Statement of the Pennsylvania Federation of Fraternal and Social Organizations on HB 169, HB 1288, HB 1323, HB 906 – Small Games of Chance Bills
Presented to the House Gaming Oversight Committee by Ted Mowatt, CAE
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Chairs Schroder and Youngblood, and members of the House Gaming Oversight Committee, I am Ted Mowatt, Executive Director of the Pennsylvania Federation of Fraternal and Social Organizations. I very much appreciate this opportunity to comment on the committee's latest consideration of bills to update the Local Option Small Games of Chance Act.

The Pennsylvania Federation of Fraternal and Social Organizations (PFFSO) is a statewide association of nearly 500 social clubs, veterans clubs, fire companies and other non-profit service organizations. Our clubs provide numerous charitable works in the local communities, funded largely, by law, by small games of chance. In these times of budgetary constraints on state and local governments, our organizations are counted on increasingly to help, but the sources of revenue have not kept up with the need. Further, as our members age, the clubs are constantly struggling to find ways to attract younger members, who will take over the essential community activities of the clubs and fire companies. Our members have for years supported the updating of the Local Option Small Games of Chance Act, as a way of supporting club activities. We will comment on each of the bills separately. Much of this testimony will be familiar, as we have previously testified on the two major bills in front of this committee.

HB 169

As the committee is well aware, there have been no substantive changes in the Small Games of Chance act since 1988. We very much appreciate the fact that the committee has, and in fact the full House has as well, on several occasions over the past several sessions reported out bills, most recently last session's **HB 169**, which accomplish the purpose of updating the law to impose realistic limits on the amounts clubs can pay out. Unfortunately thus far final action has not been achieved in the Senate. Small Games of Chance legislation remains the primary goal of PFFSO. Indeed a number of bills similar to HB 169 have been introduced in the Senate, and await consideration by the Senate Finance Committee. We are hopeful that Senate action will occur in the near future, and we commend Rep. Delozier for picking up the cause this year.

PFFSO has worked tirelessly over the past decade or longer, to pass legislation updating the small games of chance law. Throughout that time, we have gained a growing number of votes in both the House and Senate based on the premise that these bills were not an expansion of gambling, which many legislators oppose, but a mechanism for these non-profit organizations, (and this legislation does not solely apply to private club liquor licensees), to increase the amount of money they can raise and contribute to other charities. Even when the law passed in 1988 there was resistance, so an arbitrary limit of $5000 on **payouts (not "profits")** was imposed.

As we have testified before you before, for many clubs, dues revenues have not been able to keep pace with the structural and other overhead needs of aging facilities, and clubs have been forced to find other ways to attract new members, and to keep existing members coming into the club. Clearly some clubs have gone outside the parameters of the law, as the popularity of the games has far exceeded the current outdated legal, arbitrary limits. Those clubs are paying a high price as enforcement has stepped up in the wake of the casinos opening around the state. This has been

the subject of intense discussion among our members at every local unit meeting, and at our annual conventions. The "outlier" clubs which are in violation of the law repeatedly and egregiously are causing a lot of trouble for those clubs who are struggling to abide by the law while the General Assembly fails to bring the law into the 21st Century. Many of the violations are technical, either for exceeding the limits, or for misapplied use of the proceeds, the latter of which often occurs out of an unintended misunderstanding of the law and regulations in place, by the volunteers who run the games for the organizations.

It is important to keep in mind that of all of the thousands of Small Games of Chance licenses applied for each year across this state, only a relatively small percentage are club liquor licensees. Most are 501 (c) (3) organizations doing raffles, silent auctions, Monte Carlo nights, fairs, 50/50s, and so forth to raise money for themselves and other causes. Aside from my duties as the Executive Director for PFFSO, I also work for a number of professional and trade associations and other not-for profit organizations, and also have served on other non-profit boards in a volunteer capacity. I can tell you that there is great confusion among these groups on what they can and cannot do with regard to their own fundraising, whether they are raising money for their PACs, their educational foundations, or even other outside entities. The rules are arcane, and not well-known to the general public, and when I tell them what the rules are, they are frustrated and mystified why it is that way. Many organizations without liquor licenses are violating the law routinely with raffles, 50/50s, carnival games, and quarter auctions, and they never know until someone complains. Enforcement on these groups, be they church groups, school tem boosters, or the NRA, is scant compared to what is going on with the clubs, because the local DA is not really interested in busting the neighborhood group, and the LCE has no jurisdiction over non-liquor licensees.

Secondly, the use of proceeds is also an area that needs to be addressed. HB 169 attempts to clarify what proceeds can be used for, a source of great confusion over the past two decades, due to unclear regulatory language interpreting the statute, and uneven enforcement from barracks to barracks, and even agent to agent. We appreciate the attempt to delineate what can and cannot be covered by small games proceeds, and also recognize that some commentators have raised objections to the "catchall" language at the end of the list on page 3. We might suggest that, rather than create a static list, that the bill actually contain just a shorter list of things that CANNOT be paid for out of proceeds, like paying staff salaries, underwriting food costs, etc. This would give flexibility to the clubs, based on their own situation, as some do not have a mortgage, for instance, or in other cases have a newer facility without immediate need of repairs. The provision requiring 60% (a SHALL provision) to go to "public interest purposes" while 40% SHALL go for "general operating purposes" creates the requirement that exactly those percentages be used. IF a club needs less that 40% for general operating expenses (probably a rare occurrence), or does not receive requests sufficient to distribute 60%, it sets up the club with a legal dilemma. We propose that it read NO MORE THAN 40% be allowed for general operating expenses, and the remainder go to public interest purposes.

We have no problems with the two other related bills we have been asked to comment on, Rep. Benninghoff's, HB 1288, and Rep. Grove's HB 1323. HB 1288 is a more basic version of HB

169, getting to the crux of the issue, but without some of the transparency provisions that have been negotiated over the past several years, designed to enhance compliance with the rules, through better understanding of them. The "coin auction" is a newer phenomenon that has sprung up recently, and regionally. We support the addition of this language in the law. However, we continue, as we have testified previously, to oppose HB 906.

HB 906

Similar legislation to HB 906 was introduced in both the House and Senate last session, and was not considered by either chamber. As those of you who served on the Committee last session will recall, the Committee held a public hearing on this legislation previously, at which we raised concerns, which we will reiterate here.

The premise for this legislation is purportedly to allow bars and taverns to "compete". There are some areas of the state where clubs do indeed compete directly with taverns down the street, whereas in other areas the two live in perfect harmony, catering to separate clientele. Proponents of this legislation will make the case that they need this legislation to remain competitive, and at the same time state that "there are club people and there are tavern people, so this should not be an issue." If the latter is true, we wonder with whom are they competing?

There are two issues with regard to making Small Games available to for-profit entities that give us serious concern. First, it is important to keep in mind that of all of the thousands of Small Games of Chance licenses applied for each year across this state, only a relatively small percentage are club licensees. Most are 501 (c) (3) organizations doing raffles, fairs, 50/50s, and so forth to raise money for themselves and other causes. To permit only one type of for-profit organization to run the games raises the question of why the tavern, and not the local dry-cleaner, or pizza shop, or gas station? The bill specifically excludes grocery stores. We wonder if this is a door the General Assembly wants to open up.

Secondly, the taxing of proceeds is also problematic. Yes, the legislation makes it clear that only the "licensed establishments" would be "assessed" (read: taxed), and apparently an estimate of many millions in state revenue might be expected as a result, in a time of significant need for the state coffers. But once this kind of revenue is tapped, as we have surely seen in numerous parts of the budget, such as the now infamous Johnstown Flood Tax, we are very concerned that the taxing of non-profit proceeds will be considered again. As we know, the idea was floated last session in the budget debate, and was rejected. The argument against it weakens if some are taxed on revenue that others are not. Clubs and other non-profits currently have the freedom of choice as to where their limited fundraising dollars will end up. A 30% "assessment" that is committed to the General Fund, is a tax. The Corbett Administration, and many in the General Assembly, have been abundantly clear in their position on imposing new taxes, even on those who have stated a willingness to pay it.

PFFSO is concerned that the Commonwealth will come to view this tax revenue as an essential part of its funding mechanisms, even after the economy improves and tax revenues in the

traditional areas return to previous levels. If the state becomes dependent on this revenue, then it will be a short trip down the road to having everyone pay it.

HB 906 as introduced also has some specific drafting issues that we would like to point out. First, the weekly limit of $20,000 is less than the $25,000 limit that this committee approved by this committee last session. We suggest raising this, and the other limits, to parallel the limits in Rep. Delozier's bill. Much of the other language in the bill appears to have been drafted exactly like provisions in HB 169. Similarly, other provisions in HB 169 to clarify terms like progressive and insured games, etc. should be included in this bill, if the committee considers it. Other essential elements in HB 169 that are not specifically addressed in this bill include the "use of proceeds" language that is central to the needs of clubs. Additionally, one provision of HB 169 that is in this bill that may have been unintentionally applied is the background check provision that requires all SGOC licensees to undergo a State Police background check. Although this is not a problem for licensed clubs and taverns, as they already must submit criminal history records with their liquor license application, this provision should not apply to limited occasion licenses under Section 10(b.3). This should be clarified if this bill is considered.

Other provisions that may be problematic for non-profits who are not liquor licensees are the electronic monitoring requirement, and the penalties are fairly stiff for violations. A $500 fine for a first offense could pretty much wipe out the entire fundraising effort of a soccer club, for instance. Finally, the Lottery Transfer provision is worrisome as well. We realize this is patterned after the parallel language in the Gaming law, it seems like a stretch to think that the Revenue Department will be able to draw an accurate conclusion as to the impact of Small Games on Lottery Sales. Monitoring the payouts of a dozen casinos that are wired to the state is far simpler than tracking down the thousands of small games licensees, who are licensed by the counties, not the state.

Let me close by reiterating that, whereas our primary objective is to remove outdated restrictions on the Small Games of Chance and Bingo laws, the Pennsylvania Federation of Fraternal and Social Organization believes this bill is flawed in concept, and in drafting, and at this time cannot support it.

Thank you again for this opportunity, and I would welcome any questions.