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Sequence Number: 05-12-20
 Notice ID(s): 3101
 File Date: 5/18/2020

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of State
Division:	Division of Charitable Solicitations and Gaming
Contact Person:	Mona Hart
Address:	WR Snodgrass Tower 312 Rosa L. Parks Ave., 7 th FL Nashville, TN 37243
Phone:	(615) 741-2555
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Melinda Kelsey, Director of Human Resources
Address:	312 Rosa L. Parks Ave., 7 th FL, Nashville, TN 37243
Phone:	(615) 253-4548
Email:	Melinda.Kelsey@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	WR Snodgrass Tower, 7 th Floor Conference Room		
Address 2:	312 Rosa L. Parks Ave.		
City:	Nashville		
Zip:	37243		
Hearing Date:	07/17/2020		
Hearing Time:	8:30 AM	<input checked="" type="checkbox"/> _X_CST/CDT	<input type="checkbox"/> _EST/EDT

Additional Hearing Information:

The Division of Charitable Solicitations and Gaming intends to promulgate the following rules to clarify the rule relating to proof of active and continuous existence by revising the list of documentation that may be submitted as acceptable proof.

***** In the event that this In-Person Hearing is prohibited by reason of Executive Order or closure of the TN Tower Conference Center, this hearing will be conducted via telephone conference. In such a case, the meeting may be accessed by dialing 615-253-1098. *****

***** Additionally, anyone wishing to participate in the In-Person Hearing by phone may call into the hearing by dialing 615-253-1098. *****

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1360-03-03	Procedures for Operating Charitable Gaming Events
Rule Number	Rule Title
1360-03-03-.04	Proof of Active and Continuous Existence

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

AMENDED RULES

AMEND Rule 1360-03-03-.04, Proof of Active and Continuous Existence, by deleting the rule in its entirety and substituting instead the following:

- (1) **Acceptable Proof.** In addition to the requirements set out in Tennessee Code Annotated §§ 3-17-101 et seq., an organization may submit as proof of its continuous and active existence, a copy of the last five (5) annual Forms 990, 990-EZ, 990-N, or 990-PF filed with the Internal Revenue Service for the five (5) year period preceding the event date listed in an annual event application.
- (2) If an organization is not required to file a Form 990, 990-EZ, 990-N, or 990-PF with the Internal Revenue Service, an organization may submit as proof of its continuous and active existence, the following types of information:
 - (a) A copy of the charter or bylaws of the organization; and
 - (b) A copy of the exemption determination letter received from the Internal Revenue Service stating that the organization is not required to file a Form 990.
- (3) **Multiple Forms of Proof.** An organization required to file a Form 990, 990-EZ, 990-N or 990-PF with the Internal Revenue Service may submit a copy of its exemption determination letter received from the Internal Revenue Service as a substitution of one (1) of the five (5) annual Forms 990, 990-EZ, 990-N, or 990-PF filed with the Internal Revenue Service as required in subdivision (1), provided that the documents cover the five (5) year period immediately preceding the event date listed in an annual event application.
- (4) **Authentic Documents.** Acceptable documents must be authentic, genuine or bona fide documents. Copies of documents must be conformed copies.

Authority: T.C.A. §§ 3-17-104(a)(6) and 3-17-115(a).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: May 18, 2020

Signature: 

Name of Officer: Lauren Topping

Title of Officer: Assistant General Counsel

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Filed with the Department of State on: 5/18/2020



Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

1360-03-03-.04 PROOF OF ACTIVE AND CONTINUOUS EXISTENCE.

- (1) ~~Acceptable Proof. In addition to the requirements set out in Tennessee Code Annotated Public Chapter 476, as amended, §§ 3-17-101 et seq., an organization may submit as proof of its continuous and active existence, a copy of the last five (5) annual Forms 990, 990-EZ, 990-N, or 990-PF filed with the Internal Revenue Service for the five (5) year period preceding the event date listed in an annual event application. 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) ~~If an organization is not required to file a Form 990, 990-EZ, 990-N, or 990-PF with the Internal Revenue Service, an organization may submit as proof of its continuous and active existence, the following types of information:~~
 - ~~(a) A copy of the charter or bylaws of the organization; and~~
 - ~~(b) A copy of the exemption determination letter received from the Internal Revenue Service stating that the organization is not required to file a Form 990.~~
- (3) ~~Multiple Forms of Proof. An organization required to file a Form 990, 990-EZ, 990-N or 990-PF with the Internal Revenue Service may submit a copy of its exemption determination letter received from the Internal Revenue Service as a substitution of one (1) of the five (5) annual Forms 990, 990-EZ, 990-N, or 990-PF filed with the Internal Revenue Service as required in subdivision (1), provided that the documents cover the five (5) year period immediately preceding the event date listed in an annual event application. 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,~~

(Rule 1360-03-03-.14, continued)

~~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.~~

- (43) Authentic Documents. Acceptable documents must be authentic, genuine or bona fide documents. Copies of documents must be conformed copies.

Authority: T.C.A. §§ 3-17-104(a)(6) and 3-17-115(a). **Administrative History:** Original rule filed October 7, 2005; effective February 28, 2006.