

**OPINION NO. 2013-029**

**Syllabus:**

2013-029

1. R.C. 2915.02(D)(1)(e) prohibits a charitable organization from compensating a for-profit corporation for assisting the organization in conducting a festival at which games of chance for profit are played.
2. R.C. 2915.02(D)(1)(e) prohibits a charitable organization that conducts a festival at which games of chance for profit are played from compensating a person to oversee, train, or assist the volunteers who operate the games.

3. A charitable organization that conducts a festival at which games of chance for profit are played may compensate a person for working at the festival, provided (1) the person is not being compensated for operating or assisting in the operation of any game of chance and (2) the money to compensate the person may be used for that purpose.
4. A charitable organization that conducts a festival at which games of chance for profit are played may use moneys received from the games to pay for items or services other than prizes paid out during the games, provided the moneys are not used (1) to pay or otherwise compensate a person to operate or assist in the operation of any game of chance or (2) for any other purpose not permitted by law.
5. A charitable organization that conducts a festival at which games of chance for profit are played may expend moneys received from the games to pay the rental rate for the facility used to hold the festival, provided the rental rate is a set amount of money determined prior to the beginning of the festival, rather than a percentage of the amount of moneys received by the organization from the games of chance.
6. Notwithstanding the fact that the Revised Code does not establish the rental rate a charitable organization may pay a governmental unit to rent a facility to conduct games of chance for profit, the organization should not pay a rental rate that is unreasonable.
7. The rental rate that a charitable organization pays to a veteran's or fraternal organization to rent a facility to conduct games of chance for profit is determined by the charitable organization and veteran's or fraternal organization in accordance with R.C. 2915.02(D)(1)(c). The rental rate paid by the charitable organization may not, however, be unreasonable.

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**To: Dennis P. Will, Lorain County Prosecuting Attorney, Elyria, Ohio**

**By: Michael DeWine, Ohio Attorney General, September 27, 2013**

You have requested an opinion about the payment of expenses associated with, and the use of proceeds derived from, conducting a festival at which games of chance for profit are played.<sup>1</sup> You are concerned with a situation in which a charitable organization holds a festival in accordance with the conditions and requirements prescribed in R.C. 2915.02(D)(1). At the festival, people may play games of chance, but neither bingo nor instant bingo will be available to play. Nor

<sup>1</sup> You have also asked us questions concerning the use of automated, electronic poker tables at festivals conducted by charitable organizations. We answered these questions in 2013 Op. Att'y Gen. No. 2013-027.

will any raffles be conducted by the charitable organization or any other entity during the festival.

Your specific questions are as follows:

1. May a charitable organization compensate a for-profit corporation for conducting a festival at which games of chance for profit are played?
2. May a charitable organization that conducts a festival at which games of chance for profit are played compensate a person to oversee, train, or assist the volunteers who operate the games?
3. May a charitable organization that conducts a festival at which games of chance for profit are played compensate a person for working at the festival?
4. May a charitable organization that conducts a festival at which games of chance for profit are played use moneys received from the games to pay for items or services other than prizes paid out during the games?
5. May a charitable organization that conducts a festival at which games of chance for profit are played expend moneys received from the games to pay the rental rate for the facility used to hold the festival, and, if not, how may the organization pay that fee?
6. Does the Revised Code establish the rental rate that a charitable organization may pay for a facility to conduct games of chance for profit?

**Authority for a Charitable Organization to Conduct Games of Chance for Profit**

In Ohio a person may not conduct a game of chance for profit unless expressly authorized by law:

(A) No person shall do any of the following:<sup>2</sup>

. . . [.]

Additionally, in a subsequent letter, you requested an opinion about the application of the principles of law detailed in 2013 Op. Att’y Gen. No. 2013-027 to a different set of facts. We will do this in a formal opinion to be issued at a later time.

<sup>2</sup> As used in R.C. Chapter 2915, the term “person” includes an entity listed in R.C. 1.59 and “any firm or any other legal entity, however organized.” R.C. 2915.01(HH); *see also* R.C. 1.59(C) (unless another definition is provided in a statute or a related statute, the term “person,” as used in a statute, “includes an individual, corporation, business trust, estate, trust, partnership, and association”).

(2) Establish, promote, or operate or knowingly engage in conduct that facilitates any *game of chance conducted for profit* . . . [.]<sup>3</sup>

. . . .

(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.

. . . .

(F) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of any gambling offense, gambling is a felony of the fifth degree. (Emphasis and footnotes added.)

#### R.C. 2915.02.

One exception to R.C. 2915.02(A)(2)'s prohibition authorizes a charitable organization, as defined in R.C. 2915.01(H), to conduct games of chance for profit when the organization complies with certain conditions.<sup>4</sup> These conditions are set out in R.C. 2915.02(D)(1), which states:

<sup>3</sup> For purposes of R.C. Chapter 2915, "game of chance" and "game of chance conducted for profit" are defined as follows:

(D) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(E) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

#### R.C. 2915.01.

<sup>4</sup> R.C. 2915.01(H) defines a "charitable organization" for purposes of R.C. Chapter 2915 as follows:

Except as otherwise provided in [R.C. Chapter 2915], "charitable organization" means either of the following:

(1) An organization that is, and has received from the internal revenue service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(2) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10), or (c)(19) of the Internal Revenue Code.

An entity may not qualify as a "charitable organization," as defined in R.C. 2915.01, unless it has "been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a

(a) The games of chance are not craps for money or roulette for money.

(b) The games of chance are conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect, stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.

(c) The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

. . . .<sup>5</sup>

(d) All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(e) The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to [R.C. 2915.12].

No person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance. (Footnote added.)

R.C. 2915.02(D)(1) thus authorizes a charitable organization to conduct games of chance for profit at a festival when “the organization strictly complies with certain prescribed requirements.” 2013 Op. Att’y Gen. No. 2013-027, slip op. at 6; *accord* 2008 Op. Att’y Gen. No. 2008-015 at 2-164. *See generally State v. Elk’s Lodge No. 1718*, C.A. No. OT-85-28, 1987 Ohio App. LEXIS 5529, at \*7

bingo license under [R.C. 2915.08] or the conducting of any game of chance as provided in [R.C. 2915.02(D)].” R.C. 2915.01(H).

<sup>5</sup> The language omitted from R.C. 2915.02(D)(1)(c) limits the situations in which a charitable organization may lease premises from a veteran's or fraternal organization to conduct games of chance.

(Ottawa County Jan. 16, 1987) (“the General Assembly has deemed it appropriate public policy to allow gambling, if conducted by a qualified charitable organization under limited circumstances”).

**Compensating a For-profit Corporation for Assisting a Charitable Organization in Conducting a Festival at which Games of Chance for Profit Are Played**

Your first question asks whether a charitable organization may compensate a for-profit corporation for conducting a festival at which games of chance for profit are played.<sup>6</sup> According to your letter, the for-profit corporation would be responsible for assisting the charitable organization in backing, promoting, organizing, managing, carrying on, or preparing for the operation of games of chance at the festival.<sup>7</sup> See generally R.C. 2915.01(P) (defining the term “conduct,” as used in R.C. Chapter 2915, to mean “back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance”).

No statute prohibits a charitable organization from enlisting the aid of a for-profit corporation to assist the organization in conducting a festival at which games of chance for profit are played. See *Freedom Road Found. v. Ohio Dep’t of Liquor Control*, 80 Ohio St. 3d 202, 204-05, 685 N.E.2d 522 (1997). However, R.C. 2915.02(D)(1)(e) provides that “[n]o person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.” (Emphasis added.) For purposes of R.C. Chapter 2915, the term “person” includes a corporation. R.C. 2915.01(HH); see R.C. 1.59(C); note 2, *supra*. This means that R.C. 2915.02(D)(1)(e) prohibits a for-profit corporation from receiving any “form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance” at a festival conducted by a charitable organization. See generally *Freedom Road Found. v. Ohio Dep’t of Liquor Control*, 80 Ohio St. 3d at 205 (“R.C. 2915.02(D) contemplates operation or assistance in the operation of a . . . game of chance by persons other than the charitable organization, merely prohibiting such persons from being compensated for that activity”).

As explained in your letter, when a for-profit corporation assists a charitable organization in conducting a festival at which games of chance for profit are played, the corporation is responsible for backing, promoting, organizing, managing, carrying on, or preparing for the operation of games of chance at the festival. See R.C. 2915.01(P). Stated differently, a for-profit corporation that assists a charitable organization in conducting a festival at which games of chance for profit are played has

<sup>6</sup> You have not indicated what moneys will be used to compensate the for-profit corporation. The moneys thus could possibly come from any revenue received by the charitable organization, including moneys received from the games of chance.

<sup>7</sup> The language of R.C. 2915.02(D)(1) that permits the playing of games of chance for profit at a festival requires a charitable organization to conduct the games. See R.C. 2915.02(D)(1)(b)-(c); *Freedom Road Found. v. Ohio Dep’t of Liquor Control*, 80 Ohio St. 3d 202, 204-05, 685 N.E.2d 522 (1997).

a supervisory or organizational role in the operation of the games of chance. *See Freedom Road Found. v. Ohio Dep't of Liquor Control*, 80 Ohio St. 3d at 205 (the term “conduct,” as used in R.C. Chapter 2915, requires a charitable organization to retain a supervisory or organizational role over games of chance played for profit at a festival held by the organization).

Insofar as a for-profit corporation that assists a charitable organization in conducting a festival at which games of chance for profit are played has a supervisory or organizational role in the operation of the games of chance, it follows that the corporation participates in operating or assisting in the operation of the games of chance. A for-profit corporation may participate in operating or assisting in the operation of the games of chance, but, pursuant to R.C. 2915.02(D)(1)(e), the corporation may not receive any form of compensation. For this reason, R.C. 2915.02(D)(1)(e) prohibits a charitable organization from compensating a for-profit corporation for assisting the organization in conducting a festival at which games of chance for profit are played.

#### **Compensating Persons that Oversee, Train, or Assist Volunteers Who Operate Games of Chance for Profit**

Your second question asks whether a charitable organization that conducts a festival at which games of chance for profit are played may compensate a person to oversee, train, or assist the volunteers who operate the games. While addressing your first question, we stated that R.C. 2915.02(D)(1)(e) prohibits a charitable organization from giving any “form of compensation, directly or indirectly,” to a person for “assisting in the operation of any game of chance.”

A person assists in the operation of a game of chance whenever the person’s actions support or aid the playing of the game. *See generally Merriam-Webster’s Collegiate Dictionary* 74 (11th ed. 2005) (“assist” means “to give support or aid”). When a person oversees, trains, or assists volunteers who operate games of chance for profit, the person is supporting or aiding the playing of the games. Consequently, the person is assisting in the operation of the games of chance.

No statute prohibits a person from overseeing, training, or assisting volunteers who operate games of chance for profit or from otherwise assisting a charitable organization in the operation of the games. However, R.C. 2915.02(D)(1)(e) prohibits the person from receiving any form of compensation for doing so. Therefore, R.C. 2915.02(D)(1)(e) prohibits a charitable organization that conducts a festival at which games of chance for profit are played from compensating a person to oversee, train, or assist the volunteers who operate the games.

#### **Compensating Persons for Working at a Festival**

Your third question asks whether a charitable organization that conducts a festival at which games of chance for profit are played may compensate a person for working at the festival. Except as provided in R.C. 2915.02(D)(1)(e), no Ohio law prohibits a charitable organization from compensating a person for working at its festival.

As explained above, R.C. 2915.02(D)(1)(e) prohibits a charitable organization from compensating a person for operating or assisting in the operation of any game of chance. Accordingly, except as provided in R.C. 2915.02(D)(1)(e), a charitable organization that conducts a festival at which games of chance for profit are played may compensate a person for working at its festival.

However, the authority of a charitable organization in this regard is not unlimited. When moneys of a charitable organization are required by statute to be used for a particular purpose, the moneys must be used for only that purpose. *See* 2013 Op. Att’y Gen. No. 2013-023, slip op. at 3. Conversely, if no statute prescribes the particular purpose for which a charitable organization may use certain moneys, the organization may use the moneys to compensate a person working at its festival.<sup>8</sup> *See id.* at 4. Therefore, in response to your third question, a charitable organization that conducts a festival at which games of chance for profit are played may compensate a person for working at the festival, provided (1) the person is not being compensated for operating or assisting in the operation of any game of chance and (2) the moneys to compensate the person may be used for that purpose.

#### **Use of Moneys Received from Games of Chance**

Your fourth question asks whether a charitable organization that conducts a festival at which games of chance for profit are played may use moneys received from the games to pay for items or services other than prizes paid out during the games. R.C. 2915.02(D)(1)(d) provides:

All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code[.]

R.C. 2915.02(D)(1)(d) mandates that moneys received by a charitable organization from games of chance be used to pay for prizes paid out during the games. After this is done, the remaining moneys are to be “used by” the organization or “given, donated, or otherwise transferred to, any” entity described therein. R.C. 2915.02(D)(1)(d).

If a charitable organization elects to retain the moneys, R.C. 2915.02(D)(1)(d) does not restrict further how the organization may use the moneys. However, a charitable organization may not use moneys received by it from games

<sup>8</sup> For the purpose of this opinion, it is assumed that no organizational bylaw or rule prohibits the charitable organization from using moneys that are not required by statute to be used for a particular purpose to compensate a person working at its festival. It is assumed further that, if the moneys are derived from a gift, the terms of the gift do not prevent the organization from using the moneys to compensate a person working at its festival.



of chance for any purpose not permitted by law. For example, as expressed previously, R.C. 2915.02(D)(1)(e) prohibits a charitable organization from paying or otherwise compensating a person for operating or assisting in the operation of any game of chance. This prohibition explicitly precludes a charitable organization from using moneys received by it from games of chance to pay or otherwise compensate a person for operating or assisting in the operation of any game of chance.

Thus, in the absence of a statute to the contrary, a charitable organization may use moneys received by it from games of chance to pay for items or services other than prizes paid out during the games.<sup>9</sup> This means that a charitable organization that conducts a festival at which games of chance for profit are played may use moneys received from the games to pay for items or services other than prizes paid out during the games, provided the moneys are not used (1) to pay or otherwise compensate a person to operate or assist in the operation of any game of chance or (2) for any other purpose not permitted by law.<sup>10</sup>

#### **Payment of the Rental Rate for a Facility Used to Conduct a Festival**

Your fifth question asks whether a charitable organization that conducts a festival at which games of chance for profit are played may expend moneys received from the games to pay the rental rate for the facility used to hold the festival, and, if not, how the organization may pay the rental rate. *See generally* R.C. 2915.02(D)(1)(c) (a charitable organization may lease a facility to hold a festival to conduct games of chance from a governmental unit or veteran's or fraternal organization). The answer to this question follows from what we discussed in answering your fourth question.

Specifically, we concluded that, absent a statute to the contrary, a charitable organization may expend moneys received by it from games of chance to pay for items or services other than prizes paid out during the games, provided the moneys are not used (1) to pay or otherwise compensate a person to operate or assist in the operation of any game of chance or (2) for any other purpose not permitted by law. With respect to the payment of the rental rate for a facility to hold a festival to

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<sup>9</sup> We assume, for the purpose of this opinion, that any use of moneys received by a charitable organization from games of chance is done in accordance with the bylaws and rules of the organization.

<sup>10</sup> Whether moneys received by a charitable organization from the playing of games of chance at a festival are used to pay for expenses related to the playing of the games or to compensate a person to operate or assist in the operation of the games is "a factual determination to be made by the [courts]." *State v. Fuchs*, 92 Ohio App. 3d 15, 17, 633 N.E.2d 1210 (Butler County 1993).

conduct games of chance, nothing in Ohio law prohibits a charitable organization from expending moneys it receives from the games of chance to pay that fee.<sup>11</sup>

However, the rent may not serve to compensate a lessor for operating the games of chance or assisting the charitable organization in the operation of the games. See R.C. 2915.02(D)(1)(e); *State ex rel. Ron O'Brien v. Pathfinder Serv. Ass'n*, Case No. 02AP-305, 2003-Ohio-1640, 2003 Ohio App. LEXIS 1570, ¶¶21-23 (Franklin County Mar. 31, 2003); *Robb v. Ohio Dep't of Liquor Control*, 95 Ohio App. 3d 379, 386, 642 N.E.2d 651 (Franklin County 1994); *State v. Fuchs*, 92 Ohio App. 3d 15, 17, 633 N.E.2d 1210 (Butler County 1993). For this reason, the rental rate for the facility at which the games of chance are played may not be a percentage of the amount of moneys received by the charitable organization from the games of chance, as the rental rate would serve to compensate the lessor for operating the games of chance or assisting the organization in the operation of the games.

Instead, the rental rate for the facility at which the games of chance are played must be determined prior to the beginning of the festival. This ensures that the lessor is being paid for renting the facility, rather than for operating the games of chance or assisting the charitable organization in the operation of the games. Hence, a charitable organization that conducts a festival at which games of chance for profit are played may expend moneys received from the games to pay the rental rate for the facility used to hold the festival, provided the rental rate is a set amount of money determined prior to the beginning of the festival, rather than a percentage of the amount of moneys received by the organization from the games of chance.

In light of the foregoing determination, it is unnecessary for us to consider how a charitable organization may pay the rental rate for a facility used to hold a festival at which games of chance for profit are played. We do note, however, that a charitable organization may use any moneys it receives to pay the rental rate, provided the particular moneys that are to be used may be used to pay the rental rate.

#### **Rental Rate for a Facility Used to Conduct a Festival**

Your final question asks whether the Revised Code establishes the rental rate that a charitable organization may pay for a facility to conduct games of chance for profit. Under R.C. 2915.02(D)(1)(c), a charitable organization may rent a facility to conduct games of chance for profit from a governmental unit or veteran's or fraternal organization.

No provision in the Revised Code addresses the amount of money that a charitable organization may pay a governmental unit to rent a facility to conduct games of chance for profit. As the Revised Code does not provide guidance for determining the rental rate in such a situation, the rental rate should be determined

<sup>11</sup> For the purpose of this opinion, we assume that no bylaw or rule of a charitable organization prohibits the organization from using moneys it receives from games of chance to pay the rental fee for the facility to hold the festival.

through negotiations between the charitable organization and governmental unit. *See generally Hendrix v. Eighth & Walnut Corp.*, 1 Ohio St. 3d 205, 208, 438 N.E.2d 1149 (1982) (“the terms in a commercial lease are left to the parties to negotiate between themselves”). Moreover, when negotiating the rental rate, a charitable organization should not agree to pay a rental rate that is unreasonable insofar as the organization (1) is renting the facility to conduct games of chance for charitable purposes and (2) has a fiduciary duty to safeguard its moneys. *See generally* R.C. 109.24 (“[t]he attorney general may investigate transactions and relationships of trustees of a charitable trust for the purpose of determining whether the property held for charitable . . . purposes has been and is being properly administered in accordance with fiduciary principles as established by the courts and statutes of this state”). Accordingly, notwithstanding the fact that the Revised Code does not establish the rental rate a charitable organization may pay a governmental unit to rent a facility to conduct games of chance for profit, the organization should not pay a rental rate that is unreasonable.<sup>12</sup>

With respect to a lease between a charitable organization and a veteran’s or fraternal organization, R.C. 2915.02(D)(1)(c) states, in part:

If a charitable organization leases premises from a veteran’s or fraternal organization to conduct a festival described in [R.C. 2915.02(D)(1)(c)], the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under [R.C. 2915.09(B)(1)]<sup>13</sup> when it leases premises from another charitable organization to conduct bingo games. (Footnote added.)

This statutory provision establishes the maximum rental rate that a charitable organization may pay to rent a facility from a veteran’s or fraternal organization. It does not, however, establish a set rental rate that applies each time a charitable organization rents a facility from a veteran’s or fraternal organization. A charitable organization and a veteran’s or fraternal organization thus may negotiate the rental rate that the charitable organization pays to rent a facility from the veteran’s or fraternal organization, subject to the restriction set forth in R.C. 2915.02(D)(1)(c). *See Hendrix v. Eighth & Walnut Corp.*, 1 Ohio St. 3d at 208. In addition, when negotiating a rental rate under R.C. 2915.02(D)(1)(c), a charitable

<sup>12</sup> Whether the rental fee for a facility is reasonable is a factual question that must be resolved on a case-by-case basis by the charitable organization and governmental unit, or ultimately by the judiciary. *See generally* 2011 Op. Att’y Gen. No. 2011-036 at 2-296 (“[u]ltimately, determinations of reasonableness are left to the courts”); 1983 Op. Att’y Gen. No. 83-057 at 2-232 (the office of the Attorney General “is not equipped to serve as a fact-finding body”).

<sup>13</sup> R.C. 2915.09(B)(1) states, if a charitable organization conducts a bingo game on premises leased from another charitable organization, the rental rate may not exceed the lesser of \$600.00 per bingo session or 45% of the gross receipts of the bingo session.

organization should not agree to pay a rental rate that is unreasonable. As we indicated earlier, a charitable organization is responsible for handling its moneys in accordance with fiduciary principles. *See* R.C. 109.24.

Therefore, the rental rate that a charitable organization pays to a veteran's or fraternal organization to rent a facility to conduct games of chance for profit is determined by the charitable organization and veteran's or fraternal organization in accordance with R.C. 2915.02(D)(1)(c). The rental rate paid by the charitable organization may not, however, be unreasonable.

### **Conclusions**

On the basis of the foregoing, it is my opinion, and you are hereby advised as follows:

1. R.C. 2915.02(D)(1)(e) prohibits a charitable organization from compensating a for-profit corporation for assisting the organization in conducting a festival at which games of chance for profit are played.
2. R.C. 2915.02(D)(1)(e) prohibits a charitable organization that conducts a festival at which games of chance for profit are played from compensating a person to oversee, train, or assist the volunteers who operate the games.
3. A charitable organization that conducts a festival at which games of chance for profit are played may compensate a person for working at the festival, provided (1) the person is not being compensated for operating or assisting in the operation of any game of chance and (2) the money to compensate the person may be used for that purpose.
4. A charitable organization that conducts a festival at which games of chance for profit are played may use moneys received from the games to pay for items or services other than prizes paid out during the games, provided the moneys are not used (1) to pay or otherwise compensate a person to operate or assist in the operation of any game of chance or (2) for any other purpose not permitted by law.
5. A charitable organization that conducts a festival at which games of chance for profit are played may expend moneys received from the games to pay the rental rate for the facility used to hold the festival, provided the rental rate is a set amount of money determined prior to the beginning of the festival, rather than a percentage of the amount of moneys received by the organization from the games of chance.
6. Notwithstanding the fact that the Revised Code does not establish the rental rate a charitable organization may pay a governmental unit to rent a facility to conduct games of chance for profit, the organization should not pay a rental rate that is unreasonable.

7. The rental rate that a charitable organization pays to a veteran's or fraternal organization to rent a facility to conduct games of chance for profit is determined by the charitable organization and veteran's or fraternal organization in accordance with R.C. 2915.02(D)(1)(c). The rental rate paid by the charitable organization may not, however, be unreasonable.