

RAFFLES AND CASINO/POKER NIGHTS IN TEXAS

Frequently Asked Questions

The Charitable Raffle Enabling Act, Chapter 2002 of the Occupations Code (“CREA”) establishes the guidelines for raffles in Texas. *See* Tex. Occ. Code Ann. ch. 2002 (Vernon 2004). The statute is very technical and should be consulted before advising an organization regarding the legality of a proposed raffle. There are numerous Attorney General Opinions regarding both raffles and casino/poker nights. The Attorney General is not permitted to give specific legal advice and the following represents only guidelines for suggested responses to frequently asked questions.

Raffles

1) What is a raffle?

CREA defines a raffle as “the award of one or more prizes by chance at a single occasion among a single pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize.”

2) Who may conduct raffles?

Only a qualified religious society that has been in existence in Texas for at least 10 years; a qualified volunteer fire department that operates firefighting equipment and that does not pay its members other than nominal compensation; a qualified volunteer emergency medical service that does not pay its members other than nominal compensation; or a 501 (c) tax-exempt, nonprofit organization that has been in existence for at least three years may hold raffles in Texas. Individuals and for-profit businesses may not hold raffles.

3) Do I have to register or obtain a permit to conduct a raffle?

No. You just have to qualify under the law.

4) How many raffles may be held?

Each qualified organization is allowed two raffles per calendar year.

5) What if a raffle cannot be held on the date scheduled?

The organization may set another date not later than 30 days from the original date. If the prizes are not awarded within 30 days of the original date, the organization must refund the ticket money to the purchasers.

- 6) What may the money raised be used for?

All proceeds from raffles must be used for the charitable purposes of the organization as defined by CREA 2002.002(1).

- 7) How may a raffle be promoted?

Paid advertising through a medium of mass communication is prohibited. Donated advertising is permissible.

- 8) Can I advertise and sell tickets on the internet?

CREA states that the organization may not promote or advertise a raffle statewide, or sell or offer to sell tickets statewide. The term *statewide* has not been defined or interpreted in an Attorney General opinion, but it is generally thought that *statewide* would include internet promotion.

- 9) Who can sell tickets?

The organization's members and anyone who is authorized by the organization may sell tickets. (This is a change in the law that took place in 2005. Prior to that time, only members of the organization could sell tickets.)

- 10) Can I hire people to sell tickets? Can I give a prize to the person who sells the most tickets?

No. The organization may not compensate a person directly or indirectly for selling tickets.

- 11) May I hire someone to organize and conduct the raffle?

No. The organization may not compensate a person directly or indirectly for organizing or conducting a raffle.

- 12) What must be printed on the tickets?

Five items must be on each ticket: 1) the name of the organization conducting the raffle; 2) the address of the organization or of a named officer of the organization; 3) the ticket price;

4) a general description of each prize having a value of more than \$10 to be awarded in the raffle; and 5) the date on which the raffle prize or prizes will be awarded.

13) Can I give cash prizes?

No. Cash prizes are strictly prohibited. "Money" is defined by CREA as "coins, paper currency, or a negotiable instrument that represents and is readily convertible to coins or paper currency." *See* 2002.002(1-a). A certificate of deposit is a prohibited prize. *See* Tex. Att'y Gen. Op. No. JC-0111 (1999). A U.S. savings bond and a prepaid, or "stored-value," credit card is not prohibited. *See* Tex. Att'y Gen. Op. No. GA-0341 (2005). The question of the prohibition of a gift certificate has not been directly addressed in an AG Opinion, but as long as it is not readily convertible to cash, it would likely not be prohibited.

14) Is there a limit on the value of prizes?

Yes. For purchased prizes, the value of each prize may not exceed \$50,000. For a purchased residential dwelling, the value may not exceed \$250,000. There is no limit to the value of donated prizes.

15) Do I need to have the prize on hand at the time of the drawing?

CREA states that the organization must have the prize in its possession or ownership; or it must post a bond with the county clerk of the county in which the raffle is to be held for the full amount of the money value of the prize.

16) How do I post a bond with the county clerk?

The statute is not specific, but it is assumed that it be a surety bond. Most county clerks are unaware of the required procedure, so it is suggested that a surety bond be obtained from a bond company, and then ask the county clerk's office to keep it on file until the prize is awarded. Refer the clerk's office to CREA 2002.056(d)(2) if they are confused. [Note this is only required if the organization does not have possession of the prizes to be awarded.]

Poker/Casino Nights

1) Can my nonprofit hold a poker tournament or casino night fundraiser?

Unlike raffles and bingo, there is NO exception to the gambling law in Texas for nonprofits to hold poker or casino night fundraising events. The gambling law, Chapter 47 of the Penal Code, applies to nonprofits and to for-profits equally. *See* Tex. Pen. Code Ann. §47 (Vernon 2003). Basically, there are three parts to an activity that would make it illegal gambling: 1) money or anything of value is paid to enter the game; 2) the winners are decided by a game of chance; and 3) prizes of value are awarded. If all three of those

conditions are met, then it's gambling and illegal. If the game is free to enter, then prizes of value may be awarded. If an entry fee is charged, then prizes of value may not be awarded.

- 2) What if the poker tournament or casino night is held in a private place?

It is legal for individuals to play poker or other casino activities in a private place, defined as "a place to which the public does not have access." They can bet money and win money. However, all money must be redistributed to the participants. The "house" cannot keep a cut, thus it would obviously be difficult for a nonprofit to raise funds in this way.

For More Information:

- § For online Charitable Raffles brochure: www.oag.state.tx.us (Consumer Protection/Charities & Non-profits/Raffles)
- § For online Attorney General Opinions: www.oag.state.tx.us (Opinions)
- § For a copy of the Charitable Raffle Enabling Act: Texas Legislature Online: www.capitol.state.tx.us (Texas State Law Library)