill removed the term "public schools" from the list of entities that are authorized to conduct charitable raffles. The provision now authorizes entities that are exempt from federal income taxes under 26 United States Code (USC) 510(a) to conduct raffles, which does not encompass public school districts. While it is unclear if the change was intentional, we are recommending that school districts refrain from conducting raffles until there are further changes in the law. Most booster groups and support organizations, however, remain authorized to conduct raffles and donate proceeds to schools.

A "raffle" is defined in RC 2915.01(CC) as a form of bingo in which one or more prizes are won by one or more persons who have purchased a raffle ticket. State law allows certain entities to conduct raffles without obtaining a bingo license. Prior to the passage of HB 110, RC 2915.092 specifically listed "public school[s]", along with charitable entities, chartered nonpublic schools, community schools, veteran's organizations, fraternal organizations and sporting organizations, as being authorized to conduct a raffle without a license. HB 110 removed this list of the types of organizations permitted to conduct a raffle. RC 2915.092 now states that "a person or entity that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the person or entity."

Because public school districts are not exempt from federal taxation under subsection 501(a), this new definition apparently excludes schools. Any person or entity not encompassed within this new definition who conducts a raffle runs the risk of committing the criminal offense of "illegal conduct of a raffle," a first-degree misdemeanor. Thus, school district officials should refrain from conducting raffles under the current wording of RC 2915.092.

The good news is that most booster groups and support organizations remain authorized to conduct raffles without a bingo license, as long as they comport with the relevant laws. These groups are usually formed as nonprofit organizations under 26 USC 501(c)(3), meaning they are tax exempt under 501(a). Booster groups and support organizations not formed as 501(c)(3) organizations but formed as another type of tax-exempt entity described in RC 2915.092 may conduct raffles as long as they distribute at least 50% of the net profits to a charitable purpose. If there are booster groups or support organizations affiliated with your district conducting raffles to raise money for donation to the district, please ensure that the district and the booster group/support organization are complying with applicable rules and regulations regarding raffles, fundraising and donating to the district.

It is unclear whether this change is the result of an intentional policy change on the part of the General Assembly or if this is a drafting error. OSBA is in communication with policymakers about this issue and is investigating the possibility of whether future legislation may restore schools' ability to conduct these raffles. We recognize that this is an important fundraising activity for many of our members and that this may represent a disruption in your district's activities. We will continue to provide updates as we obtain additional information. If you have any questions, please contact the legal division at (855) OSBA-LAW.

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