

NONPROFIT RAFFLES



Legal
Requirements
in South
Carolina

NONPROFIT RAFFLES

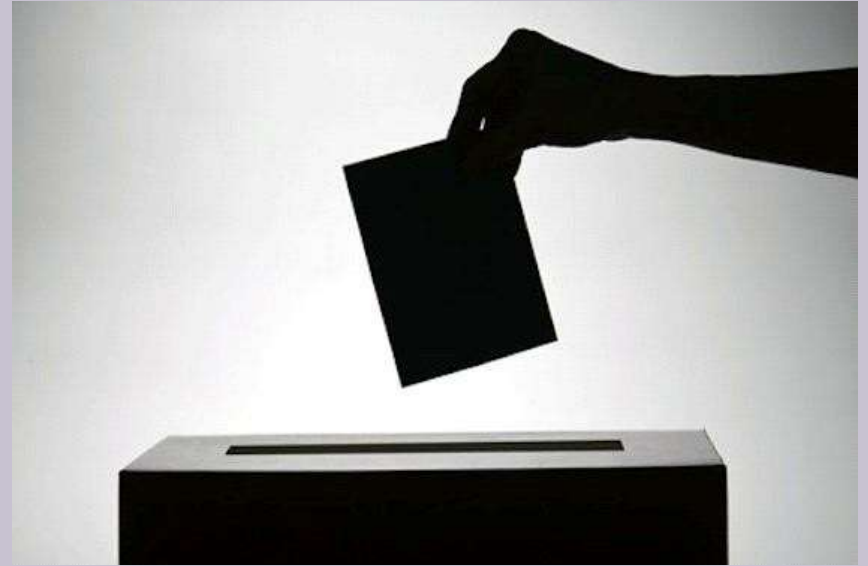


Presentation Topics Include:

- Qualifications for Conducting Raffles
- Exempt and Nonexempt Raffles
- Registration Requirements
- Raffle Restrictions
- Raffle Expenses
- Annual Financial Reports
- Enforcement (Fines & Penalties)

NONPROFIT RAFFLES

On November 4, 2014, South Carolina voters approved an amendment to the state constitution to allow nonprofit organizations to conduct raffles for charitable purposes.



NONPROFIT RAFFLES

Although voters approved the constitutional amendment to allow charitable raffles to be held in this state, it will not be legal for nonprofits to hold raffles until 30 days after the constitutional amendment is ratified by the state legislature.

Date Legal: April 5, 2015



WHAT IS A RAFFLE?

S.C. CODE §33-57-110

South Carolina law defines “raffle” as a game of chance in which a participant is required to pay something of value for a ticket for a chance to win a prize, and the winner is determined by a random drawing or similar process in which all participants have an equal chance of winning.



WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)



Now that the constitutional amendment is ratified, only certain types of nonprofit organizations will be able to conduct raffles in South Carolina.

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)

To determine if your organization can conduct raffles, you must look at the following criteria:

- 1) What type of nonprofit organization is it?
- 2) What is the purpose of the organization?
- 3) Is the organization compliant with the South Carolina Solicitation of Charitable Funds Act?

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)

1) What type of nonprofit organization is it?

- To conduct a raffle, a nonprofit organization must be an organization recognized by the SC Dept. of Revenue and the IRS as exempt from federal and state income tax pursuant to IRS Code Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d); or
- A class, department, or organization of an educational institution as defined in the South Carolina Solicitation of Charitable Funds Act.

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)

1) What type of nonprofit organization is it?

Please note that the nonprofit organization has to be either a tax-exempt organization or an educational institution—it does not have to be both in order to satisfy the first requirement for conducting raffles.

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)

2) What is the purpose of the organization?

To conduct a raffle, a nonprofit organization must be organized and operated for one of the following purposes:

- Religious
- Charitable
- Scientific
- Literary

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)

2) What is the purpose of the organization?

- Educational
- To foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment)
- For the prevention of cruelty to children or animals

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)

3) Is the organization compliant with the South Carolina Solicitation of Charitable Funds Act?

To solicit contributions in South Carolina, most organizations must register as a charitable organization with the Secretary of State or apply for a registration exemption on an annual basis. Thus, in order to conduct raffles, the organization must either be registered as a charity with the Secretary of State or have been approved for an annual registration exemption.

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)

3) Is the organization compliant with the South Carolina Solicitation of Charitable Funds Act?

Churches, synagogues, mosques, and other houses of worship are excluded from regulation under the Solicitation of Charitable Funds Act, and would not be required to register as a charitable organization under the Act in order to conduct raffles.

WHO CAN HOLD A RAFFLE?

S.C. CODE §33-57-120(A)



- An organization must meet all three criteria in order to conduct raffles in the state of South Carolina.

EXEMPT VS. NONEXEMPT RAFFLES

S.C. CODE §33-57-120(B)

- Organizations which intend to conduct raffles may be required to register with the Secretary of State.
- Whether registration is required depends on the types of raffles the organization conducts.
- For purposes of registration, SC law categorizes raffles as either exempt or nonexempt.

EXEMPT VS. NONEXEMPT RAFFLES

S.C. CODE §33-57-120(B)

Raffles that are exempt for the purposes of registration include:

- Raffles in which a noncash prize is donated for the raffle and the total value of the prize or prizes for the raffle event are \$500 or less.



EXEMPT VS. NONEXEMPT RAFFLES

S.C. CODE §33-57-120(B)

Raffles that are exempt for the purposes of registration include:

- Fifty-fifty raffles in which the raffle tickets are sold to members or guests of the nonprofit organization (not to the general public), and the total value to the proceeds collected is not more than \$950.00



EXEMPT VS. NONEXEMPT RAFFLES

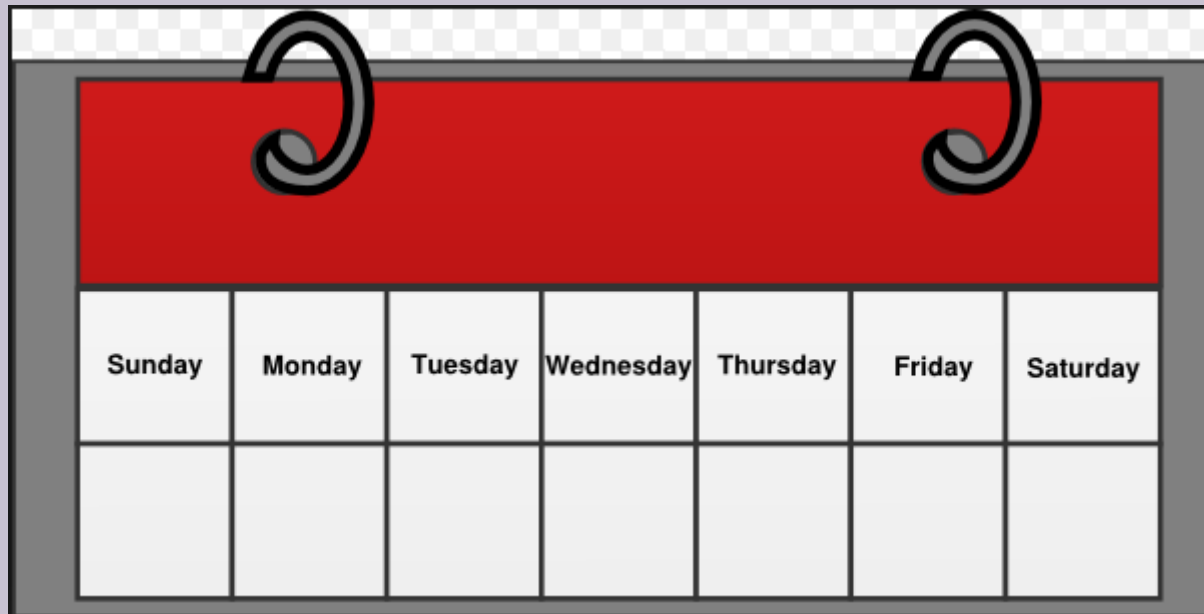
S.C. CODE §33-57-120(B)

- A fifty-fifty raffle is one in which the proceeds collected from the sale of raffle tickets are split evenly between the prize winner and the nonprofit organization.
- Thus, for a fifty-fifty raffle to qualify as exempt, neither the prize winner nor the nonprofit organization can collect more than \$475.00 from a single raffle event.

EXEMPT VS. NONEXEMPT RAFFLES

S.C. CODE §33-57-120(B)

- An organization that is authorized to conduct raffles under the law may only hold one exempt raffle every seven days.



EXEMPT VS. NONEXEMPT RAFFLES

S.C. CODE §33-57-120(B)

If a nonprofit organization intends to conduct nonexempt raffles, or both exempt and nonexempt raffles, then it must register with the Secretary of State.



RAFFLE REGISTRATION

S.C. CODE §33-57-120(C)

- To register for the purpose of conducting raffles, a nonprofit organization must submit an annual raffle registration form to the Secretary of State, along
 - with a registration fee of \$50.00.
- ▣ An organization must only file one raffle registration each year.
- ▣ The raffle registration is separate from registration as a charitable organization under the Solicitation of Charitable Funds Act.

RAFFLE REGISTRATION

S.C. CODE §33-57-120(C)

- The registration for the purpose of conducting raffles
 - expires on the fifteenth day of the fifth month, or 4
 - ½ months, after the end of the nonprofit
 - organization's fiscal year.
- For example, if the organization's fiscal year runs from January 1st to December 31st, then its registration will expire on May 15th.
- If the organization's fiscal year runs from July 1st to June 30th, then its registration will expire on November 15th.

RAFFLE RESTRICTIONS

S.C. CODE §33-57-130

- A nonprofit organization that has registered for the purpose of conducting raffles may conduct up to four nonexempt raffles each year.
 - ▣ A registered organization may also conduct raffles that are exempt under SC Code §33-57-120(B) in addition to the raffles that are nonexempt.
 - ▣ As previously stated, a nonprofit organization may conduct only one exempt raffle every seven days.

RAFFLE RESTRICTIONS

S.C. CODE §33-57-130

- If a nonprofit organization has affiliates or subsidiaries that share the same Employer's Identification Number (EIN), then each affiliate or subsidiary may conduct up to four nonexempt raffles each year, provided that:
 - ▣ The affiliate or subsidiary is qualified to conduct raffles under SC Code §33-57-120(A).
 - ▣ The affiliate or subsidiary has filed its own registration form for the purpose of conducting raffles.

RAFFLE TICKET RESTRICTIONS

S.C. CODE §33-57-140

The purchase price of a raffle ticket may not exceed \$100.00.



RAFFLE DRAWING RESTRICTIONS

S.C. CODE §33-57-140

- A raffle drawing must be held no later than nine months after the first raffle ticket is sold.
- A raffle drawing may not be held between the hours of midnight and 10:00 a.m.



RAFFLE DRAWING RESTRICTIONS

S.C. CODE §33-57-140



No raffle drawing may be held on Christmas Day.

RAFFLE PRIZE RESTRICTIONS

S.C. CODE §33-57-140

- An individual prize awarded to each winner in a raffle may not exceed the fair market value of \$40,000.00.
- For each raffle event, the total fair market value of prizes offered may not exceed \$250,000.00.

RAFFLE PRIZE RESTRICTIONS

S.C. CODE §33-57-140

An organization cannot offer real property as a prize in a raffle.



RAFFLE PRIZE RESTRICTIONS

S.C. CODE §33-57-140

Noncash prizes may not be redeemed for money from the nonprofit organization, or from any other entity that redeems noncash raffle prizes for money in the ordinary course of business.



RAFFLE RECEIPTS RESTRICTIONS

S.C. CODE §33-57-140

Except for fifty-fifty raffles, no less than 90% of the net receipts from a raffle must be used for the charitable purpose of the organization.



RAFFLE RECEIPTS RESTRICTIONS

S.C. CODE §33-57-140



- Participation (either direct or indirect) in an political campaign on behalf of or opposition to a candidate for elective office.

ADVERTISEMENT RESTRICTIONS

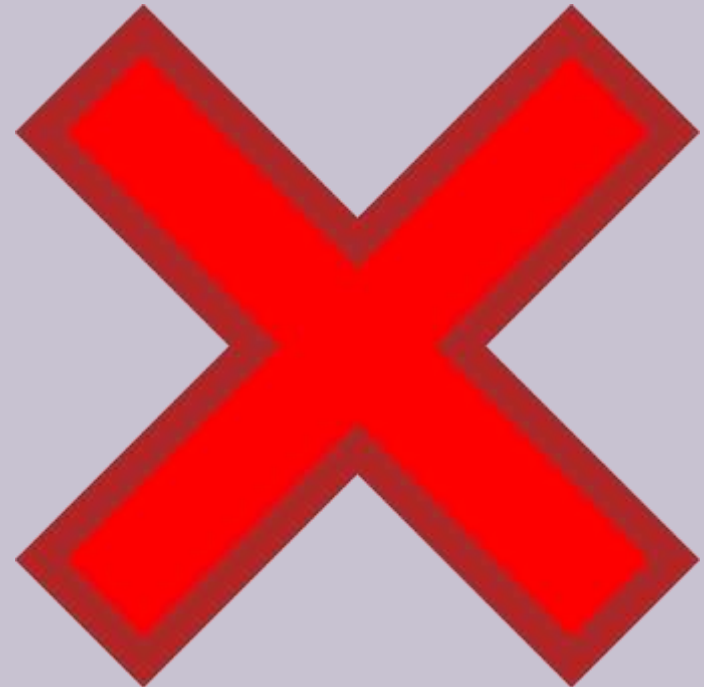
S.C. CODE §33-57-140

- If a nonprofit organization advertises a raffle event, the advertisement must contain the following information:
 - ▣ The name of the nonprofit organization sponsoring the event;
 - ▣ The charitable purposes for which the net receipts shall be used; and
 - ▣ A statement of the proportion of the gross receipts of all raffles conducted in the previous two years that were not applied to charitable purposes.

AGENT RESTRICTIONS

S.C. CODE §33-57-140

A nonprofit organization may not enter into a contract with any person, such as a professional fundraiser, to conduct a raffle on its behalf.



AGENT RESTRICTIONS

S.C. CODE §33-57-140

- A nonprofit organization may not conduct raffles through any agent or third party.
- A nonprofit organization may not lend its name or allow its identity to be used by any person to operate or advertise a raffle, unless the nonprofit organization is directly and solely conducting the raffle.
- No person may lease or purchase the name of a nonprofit organization for the purpose of conducting a raffle.

AGENT RESTRICTIONS

S.C. CODE §33-57-140



Rental of raffle equipment from a third party and the hiring of a person to operate equipment, so long as the expense is reasonable, is not considered conducting a raffle by a third party.

COMPENSATION RESTRICTIONS

S.C. CODE §33-57-140

- A raffle may be conducted only by a qualified and authorized nonprofit organization through its directors, bona fide employees, and unpaid volunteers, none of whom may be compensated for their services in conducting the raffle.
- Food and beverages served to volunteers and staff during a raffle are not considered compensation.

ALLOWABLE EXPENSES

S.C. CODE §33-57-150

- Certain expenses for conducting raffles are allowed under South Carolina law if they are reasonable and necessary. Allowable expenses include:
 - ▣ Raffle prizes or door prizes.
 - ▣ Advertising, including costs of printing raffle tickets and gift certificates.
 - ▣ Office supplies, copying, and minor office equipment.
 - ▣ Reasonable postage, parking and shipping costs.

ALLOWABLE EXPENSES

S.C. CODE §33-57-150

- ▣ Food and beverages provided to attendees and volunteers at the raffle event.
- ▣ Materials and supplies for decorating a facility.
- ▣ Entertainment-related costs.



ALLOWABLE EXPENSES

S.C. CODE §33-57-150



- ▣ Repairs to premises and equipment.
- ▣ Stated premises' rental or insurance expenses.
- ▣ Security expenses.
- ▣ Janitorial expenses and supplies.

ALLOWABLE EXPENSES

S.C. CODE §33-57-150

- Bookkeeping, accounting, or legal services used in connection with a raffle, including registration fees and financial reports.
- Permit costs, fees, or taxes required by local or state government to conduct and operate a raffle.



ANNUAL FINANCIAL REPORTING

S.C. CODE §33-57-150



Nonprofit organizations that conduct nonexempt raffles must file an annual raffle financial report with the Secretary of State.

ANNUAL FINANCIAL REPORTING

S.C. CODE §33-57-150

- The annual raffle financial report is due on the fifteenth day of the fifth month, or 4 ½ months, after the end of the nonprofit organization's fiscal year.
- The annual raffle financial report is due at the same time the organization's raffle registration expires.
- Unlike annual financial reports filed under the Solicitation of Charitable Funds Act, no filing extensions are provided for annual raffle financial reports.

ANNUAL FINANCIAL REPORTING

S.C. CODE §33-57-150

- “Gross receipts” means all funds collected or received from the conduct of raffles.
- “Adjusted gross receipts” means gross receipts less all cash prizes and the amount paid for merchandise purchased for prizes.
- “Net receipts” means adjusted gross receipts less all expenses, charges, fees and deductions that allowed for raffles under South Carolina law.

ANNUAL FINANCIAL REPORTING

S.C. CODE §33-57-150

The annual raffle financial report must contain the following information for each nonexempt raffle conducted by the nonprofit organization during the preceding fiscal year:

- The amount of gross receipts.



ANNUAL FINANCIAL REPORTING

S.C. CODE §33-57-150

- An itemized list of expenses incurred or paid, or expenditures to be made, including:
 - ▣ The name of each person, company, or governmental entity to whom the expense was or will be paid, and
 - ▣ A detailed description of the merchandise purchased or services rendered.



ANNUAL FINANCIAL REPORTING

S.C. CODE §33-57-150

The annual raffle financial report must also include:

- The amount of net receipts.
- The use to which the net receipts have been or are to be applied.
- A list of prizes offered and given, with an estimate of their respective values.
- The number of raffle tickets sold.

ADMINISTRATIVE FINES & PENALTIES

S.C. CODE §33-57-150

- An organization which fails to file its annual raffle financial report on time may be assessed by the Secretary of State an administrative fine of \$10.00 for each day of noncompliance, not to exceed \$2,000.00 for each separate violation.
 - ▣ Failure to pay the fine and/or file the report may result in revocation of the organization's registration.
 - ▣ The Secretary of State may also pursue injunctive relief against the delinquent organization in Administrative Law Court.

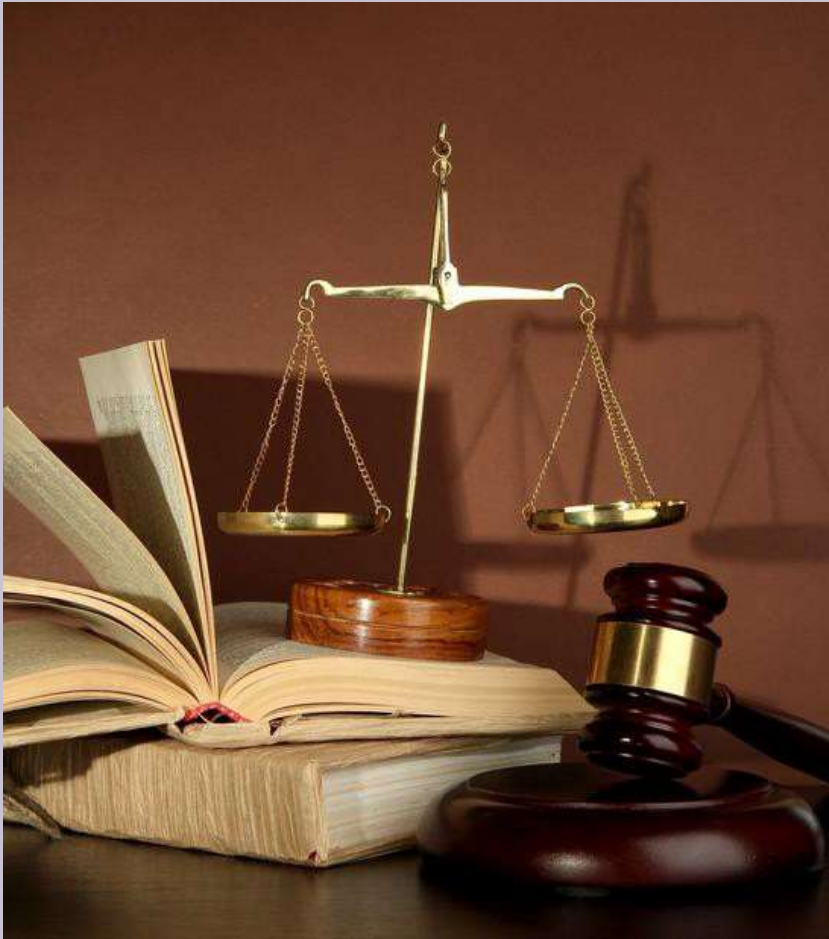
ADMINISTRATIVE FINES & PENALTIES

S.C. CODE §33-57-160

- The Secretary of State may impose administrative fines of up to \$500.00 and/or seek injunctive relief for any other violations of the statutory provisions governing raffles.
- The Secretary of State may assess an administrative fine of up to \$500.00 for each violation and each day a person or organization is in violation of the law.

ADMINISTRATIVE FINES & PENALTIES

S.C. CODE §33-57-160



If a person or organization is assessed an administrative fine, has its registration suspended or revoked, or is denied registration by the Secretary of State, that person or organization has 30 days to file an appeal with the Administrative Law Court.

CRIMINAL OFFENSES

S.C. CODE §33-57-170

- ▣ A person or organization that knowingly and wilfully conducts a nonprofit raffle without obtaining the necessary registration or qualifying for a registration exemption is guilty of conducting an illegal lottery.
- ▣ This criminal offense is punishable by a fine of up to
 - \$1,000.00 and/or imprisonment of up to one year.
- ▣ For a second or subsequent offense, a person or organization is guilty of a felony and subject to a fine of up to \$10,000.00 and/or imprisonment of up to five years.

CRIMINAL OFFENSES

S.C. CODE §33-57-170

- ▣ Other criminal offenses include:
 - ▣ Knowingly and wilfully violating a provision of the law governing raffles with the intent to deceive or defraud an individual or nonprofit organization.
 - ▣ Knowingly and wilfully giving false or misleading information to the Secretary of State in a raffle registration or financial report.



OTHER GAMING EVENTS

S.C. CODE §33-57-100

- Although nonprofit raffles will be legal upon ratification of the constitutional amendment, “casino nights” and other fundraising events using gambling devices remain illegal, unless the event is conducted for entertainment purposes only and no prizes, financial awards, or incentives are received by the players.
- Likewise, events using electronic gambling devices, video poker, slot machines, and wagering on sports events are not permitted.



CONTACT INFORMATION

Secretary of State Mark Ham
mond's Office

1205 Pendleton Street, Suite 525

Columbia, SC 29201

(803) 734-2170

www.sos.sc.gov

Division of Public Charities

(803) 734-1790

1-888-242-7484

charities@sos.sc.gov