WEST VIRGINIA CODE: §47-21A-2

§47-21A-2. Definitions.

For purposes of this article, unless specified otherwise:

"Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by:

(1) Contributing to educational or religious purposes;

(2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;

(3) Increasing their comprehension of, and devotion to, the principles upon which this nation was founded and to the principles of good citizenship;

(4) Making them aware of, or educating them about, issues of public concern so long as the activity or endeavor is not aimed at supporting or participating in the campaign of any candidate for public office;

(5) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people;

(6) Providing or supporting nonprofit community activities for youth, senior citizens, or the disabled;

(7) Providing or supporting nonprofit cultural or artistic activities;

(8) Providing or supporting any political party executive committee; or

(9) Fostering national, collegiate, or international amateur sports competition.

"Charitable or public service organization" means a bona fide, not-for-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary, incorporated or unincorporated association, or organization; or a volunteer fire department, rescue unit, or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any single candidate for public office.

"Commissioner" means the State Tax Commissioner.

"Conduct" means to direct the actual holding of an online raffle by activities including, but not limited to, selling tickets, collecting money, drawing or arranging for the drawing of the winning numbers or names, announcing the winning numbers or names, posting the winning

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numbers or names, verifying winners, and awarding prizes.

"Expend net proceeds for charitable or public service purposes" means to devote the net proceeds of an online raffle occasion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to §47-21A-13 of this code.

"Gross proceeds" means all moneys collected or received from the conduct of an online raffle held by a licensee during a license period.

“Institution of higher education” has the same meaning as contained in §21A-1A-21 of this code: *Provided*, That for purposes of this article an institution of higher education must have an athletic department that is governed by the National Collegiate Athletic Association (NCAA) and are designated by the NCAA as having a Division I or Division II athletics department.

“Institution of higher education’s athletics department activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by providing broad financial support to an institution of higher education’s athletics department including all affiliated and associated nonprofit corporations or other entities, trusts, or Name Image Likeness (NIL) collectives.

"Licensee" means any institution of higher education, or charitable or public service organization or association granted an annual or limited occasion license pursuant to the provisions of this article.

"Net proceeds" means all moneys collected or received from the conduct of an online raffle or online raffles at occasions held by a licensee during a license period after payment of the online raffle expenses authorized by §47-21A-11, §47-21A-12, and §47-21A-13 of this code.

"Person" means any individual, association, society, incorporated or unincorporated organization, firm, partnership, or other nongovernmental entity or institution.

"Patron" means any individual who participates in an online raffle by purchasing an online raffle ticket other than an individual who is participating in the conduct of the online raffle.

"Platform provider" means any third-party entity that contracts by written agreement with a licensee to host, conduct, or otherwise administer an online raffle by using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, incorporated or unincorporated association or organization which is organized exclusively for charitable or public services activities or endeavors.

"Online Raffle" has the same meaning as "raffle" as defined in §47-21-2 of this code but

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conducted using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Online raffle occasion" or "occasion" means a single online session at which a series of one or more successive online raffles is conducted by a single licensee.

"Tax-exempt association or organization" means an association or organization which 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), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code of 1986, as amended; or is exempt from income taxes under subsection 527(a) of that code.

“Virtually Present” means live, real-time availability by online or other electronic means and includes, but is not limited to, audio or video appearance or by an instant, live chat or messaging program.

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