

940 CMR. OFFICE OF THE ATTORNEY GENERAL

940 CMR 12.00. Regulations Governing Raffles

§ 12.01. Definitions

Prize. Any item or items chosen by a sponsoring organization as the subject of a raffle, which the organization announces it will award to a person selected by chance from among those purchasing tickets to the raffle.

Qualified Member. For the purposes of eligibility to participate in managing or otherwise assisting in the operation of a raffle, a person is a bona fide member of the licensed organization only when he or she:

- (a) Has become a member prior to the commencement of the function and such membership was not dependent upon, or in any way related to the payment of consideration to participate in, any gambling activity; and
- (b) Has held full and regular membership status in the licensed organization for a period of not less than three consecutive months prior to the subject function; and
- (c) Has paid any reasonable initiation or admission fees for membership, and/or any dues, consistent with the nature and purpose of the licensed organization and with the type of membership obtained and is not in arrears in payment of any such fees or dues; and
- (d) Has met all other conditions required by the licensed organization for membership and is in all respects a member in good standing at the time of the subject function.

A person may also be a bona fide member of a bona fide charitable or bona fide nonprofit organization affiliated with or auxiliary to his or her licensed organization, or to which his or her own licensed organization is auxiliary, when he or she meets all of the standards set out above respecting his or her own licensed organization.

Related Party. Includes:

- (a) An officer, director, or trustee (or an individual having powers or responsibilities similar to those of officers, directors, or trustees) of the organization.
- (b) A spouse other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance; a child including legally adopted children; grandchildren; parents; and grandparents of parties described in 940 CMR 12.01(1).
- (c) A corporation, trust, estate or partnership more than 35% of which is owned or held by any of the preceding.

Sponsoring Organization. Any organization conducting a raffle pursuant to a license under M.G.L. c. 271, § 7A to conduct raffles.

§ 12.02. Disclosure

- (1) In any raffle conducted pursuant to M.G.L. c. 271, § 7A, the sponsoring organization must disclose the following information either on the raffle ticket itself or in a written notice given to the purchaser prior to the sale:
 - (a) a full and fair description of the prize;
 - (b) the appraised value of the prize;
 - (c) date or dates when the prize will be available for inspection;
 - (d) if there is a minimum number of tickets to be sold; what the minimum is and the procedure to be employed to secure a refund in the event the minimum is not reached;
 - (e) the maximum number of tickets to be sold if any;
 - (f) the fact that the value of the prize will be treated as ordinary income to the winner for federal and state income tax purposes and that the winner may be required to pre pay a portion of the tax liability prior to receiving the prize;
 - (g) the fact that the Internal Revenue Service takes the position that no portion of the ticket price will qualify as a charitable contribution for federal income tax purposes;
 - (h) the drawing date for the raffle;
 - (i) the estimated percentage of the ticket price which will be used for charitable purposes in the event that only the minimum number of tickets are sold;
 - (j) the exact nature of the charitable purpose for which the proceeds will be used;
 - (k) any other facts the disclosure of which may have influenced the purchaser or prospective purchaser not to enter into the transaction.
- (2) Each ticket must bear a clear and conspicuous warning to the effect that depositing the ticket or any other material in connection with the raffle in the federal mails is a violation of federal law and may lead to criminal penalties.

§ 12.03. Obligations of the Sponsoring Organization

- (1) If there are any changes in the terms of the raffle such as a change in the nature or value of the prize, a postponement of the drawing date, the sale of greater than the maximum number of tickets, etc., the organization shall notify each of the ticket purchasers of the change and offer them an opportunity to rescind their purchase.
- (2) If for any reason the raffle is not completed and a prize is not awarded on the scheduled drawing date, the sponsoring organization must take all steps necessary to notify ticket purchasers of that fact and return all money received from ticket purchasers within 30 days.
- (3) No member or employee, or immediate family member of a member or employee, of a sponsoring organization who has been directly involved in the promotion or operation of a raffle shall be permitted to purchase tickets to the raffle or win the prize. The sale of tickets alone shall not constitute the promotion and sale of a raffle for purposes of 940 CMR 12.03.
- (4) The sponsoring organization shall take such steps as are necessary under the circumstances to insure that each ticket purchased has a chance to be selected as the prize winner and that the prize winner is selected in an entirely random manner.
- (5) In cases where the sponsoring organization purchases the prize from a third party, it must arrange for an independent appraisal of the value of the prize from a person licensed to render such appraisals, or if there is no applicable licensing requirement, from a person qualified to render such appraisals.
- (6) If the sponsoring organization purchases a prize from a related party, the price to be paid must be at cost or substantially less than the appraised value of the prize.
- (7) No sponsoring organization or its employees, members, agents or servants, shall give away tickets to a raffle without receiving the full established price for them.
- (8) The sponsoring organization shall structure the raffle in such a way that it may reasonably be anticipated that the sponsoring organization will retain a percentage of the gross proceeds which is reasonable under the circumstances and shall retain all of the net proceeds (gross proceeds minus the direct expenses of the raffle) for the purposes specified in their application under M.G.L. c. 271, § 7A.

§ 12.04. Record Keeping, Financial Control

- (1) A record keeper shall be designated from among the members of the organization as defined at 940 CMR 12.01 and shall have been a member for a minimum of two years prior to the commencement of the raffle. The record keeper or his designee shall be responsible for the keeping and distribution of raffle tickets to be sold, the safekeeping of paid for and completed ticket stubs, and the maintenance of the records prescribed by 940 CMR 12.04 during and after the completion or suspension of the raffle for a period of at least two years.
- (2) The raffle ticket shall have at least two parts, one of which is to be retained by the purchaser, and the other to be retained by the record keeper. The record keeper's part must at a minimum contain the purchaser's name, address, and the telephone number. All such parts shall be imprinted with sequential serial numbers commencing with the numeral "1" through the maximum number of tickets to be sold. Both copies shall bear the signatures of both the seller and the purchaser of the ticket.
- (3) The record keeper shall maintain and periodically update as the need arises, the following types of records:
 - (a) a list of members of the sponsoring organization;
 - (b) a list of members authorized to sell raffle tickets or participating in any way in the promotion or operation of the raffle;
 - (c) all documents, bills of sale, agreements, appraisals or other documents concerning the purchase of the article or articles to be raffled;
 - (d) all permits, licenses, and any other documents prescribed or required by law as necessary for the lawful conduct of a raffle;
 - (e) a ledger book or other suitable record keeping device listing the serial number of the ticket sold, the purchaser's name and address, and the date purchased. Such entries shall be made upon receipt of the ticket part from the selling member or members and will be maintained in such a way as to permit a calculation at any time, of the number of tickets sold to date;
 - (f) the ticket stubs used to conduct the drawing for a period of not less than two years.
- (4) Financial records shall be maintained by the record keeper sufficient to show:
 - (a) the current amount of proceeds received on account of the raffle;
 - (b) all expenses related to the conduct of the raffle including printing costs, advertising costs, lawyers fees, appraisal costs, insurance premiums, and any other costs reasonably attributable to the raffle.

Cite as 940 CMR 12.04

§ 12.05. Violations of Regulations

Failure to comply with any of 940 CMR 12.00 shall be deemed an unfair and deceptive act or practice, in violation of M.G.L. c. 93A, § 2 or a misapplication of funds given or appropriated to public charities.

Cite as 940 CMR 12.05

§ 12.06. Severability

If any provision of 940 CMR 12.00 or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of 940 CMR 12.00 and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Cite as 940 CMR 12.06

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