



STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2016-099

October 10, 2016

Barry Emigh, Sponsor
1104 West Seventh Street
Hot Springs National Park, AR 71913-4225

Dear Mr. Emigh:

I am writing in response to your request for certification, pursuant to Ark. Code Ann. § 7-9-107 (Supp. 2015), of the popular name and ballot title for a proposed initiated measure.

At the outset, I wish to make clear to you that the decision to certify or reject a popular name and ballot title is in no way a reflection of my view of the merits of a particular proposal. I am not authorized to, and do not consider the merits of the measure when making my determination to certify or reject a popular name and ballot title.

The Attorney General is required, pursuant to Ark. Code Ann. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General *may, if practicable*, substitute and certify a more suitable and correct popular name and ballot title. Or, if the proposed popular name and ballot title are sufficiently misleading, the Attorney General may reject the entire petition.

Section 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is "clearly contrary to

law,”¹ this office will not require that a measure’s proponents acknowledge in the ballot title any possible constitutional infirmities.² Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposal.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.³

REQUEST

You have requested certification, pursuant to Ark. Code Ann. § 7-9-107, of the following popular name and ballot title for a proposed constitutional amendment:

Popular Name

An amendment to the Constitution of the State of Arkansas authorizing a business, by the name of ‘Fairdeal Holdings,’ to initiate a local ballot option to contract the operation of gambling with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure of any size within any town, city, and or county, within the State.

Upon passage of a local ballot option the business, as aforementioned, shall be authorized to contract the operation of gambling with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure of any size within that town, city, and or county.

¹ See *Kurrus v. Priest*, 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest*, 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

² As part of my review, however, I may address constitutional concerns for consideration by the measure’s proponents.

³ See *Arkansas Women’s Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 848 (1984).

Any part, or whole, of the business operation(s) operated by 'Fairdeal Holdings,' can be sold, and or transferred, to any person(s), business, and or corporation.

Upon passage of a local ballot option any person(s) can initiate a local ballot option to repeale [sic] gambling within that jurisdiction with a penalty for all costs incurred to that gambling operator.

The gambling operator shall pay a town, or city, where gambling is operated four (4%) of the net profit from gambling, shall pay the county where that town, or city, is located four (4%) percent of the net profit from gambling, and the State five (5%) percent of the net profit from gambling annually.

The gambling operator shall pay a county where gambling is operated in the county eight (8%) of the net profit from gambling, and shall pay the State five (5%) of the net profit from gambling annually.

The gambling operator shall pay an annual percentage rate base on the Federal Reserve's bank rate on any late payment.

Unless otherwise specified within this amendment no other license, fee, or permit shall be applied to the sale, and service, of alcoholic beverages without a super majority of the General Assembly.

The General Assembly is authorized by a simple majority to establish, and fund, a commision [sic] to regulate gambling, and the sale, and service, of alcoholic beverages.

Upon passage of this amendment the voters acknowledge gambling, and alcohol service, associated with the operation of gambling can be, or become, addictive.

Ballot Title

An amendment to the Constitution of the State of Arkansas authorizing a business, by the name of 'Fairdeal Holdings,' to

initiate a local ballot option to contract the operation of gambling with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure of any size within any town, city, and or county, within the state without license, fee, and or permit.

Upon passage of a local ballot option the business, as aforementioned, shall be authorized to contract the operation of gambling with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure of any size within that town, city, and or county without license, fee, and or permit.

Authorizes the above aforementioned business to transfer, or sell, any part, or whole, of the business operation(s) to any person(s), business, and or corporation.

Authorizes the voters of that town, city, and or county, the right to repeal such gambling operation by local ballot option with penalty for all costs incurred [*sic*] to the gambling operator within that jurisdiction.

The gambling operator shall pay the town, or city, where gambling is operated four (4%) percent of the net profit from gambling, shall pay the county where that town, or city, is located four (4%) percent of the net profit from gambling, and the state five (5%) percent of the net profit from gambling annually.

The gambling operator shall pay the county where gambling is operated within the county eight (8%) of the net profit from gambling, and the state five (5%) of the net profit from gambling annually.

The gambling operator shall pay an annual percentage rate based on the federal reserve's [*sic*] bank rate on any late payment.

Unless otherwise stated herein no other tax, fee, and or permits shall be applied to the operation of gambling, not to include the sale, and service, of alcoholic beverages without a super majority of the General Assembly.

The General Assembly is authorized by a minority vote to establish, and fund, a commission to regulate gambling, and the sale, and service, of alcoholic beverages as provided in this amendment.

‘Whole’ means the initiative process and each contract to operate gambling with the sale, and service, of alcoholic beverages within each tow [sic], city, and or county.

‘Part’ means each contract within a town, city, and or county, to operate gambling [sic] with the sale, and service, of alcoholic beverages to be separate [sic] from one another, and the initiative process to be separate from all contracts.

‘Gambling’ means any game of chance to include, but not limited to the use of cards, dice, roulette wheels, slot machines of any kind, by any name, and para mutual [sic] wagering of any kind.

‘Sale, and service, of alcoholic beverages’ means the on site consumption of alcoholic beverages within the structure where gambling is opetated [sic].

‘Fairdeal Holdings’ means a business registered in Garland County, Arkansas, for the purpose of initiating, and contracting, gambling with the sale, and service, of alcoholic beverages.

‘structure’ means any building, or any kind, of any size.

‘net profit’ means the amount of money after all operating expenses are paid.

Passage of this Amendment means the voters acknowledge, and have considered, the possible risk of gambling, and alcohol, addiction associated with the operation of gambling.

RESPONSE

The popular name is primarily a useful legislative device.⁴ It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal.⁵ The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency.⁶

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.⁷ According to the Court, if information omitted from the ballot title is an "essential fact which would give the voter serious ground for reflection, it must be disclosed."⁸ At the same time, however, a ballot title must be brief and concise;⁹ otherwise voters could run afoul of Ark. Code Ann. § 7-5-309's five-minute limit in voting booths when other voters are waiting in line.¹⁰ The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke.¹¹ The title, however, must be "free of any misleading tendency whether by amplification, omission, or fallacy, and it must not be tinged with partisan coloring."¹² The

⁴ *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

⁵ See, e.g., *Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958). For a better understanding of the term "partisan coloring," see note 12 *infra*.

⁶ *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

⁷ *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980) (internal citations omitted).

⁸ *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

⁹ See Ark. Code Ann. § 7-9-107(b).

¹⁰ *Bailey* at 284, 884 S.W.2d at 944.

¹¹ *Id.* at 293, 844 S.W.2d at 946-47.

¹² *Id.* at 284, 884 S.W.2d at 942. Language "tinged with partisan coloring" has been identified by the Arkansas Supreme Court as language that "creates a fatally misleading tendency" (*Crochet v. Priest*, 326 Ark. 338, 347, 931 S.W.2d 128, 133 (1996)) or that "gives the voter only the impression that the proponents of the proposed amendment wish to convey of the activity

ballot title must be honest and impartial,¹³ and it must convey an intelligible idea of the scope and significance of a proposed change in the law.¹⁴

Furthermore, the Court has confirmed that a proposed measure cannot be approved if the text of the proposal itself contributes to confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.¹⁵ The Court concluded that “internal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself.”¹⁶ Where the effects of a proposed measure on current law are unclear or ambiguous, it is impossible for me to perform my statutory duty to the satisfaction of the Arkansas Supreme Court without (1) clarification or removal of the ambiguities in the text of the proposal itself, and (2) conformance of the popular name and ballot title to the newly worded proposal.

It is my opinion, based on the above precepts, that your proposed popular name does not satisfy the Arkansas Supreme Court’s standards. A number of additions or changes to your ballot title are also necessary in order to more fully and correctly summarize your proposal. I cannot, however, at this time, fairly or completely summarize the effect of your proposed measure to the electorate in a popular name or ballot title because of several fundamental ambiguities in the text of the measure itself. Because of these fundamental problems, I have not conducted a thorough, point-by-point review of your proposal. Rather, I will point out the initial problems and fundamental ambiguities.

- You have proposed this measure for inclusion on “the November 14, 2017 general ballot.” There is no general election scheduled for this date. The next general election for which any new proposed constitutional amendments or initiated acts could be considered is on November 6,

represented by the words.” (*Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 249, 884 S.W.2d 605, 610 (1994)).

¹³ *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

¹⁴ *Christian Civic Action Committee*, 318 Ark. at 245, 884 S.W.2d at 607 (internal quotations omitted).

¹⁵ *Cf. Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 382 (2000).

¹⁶ *Id.*

2018.¹⁷ The Arkansas Constitution requires that measures initiated by the people be voted on at “regular elections.”¹⁸ This requirement is reflected in Ark. Code Ann. § 7-9-104(a), which states that initiative petitions contain language ordering a vote on a proposed measure “at the *regular general election....*” Requesting certification of a popular name and ballot title for a date on which there is no regular general election is a fundamental flaw that precludes me from being able to certify your proposed popular name and ballot title.

- Your popular name, in my opinion, is much too long to be considered a “useful legislative device.”¹⁹ Your proposed popular name reads more like a ballot title, and in fact is only a slightly shorter version of your proposed ballot title. The popular name must be a short, descriptive reference for your proposed measure. “The popular name is designed to make it easy for voters to discuss the proposal prior to the election, by giving them a label to identify it.”²⁰ Your submission fails to meet this standard, and I cannot at this point substitute a more suitable and appropriate popular name.
- Your proposed measure speaks of a “local ballot option”—a phrase that is not defined—regarding the permitting of gambling in connection with the sale and distribution of alcoholic beverages. This phrase in this context is very unclear. The phrase “local option” is commonly understood to be connected with so-called “wet-dry elections,” which currently are conducted pursuant to Arkansas statutes. In typical local option elections, putting the proposition concerning the sale of alcohol in a given area on the general election ballot is accomplished by way of a petition process.²¹ Your measure, however, simply states that a certain business would “be authorized to initiate a local ballot option within any town, city and or county....” But your proposal wholly lacks any procedures regarding how that “local ballot option” would be initiated. Significant clarification

¹⁷ See Ark. Code Ann. § 7-5-102 (Supp. 2015) (providing that a general election is to be held “[o]n the Tuesday next after the first Monday in November in every even-numbered year...”).

¹⁸ Ark. Const., art 5. § 1.

¹⁹ See text accompanying note 4 *supra*.

²⁰ *Gaines v. McCuen*, 296 Ark. 513, 516, 758 S.W.2d 403, 404 (1988).

²¹ See Ark. Code Ann. § 3-8-803 (Supp. 2015).

regarding the process by which a “local ballot option” is to be initiated and accomplished is necessary in order for this important aspect of your proposed measure to be adequately summarized in a ballot title for the measure.

- Closely related to the above problem is the proposed measure’s statement that the measure is “self executing” [*sic*]. A document is considered self-executing if it does not require anything additional, such as subsequent legislation, to make it binding.²² But because your proposal is so bereft of specificity regarding procedures and other significant details as to how it would work, its claim to be self-executing creates a considerable ambiguity that must be clarified and clearly set forth in your proposal and ballot title.
- Your proposal also states that it would supersede any law in conflict with your proposed amendment. This statement also creates a serious ambiguity, especially as it relates to local option statutes currently in place as mentioned above. If you intend for your proposal to institute a different “local option” process with respect to the combination of gambling and the providing of alcoholic beverages in what are now dry areas, this would represent a significant change in current law. This would have to be significantly clarified and conveyed in your proposal and ballot title. Without clarification, any ballot title for your proposal will fail the Court’s mandate that it “convey an intelligible idea of the scope and significance of a proposed change in the law.”²³
- Throughout your proposed measure, you use the phrase “[u]pon passage of this amendment...” This language is ambiguous as to exactly when your proposed amendment would become effective. This is especially true when your proposed measure states, as mentioned above, that it would be “self executing [*sic*].” Without more detail, it is highly doubtful voters would know or be able to determine just when your proposed amendment would take effect.
- Your proposed measure contains many grammatical errors in spelling, punctuation, capitalization, and syntax—too numerous to list here—that, if left uncorrected, would make it impossible for me to perform my statutory mandate with respect to your proposal.

²² See, e.g., Bryan A. Garner, *Garner’s Dictionary of Legal Usage* 805 (3d ed. 2011).

²³ See text accompanying note 14 *supra*.

- Your proposed measure speaks of a “company” by the name of “Fairdeal Holdings,” that is a “business registered, [*sic*] and filed” with the Garland County clerk’s office, “certificate number 4155.” This reference is ambiguous, as businesses must register with and be certified by the Secretary of State in order to be able to do business within the State. I am unaware that the Secretary of State has certified any business named “Fairdeal Holdings.” The status of this “business” will be a matter of significant concern to voters. Clarification is therefore necessary for proper inclusion in a ballot title for your proposal.

CONCLUSION

The ambiguities noted above are not all of the ambiguities contained in your proposal, but they are sufficiently serious to require me to reject your proposed popular name and ballot title. Without the resolution of these initial fundamental problems and ambiguities, I cannot determine precisely what changes to the ballot title are necessary to fully and correctly summarize your proposal. It is therefore not appropriate, in my opinion, for me to try to substitute and certify a more suitable and correct popular name and ballot title pursuant to Ark. Code Ann. § 7-9-107(b). Additional ambiguities may come to light on review of any revisions of your proposal.

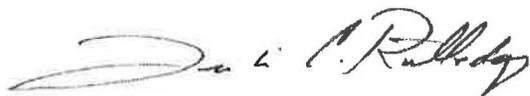
My office, in the certification of popular names and ballot titles, does not address the merits, philosophy, or ideology of proposed measures. I have no constitutional role in the shaping or drafting of such measures. My statutory mandate is embodied only in Ark. Code Ann. § 7-9-107, and my duty is to the electorate. Always mindful of that duty, I am compelled to encourage you to seek the advice or assistance of someone experienced in drafting legislation, editing legal documents, or both, should you choose to resubmit.²⁴ Amending the Arkansas Constitution is a very serious matter, and the Arkansas Supreme Court holds popular names and ballot titles of proposed constitutional amendments to a standard that is commensurate with this seriousness. If you are intent upon passing a measure that will amend the constitution in such a significant way, then the assistance I mentioned above will be very helpful to you in avoiding wasted

²⁴ In this regard, I want to reiterate my predecessors’ statements to you regarding redesigns and resubmissions and their deep concerns about “commit[ting] this office’s limited resources to repeatedly telling you the same thing.” Op. Att’y Gen. 2004-087. See also Ops. Att’y Gen. 2000-312, 2000-193.

time and effort in preparing a popular name and ballot title for your proposal.

Based on what has been submitted, my statutory duty is to reject your proposed popular name and ballot title for the foregoing reasons and instruct you to redesign the proposed measure, popular name, and ballot title.²⁵ You may resubmit your proposed amendment along with a proposed popular name and ballot title at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Rutledge". The signature is written in a cursive style with a large, sweeping initial "L".

LESLIE RUTLEDGE
Attorney General

Enclosure

²⁵ Ark. Code Ann. § 7-9-107(c).

Popular Name

AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ARKANSAS AUTHORIZING A BUSINESS, BY THE NAME OF 'FAIRDEAL HOLDINGS,' TO INITIATE A LOCAL BALLOT OPTION TO CONTRACT THE OPERATION OF GAMBLING WITH THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES TWENTY FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK, WITHIN ONE STRUCTURE OF ANY SIZE WITHIN ANY TOWN, CITY, AND OR COUNTY, WITHIN THE STATE.

UPON PASSAGE OF A LOCAL BALLOT OPTION THE BUSINESS, AS AFOREMENTIONED, SHALL BE AUTHORIZED TO CONTRACT THE OPERATION OF GAMBLING WITH THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES TWENTY FOUR (24) HOURS A DAY, SEVEN (7) DAYS A WEEK, WITHIN ONE STRUCTURE OF ANY SIZE WITHIN THAT TOWN, CITY, AND OR COUNTY.

ANY PART, OR WHOLE, OF THE BUSINESS OPERATION(S) OPERATED BY 'FAIRDEAL HOLDINGS,' CAN BE SOLD, AND OR TRANSFERED, TO ANY PERSON(S), BUSINESS, AND OR CORPORATION.

UPON PASSAGE OF A LOCAL BALLOT OPTION ANY PERSON(S) CAN INITIATE A LOCAL BALLOT OPTION TO REPEALE GAMBLING WITHIN THAT JURISDICTION WITH A PENALTY FOR ALL COSTS INCURRED TO THAT GAMBLING OPERATOR.

THE GAMBLING OPERATOR SHALL PAY A TOWN, OR CITY, WHERE GAMBLING IS OPERATED FOUR (4%) OF THE NET PROFIT FROM GAMBLING, SHALL PAY THE COUNTY WHERE THAT TOWN, OR CITY, IS LOCATED FOUR (4%) PERCENT OF THE NET PROFIT FROM GAMBLING, AND THE STATE FIVE (5%) PERCENT OF THE NET PROFIT FROM GAMBLING ANNUALLY.

THE GAMBLING OPERATOR SHALL PAY A COUNTY WHERE GAMBLING IS OPERATED IN THE COUNTY EIGHT (8%) PERCENT OF THE NET PROFIT FROM GAMBLING, AND SHALL PAY THE STATE FIVE (5%) PERCENT OF THE NET PROFIT FROM GAMBLING ANNUALLY.

THE GAMBLING OPERATOR SHALL PAY AN ANNUAL PERCENTAGE RATE BASE ON THE FEDERAL RESERVE'S BANK RATE ON ANY LATE PAYMENT.

UNLESS OTHERWISE SPECIFIED WITHIN THIS AMENDMENT NO OTHER TAX, FEE, OR PERMIT SHALL BE APPLIED TO THE OPERATION OF GAMBLING WITHOUT A SUPER MAJORITY OF THE GENERAL ASSEMBLY.

UNLESS OTHERWISE SPECIFIED IN THIS AMEMDMENT NO OTHER LICENSE, FEE, OR PERMIT SHALL BE APPLIED TO THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES WITHOUT A SUPER MAJORITY OF THE GENERAL ASSEMBLY.

THE GENERAL ASSEMBLY IS AUTHORIZED BY A SIMPLE MAJORITY TO ESTABLISH, AND FUND, A COMMISION TO REGULATE GAMBLING, AND THE SALE, AND SERVICE, OF ALCOHOLIC BEVERAGES.

UPON PASSAGE OF THIS AMENDMENT THE VOTERS ACKNOWLEDGE GAMBLING, AND ALCOHOL SERVICE, ASSOCIATED WITH THE OPERATION OF GAMBLING CAN BE, OR BECOME, ADDICTIVE.

Ballot Title

An Amendment to the Constitution of the State of Arkansas authorizing a business, by the name of 'Fairdeal Holdings,' to initiate a local ballot option to contract the operation of gambling with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure of any size within any town, city, and or county, within the state without license, fee, and or permit.

Upon passage of a local ballot option the business, as aforementioned, shall be authorized to contract the operation of gambling with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure of any size within that town, city, and or county without license, fee, and or permit.

Authorizes the above aforementioned business to transfer, or sell, any part, or whole, of the business operation(s) to any person(s), business, and or

corporation.

Authorizes the voters of that town, city, and or county, the right to repeal such gambling operation by local ballot option with penalty for all costs incurred to the gambling operator within that jurisdiction.

The gambling operator shall pay the town, or city, where gambling is operated four (4%) percent of the net profit from gambling, shall pay the county where that town, or city, is located four (4%) percent of the net profit from gambling, and the state five (5%) percent of the net profit from gambling annually.

The gambling operator shall pay the county where gambling is operated within the county eight (8%) percent of the net profit from gambling, and the state five (5%) of the net profit from gambling annually.

The gambling operator shall pay an annual percentage rate based on the federal reserve's bank rate on any late payment.

Unless otherwise stated herein no other tax, fee, and or permits shall be applied to the operation of gambling, not to include the sale, and service, of alcoholic beverages without a super majority of the General Assembly.

The General Assembly is authorized by a minority vote to establish, and fund, a commission to regulate gambling, and the sale, and service, of alcoholic beverages as provided in this amendment.

'Whole' means the initiative process and each contract to operate gambling with the sale, and service, of alcoholic beverages within each tow, city, and or county.

'Part' means each contract within a town, city, and or county, to operate gambling gambling with the sale, and service, of alcoholic beverages to be separate from one another, and the initiative process to be separate from all contracts.

'Gambling' means any game of chance to include, but not limited to the

use of cards, dice, roulette wheels, slot machines of any kind, by any name, and para mutual wagering of any kind.

'Sale, and service, of alcoholic beverages' means the on site consumption of alcoholic beverages within the structure where gambling is opetated.

'Fairdeal Holdings' means a business registered in Garland County, Arkansas, for the purpose of initiating, and contracting, gambling with the sale, and service, of alcoholic beverages.

'structure' means any building, of any kind, of any size.

'net profit' means the amount of money after all operating expenses are paid.

Passage of this Amendment means the voters acknowledge, and have considered, the possible risk of gambling, and alcohol, addiction associated with the operation of gambling.

Section One: Gambling as a Local Ballot Option

- 1. Upon passage of this amendment a business, by the name of 'Fairdeal Holdings', shall be authorized to initiate a local ballot option within any town, city, and or county, in the state to contract the operation of gambling to any person(s), business, or corporation, with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure within that town, city, and or county.**
- 2. Upon passage of a local ballot option, as provided in part 1 of this Section, the business, by the name of 'Fairdeal Holdings', shall be authorized to contract to any person(s), business, or corporation, the operation of gambling with the sale, and service, of alcoholic beverages twenty four (24) hours a day, seven (7) days a week, within one structure within that town, city, and or county.**
- 3. Upon passage of this amendment the business operation(s) operated by,**

'Fairdeal Holdings', as provided in parts 1 and 2 of this Section, may be sold, or transferred, in part, or whole, to any person(s), business, and or corporation.

4. No person under the age of eighteen (18) years of age shall be permitted to gamble.

5. Unless otherwise specified within this amendment all other laws, rules, regulations, and taxes, on the sale, and service, of alcoholic beverages, as provided in parts 1 and 2 of this Section, shall apply.

6. All laws, rules, and regulations, regarding a town, city, and or county, local ballot option, as provided in parts 1 and 2 of this Section, shall apply.

Section Two: Repeal of Gambling as a Local Ballot Option

1. Upon passage of a local ballot option to operate gambling with the sale, and service, of alcoholic beverages, as provided in part 2 of Section One, any person(s) can initiate a local ballot option to repeal the operation of gambling within that town, city, and or county.

2. Unless otherwise specified within this amendment all laws, rules, and regulations, regarding a local ballot option to repeal gambling with the sale, and service, of alcoholic beverages, as provide in part 1 of this Section, shall apply.

3. Upon repeal of the gambling operation, as provided in 1 of this Section, the town, city, and or county, shall assume full financial responsibility for the cost incurred to the gambling operator to include, but not limited to, the structure, equipment, furnishing, leases, loans, any hotels, restaurants, retail shopping, and other attractions owned by, leased to, or leased from, the gambling operator in connection to the gambling operation.

4. The repeal of gambling within a town, city, and or county, shall not take effect until thirty (30) days after all costs, as provided in 3 of this Section, are paid in full to the gambling operator, or a settlement for payment is accepted by the gambling operator.

5. Upon repeal of the gambling operation, as provided in part 1 of this Section, the town, city, and or county, shall be authorized to immediately request an independent appraisal to assess the value of the gambling operation, as provided in 3 and 4 of this Section.

a. The gambling operator shall have thirty (30) days to accept, or reject, that appraisal as a final settlement of cost.

b. Unless otherwise specified within this amendment that appraisal shall be final.

c. The cost of an appraisal, as provided in part 5 of this Section, shall be paid for by that town, city, and or county.

6. The gambling operator may contest that appraisal, as provided in part 5a of this Section.

a. The gambling operator is authorized to submit an independent appraisal to assess the value of the gambling operation, as provided in part 3 and 5b of this Section.

b. The gambling operator shall have no more than sixty (60) days to submit that appraisal to that town, city, and or county, clerk's office.

c. The cost of an appraisal, as provided in part 6 of this Section, shall be paid at the gambling operator's expense.

d. Unless otherwise specified in the amendment that appraisal shall be the final settlement of cost without further contest.

7. Unless there is evidence of fraud the settlement of cost, as provided in parts 5 and 7 of this Section, shall be final.

a. Such case of fraud may be brought before a District Court Judge within that jurisdiction.

b. Both parties have no more than thirty (30) days after submission of an appraisal, as provided in parts 5 and 6 of this Section, to file a claim of fraud.

Section Three: Taxes, Fees and Regulations

1. The gambling operator shall be required to pay the town, or city, where gambling is operated four (4%) percent of the 'net profit' from gambling, shall be required to pay the county where that town, or city, is located four (4%) percent of the 'net profit' from gambling, and be required to pay the state five (5%) percent of the 'net profit' from gambling. Those payments shall be paid annually, and shall be paid no later than thirty (30) days after the date the local ballot option went into effect. This shall exclude the sale, and service, of alcoholic beverages.
2. The gambling operator shall be required to pay the county eight (8%) percent of the 'net profit' from gambling when that gambling operation is solely operated within the jurisdiction of a county, and shall be required to pay the state five (5%) percent of the 'net profit' from gambling. Those payments shall be paid annually, and shall be paid no later than thirty (30) days after the date the local ballot option went into effect. This shall exclude the sale, and service, of alcoholic beverages.
3. An additional annual percentage rate equal to the federal reserve's bank exchange rate shall be paid on any amount owed, as provided in parts 1 and 2 of this Section, on any late payment.
4. Unless otherwise stated in this amendment no other tax, fee, and or permit, of any kind, by any name, shall be applied to the business operation of gambling, as provided in part 1 and 2 of Section One, without a super majority of both houses of the General Assembly.
5. Unless otherwise stated in this amendment no other license, fee, or permit, of any kind, by any name, shall be applied to the sale, and service, of alcoholic beverages, as provided in part 1 and 2 of Section One, without a super majority of both houses of the General Assembly.
6. Upon passage of this amendment the General Assembly shall be authorized

by a simple majority to establish, and fund, a regulatory commission to oversee, and or regulate, gambling, and the sale, and service, of alcoholic beverages, as provided in part 1 and 2 of Section One.

Section Four: Acknowledgement of Risk

Gambling, and alcohol, can be addictive which may cause a person financial hardship, and or possible bankruptcy. Upon passage of this amendment the voters are aware, acknowledge, and have consider, the risk of both gambling, and alcoholic services, associated with the operation of gambling.

Section Six, Definitions

- a. 'whole' means the business operations of 'Fairdeal Holdings' to initiate the operation of gambling with the sale, and service, of alcoholic beverages, as a local ballot option to include the contracting of gambling with the sale, and service, of alcoholic beverages within a town, city, and or county.
- b. 'part' means each contract to operate gambling with the sale, and service, of alcoholic beverages within a town, city, and or county, separate from the initiation of gambling with the sale, and service, of alcoholic beverages as a local ballot option.
- c. 'gambling' means any game of chance to include, but not limited to, the use of cards, dice, roulette wheels, slot machines of any kind, by any name, and para mutual wagering of any kind.
- d. 'structure' means any building, of any kind, of any size, to include, but not limited to, any number of floors, and or additions to that building.
- e. 'Fairdeal Holdings' means a business registered, and filed, with the county clerk's office in the County of Garland, in the State of Arkansas, certificate number 4155, for the purpose of initiating, and contracting, the operation of gambling with the sale, and service, of alcoholic beverages within any town, city, and or

county, in the State of Arkansas.

f. 'net profit' means the amount of money made after all infrastructure and operating expenses are paid, to include, but not limited to, construction, leases, rentals, equipment, furnishings, loans, leases, utilities, and pay roll costs associated with the operation of gambling.

g. 'sale, and service, of alcoholic beverages' means the on site consumption of alcoholic beverages within the structure where gambling is operated.

h. 'contract' means the operation of gambling with the sale, and service, of alcoholic beverages, to include, but not limited to, the subcontracting of services.

This amendment is for the Nov. 14th 2017 general ballot. Any law, rule, and or regulation, not specifically mentioned in this amendment shall be within the jurisdiction of the State General Assembly.

This amendment shall be self executing. If, any part, or whole, of this amendment is in conflict with any other law, rule, or regulation, that part, or whole, of the law, rule, or regulation, in conflict with this amendment shall be superseded by this amendment.

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