

1980 WL 121190 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 23, 1980

**\*1 Re: Legality of Bingo Conducted at Recreation Centers**

John W. Sellers  
Director of Recreation  
Irmo-Chapin Parks & Recreation Commission  
Post Office Drawer B  
Irmo, South Carolina 29063

Dear Mr. Sellers:

You have asked of this Office several questions involving the legality of the Irmo-Chapin Parks & Recreation Commission's sponsoring certain bingo games at your facilities. It would appear that in certain circumstances such games could be conducted at those facilities.

The Irmo-Chapin Recreation District was created by Act No. 329 of 1969 and establishes the Commission as a public entity empowered to provide, among other things, for general recreational facilities for the territory embodied by School District No. 5 in Lexington County. The game of bingo is regulated by [Article XVII, Section 7 of the South Carolina Constitution](#) which provides:

No lottery shall ever be allowed or be advertised by newspapers, or otherwise, or its trickets be sold in this State. The game of bingo, where conducted by charitable, religious or fraternal organizations exempt from federal income taxation or when conducted at recognized annual State and county fairs, shall not be deemed a lottery prohibited by this section.

It is clear from the above quotation that certain lotteries are illegal in South Carolina and the sole exception is that of the game of bingo when conducted under certain circumstances. Inasmuch as there is no licensing requirement for an organization to conduct the game of bingo, resort to the plain meaning of the terms of the constitutional amendment is necessary to determine which organizations may conduct bingo games. A recent Opinion of this Office dated April 9, 1980, [copy enclosed] sets forth the definitions of certain of the types of organizations permitted to conduct bingo games in South Carolina. It appears clear from the language of the constitution, however, that public agencies or governmental agencies are not permitted to conduct the game of bingo in South Carolina. Therefore, the Irmo-Chapin Parks & Recreation Commission itself could not conduct the game of bingo whether in their recreational centers or elsewhere.

The State Supreme Court in the case of [Bingo Bank, Inc. v. J. P. Strom](#), 268 S.C. 498, 234 S.E. 2d 881 (1977) defined the manner in which the game of bingo might be played pursuant to the provisions of [Article XVII, Section 7](#), quoted above. However, it must be pointed out that it is not the profit margin of any given bingo game which makes its conduct illegal, but rather the nature of the organization which conducts the game. Thus, it may be suggested that a charitable organization exempt from federal income taxation might conduct a 'profitable' bingo game in a fund raising effort. The term 'profitable' is used here to mean a game in which the sponsoring organization takes in more money than that which it expends in prizes or costs. Thus, while the game might be said to be profitable in this sense, the proceeds would in turn be put to a charitable purpose by the charitable organization sponsoring the game and the requirements of [Article XVII, Section 7](#) would then be met (see the Opinion of this Office dated April 9, 1980 cited above). However, an organization not qualified for the purposes of [Article XVII, Section 7](#) to conduct the game of bingo which takes in an amount equal to that which it expends in prizes and costs or which even loses

money in the conduct of a bingo game would be guilty of conducting an illegal lottery. Therefore, as stated above, profit margin is not determinative of the legality of the game in question.

\*2 Last, you have asked whether the Commission might be liable, either criminally or civilly, if the public facilities in their charge are used by other organizations in which to conduct the game of bingo. While a specific answer cannot be given to the question, it should be remembered that any direct involvement by any individual in a bingo game which is later deemed a lottery and proof that that individual knew of the illegality of that game, make such an individual civilly or criminally liable as the operator of an illegal lottery. Therefore, it is suggested that the Commission go to great lengths to determine the charitable, religious or fraternal nature and tax exempt status of an organization seeking to conduct a game of bingo at one of its Recreation Centers.

Therefore, it may be said that certain organizations might be able to conduct bingo games at the Recreation Commission facilities. However, not every organization is eligible to conduct the game of bingo and certain liabilities may attach to the Commission or to Commission personnel if the requisite knowledge of the illegality of the bingo game can be proven.

Sincerely,

Scott Elliott  
State Attorney

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