**South Carolina General Assembly**

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**H. 3079**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Merrill, Daning and McCoy

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Introduced in the House on January 8, 2013

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Summary: Charitable Raffles

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/11/2012 House Prefiled

12/11/2012 House Referred to Committee on **Judiciary**

1/8/2013 House Introduced and read first time ([House Journal‑page 76](file:///h:\HJ%20Archive\2013\01-08-13.docx))

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**VERSIONS OF THIS BILL**

[12/11/2012](file:///p:\pprever\2013-14\3079_20121211.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 2 TO CHAPTER 22, TITLE 12 SO AS TO AUTHORIZE THE TERMS, CONDITIONS, PROCEDURES, AND REQUIREMENTS UNDER WHICH CHARITABLE RAFFLES MAY BE CONDUCTED IN THIS STATE AND TO PROVIDE THAT THE PROVISIONS OF ARTICLE 2 TAKE EFFECT UPON RATIFICATION OF AN AMENDMENT TO THE CONSTITUTION OF SOUTH CAROLINA, 1895, ALLOWING ITS PROVISIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 22, Title 12 of the 1976 Code is amended by adding:

“Article 2

Charitable Raffles

Section 12‑22‑100. (A) A lottery or raffle of any type whatsoever is unlawful unless it is authorized by the following:

(1) Chapter 150, Title 59;

(2) Chapter 22, Title 12.

(B) The penalties for operating an unlawful lottery or raffle are provided pursuant to this chapter. Each violation is a separate offense.

Section 12‑22‑110. (A) It is the intention of the General Assembly that only tax‑exempt religious, fraternal, and civic organizations, schools, or other charitable groups shall be allowed to operate raffles.

(B) For purposes of this chapter:

(1) ‘Adjusted gross receipts’ mean gross receipts less all cash prizes and the amount paid for merchandise prizes purchased.

(2) ‘Charitable organization’ means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes.

(3) ‘Gross receipts’ mean all monies collected or received from the conduct of a charitable raffle.

(4) ‘Net receipts’ mean adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter.

(5) ‘Operate’, ‘operated’, or ‘operating’ means the conduct, direction, supervision, management, operation, control, or guidance or activity.

(6) ‘Person’ means a natural person, partnership, association, company, corporation, or organization, or a manager, agent, servant, officer, or employee thereof.

(7) ‘Raffle’ means 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, with the winner to be determined by a random drawing or similar process whereby all entries have an equal chance of winning.

(8) ‘Year’ means calendar year.

Section 12‑22‑120. (A) A charitable organization is allowed to conduct raffles in accordance with the provisions of this chapter if the charitable organization:

(1) is recognized by the South Carolina Department of Revenue and the United States Internal Revenue Service as exempt from federal and state income taxation;

(2) has been in continuous existence and operation in the state for a period of not less than one year from the date of the first raffle; and

(3) is registered with the Secretary of State pursuant to the requirements of Chapter 56, Title 33. In the event that the charitable organization is unable to provide the Secretary of State with documents that are required by such chapter, the charitable organization must provide sufficient evidence concerning the structure and operation of the organization to enable the agency to determine whether the applicant meets the charitable, religious, or fraternal criteria. Sufficient evidence includes submission of a document attesting to the stated purpose of the organization, names of board members or organizers of the organization, and the formation date of the organization.

(B) The requirement to register for the purpose of conducting raffles with the Secretary of State shall apply to any and all charitable organizations that intend to conduct a raffle in this State, including those organizations that are exempt or not required to follow the registration requirements of Chapter 56, Title 33, unless the raffle is held by a charitable organization where a prize is donated by a member of the charitable organization, the total value of the prize is less than five hundred dollars, and each raffle ticket is sold for not more than five dollars.

(C) Registrations for raffles shall expire twelve months from the date of issuance. Organizations that meet the requirements of Section 12‑22‑120(A) shall submit an annual raffle form along with a fee of fifty dollars to the Office of the Secretary of State. This registration form and fee shall cover all allowable raffles for the year. Proceeds from the fees shall be retained by the Secretary of State for enforcement of these provisions.

(D) Charitable organizations registering with the Secretary of State shall be subject to investigation and other actions by the Secretary of State, and subject to all penalties contained in Chapter 56, Title 33. The Office of the Secretary of State shall refer violations to law enforcement for criminal prosecution pursuant to the provisions of this chapter.

(E) Charitable organizations may advertise raffles.

(F) Charitable organizations are limited to four raffles per year. Each affiliate or subsidiary of a charitable organization that otherwise qualifies pursuant to the requirements of this chapter and shares a Federal Employer’s Identification Number (EIN) with the parent charitable organization shall be entitled to hold four raffles per year. This restriction does not apply to raffles held by charitable organizations where a prize is donated by a member of the charitable organization, and the total value of the prize is less than five hundred dollars, and each raffle ticket is sold for not more than five dollars.

Section 12‑22‑130. (A) No less than ninety percent of the net receipts of a raffle authorized pursuant to this chapter must be used for the charitable, religious, or philanthropic purposes of the charitable organization. No gross receipts, expenses, or net receipts of a raffle shall be used to influence the outcome of a political office or to influence the outcome of an issue pending before a political body.

(B) No charitable organization shall enter into a contract with any person to have that person operate raffles on behalf of the charitable organization.

(C) A charitable organization shall not lend its name nor allow its identity to be used by any person in the operating or advertising of a raffle in which the charitable organization is not directly and solely operating the raffle. Nothing in this section, however, shall prohibit two or more charitable organizations from participating together to run a raffle.

(D) A raffle shall be conducted only by an authorized charitable organization through its bona fide officers and members who volunteer their time and receive no compensation for their services. Food and beverages served to and consumed by volunteers during a raffle.

(E) A charitable organization shall not conduct raffles through any agent or third party, and shall not pay consulting fees or something of value to any person for any services performed in relation to the operation or conduct of a raffle. Rental of raffle equipment is not considered conducting a raffle.

(F) The provisions of this chapter are not intended and shall not be construed to allow the play of raffles through any electronic device or machine.

Section 12‑22‑140. Expenses that are reasonable and necessary to raffles as authorized by this chapter are allowable and include expenses incurred for:

(1) advertising, including the cost of printing raffle gift certificates;

(2) food and beverage costs;

(3) rental of equipment and hiring a person to operate the equipment during the limited time period allowed for raffles;

(4) repairs to premises and equipment;

(5) door prizes or prizes;

(6) stated rental or insurance expenses; and

(7) bookkeeping or accounting services.

Section 12‑22‑150. A charitable organization may conduct or participate in a raffle if the following requirements are met:

(A) the charitable organization must meet all of the requirements of Section 12‑22‑120;

(B) no merchandise prize shall be purchased or offered or cash prize offered that exceeds the gross receipts collected by the applicant exclusive of any potential prize amounts secured by a policy of insurance, and no individual cash prize not so insured shall exceed twenty‑five thousand dollars; and

(C) no less than ninety percent of the net receipts must be applied to the charitable, religious, fraternal, or nonprofit purposes of the applicant, and all of the restrictions in this chapter shall apply to any expenses, charges, fees or deductions to manufacturers, distributors, or persons conducting the raffle.

Section 12‑22‑160. (A) Each charitable organization conducting a raffle shall keep records of its gross receipts, expenses, adjusted gross receipts, and net receipts for each single raffle at which winning chances are determined. All deductions from gross receipts for each single raffle shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net receipts shall be itemized as to payee, purpose, amount and date of payment.

(B) Each charitable organization conducting raffles shall report promptly after the conclusion of each raffle to its membership, its gross receipts, expenses and net proceeds from raffles and the distribution of net proceeds itemized as required in this section.

(C) Records required by this section shall be preserved for three years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

Section 12‑22‑170. (A) Each of the officers or directors of a charitable organization who violate the provisions of this chapter shall, upon conviction, be fined not less than two thousand dollars and not more than five thousand dollars, or imprisoned for not more than thirty days, or both. Further, a charitable organization convicted of a violation pursuant to this section shall be prohibited from applying for registration to conduct a raffle not less than twenty‑four months after the date of the conviction.

(B) Other persons who violate the provisions of this chapter shall be guilty of, upon conviction:

(1) for a first offense, a misdemeanor, and upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense, a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than ninety days, or both; and

(3) for a third or subsequent offense, a misdemeanor, and upon conviction, shall be fined not more than one thousand five hundred dollars or imprisoned for not more than one year, or both.

(C) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, a violation of the provisions of this chapter must be tried exclusively in magistrates court.”

SECTION 2. The provisions of Article 2, Chapter 22, Title 12 of the 1976 Code, as added by this Section 1 of this act, become effective ninety days after ratification of an amendment to Section 7, Article XVII of the Constitution of this State allowing its terms as proposed to the qualified electors of this State at the 2016 General Election.

SECTION 3. This act takes effect upon approval by the Governor.

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