

§ 3-17-101. Short Title

This chapter shall be known and may be cited as the “Tennessee Nonprofit Gaming Law.”

§ 3-17-102. Definitions

As used in this chapter, unless the context otherwise requires:

(1) Deleted by 2015 Pub.Acts, c. 134, § 2, eff. April 14, 2015.

(2) “Annual event” means an event:

(A) Authorized by two-thirds ($\frac{2}{3}$) vote of all members elected to each house of the general assembly;

(B) Operated for the benefit of a nonprofit organization located in Tennessee;

(C) Conducted with a single type of lottery game;

(D) Conducted on an event date; and

(E) Conducted at a location within a county where the organization maintains a physical presence or in a county that is contiguous to a county where the organization maintains a physical presence;

(3) “Annual event application” means the application made to the secretary of state to operate an annual event;

(4) “Event date” means the day of an annual event. For the purposes of this subdivision (4), “day” means a twenty-four-hour period beginning at twelve o’clock (12:00) midnight and ending at eleven fifty-nine post meridiem (11:59 p.m.);

(5) “Financial accounting” means a report of funds collected and expended for the annual event that is filed after completion of an annual event;

(6) “Nonprofit organization” means:

(A) A 501(c)(3) organization that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code, codified in 26 U.S.C. § 501(a), as an organization described in § 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(3), and, for the limited purposes of this chapter:

(i) Has been in continuous and active existence in this state for five (5) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) of the Internal Revenue Code;

(ii) Has been in continuous and active existence in this state for five (5) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in any subdivision of § 501(c) of the Internal Revenue Code, but, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code;

(iii) Has been conducting a fishing event for the benefit of youth for at least ten (10) successive years in the county in which it applies to hold an annual event, but, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code;

(iv) Has been operating for at least four (4) years in this state as part of an organization exempt from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code, but, prior to submission of an annual event application, has received separate exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code;

(v) Has been in continuous and active existence in Tennessee for three (3) years immediately preceding the event date listed in an annual event application as an organization described in § 501(c)(3) of the Internal Revenue Code, and has merged with an organization that had been in continuous and active existence in Tennessee for at least five (5) years as an organization described in § 501(c)(3) of the Internal Revenue Code;

(vi) Is a school foundation organized pursuant to § 49-2-612 and, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code. No more than one (1) school foundation per public school per annual event period shall qualify as a 501(c)(3) organization pursuant to this subdivision (6)(A)(vi); or

(vii) Has been in continuous and active existence in this state for three (3) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) of the Internal Revenue Code and is a dues paying member of a separate organization described in § 501(c)(3) of the Internal Revenue Code which has been in continuous and active existence in this state for ten (10) years preceding the event date listed in an annual event application;

(viii) Has been in continuous and active existence in this state as a volunteer fire department for at least ten (10) years immediately preceding the event date listed in an annual event application, but, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in § 501(c)(3) of the Internal Revenue Code for two (2) continuous years preceding the event date; and

(B) A 501(c)(19) organization that is exempt from federal income taxation under § 501(a) of the Internal Revenue Code, codified in 26 U.S.C. § 501(a), as an organization described in § 501(c)(19) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(19) and, for the limited purposes of this chapter:

(i) Has been in continuous and active existence in this state for five (5) years immediately preceding the event date listed in an annual event application as an organization exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(19) of the Internal Revenue Code; or

(ii) Has been operating for at least four (4) years in this state as part of an organization exempt from federal taxation as an organization described in § 501(c)(19) of the Internal Revenue Code, but, prior to submission of an annual event application, has received separate exemption from federal taxation as an organization described in § 501(c)(19) of the Internal Revenue Code;

(7) "Person" means any individual, organization, trust, foundation, group, association, partnership, limited liability company, corporation, society, or any combination of them, or any other entity;

(8) "Secretary" means the secretary of state or the secretary of state's authorized representative; and

(9)(A) "Type of lottery game" means a game of chance played by any person eighteen (18) years of age or older, including raffles, reverse raffles, cakewalks and cakewheels, but expressly prohibiting pulltabs, punchboards, bingo, instant bingo, video lottery, instant and on-line lottery games of a type operated by the Tennessee education lottery corporation, keno and games of chance associated with casinos including, but not limited to, slot machines, roulette wheels, and the like;

(i) For the purpose of this subdivision (9), "bingo" means a specific game of chance in which participants use cards or paper sheets divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(ii) For the purpose of this subdivision (9), "cakewalks" and "cakewheels" mean a game of chance in which a participant is required to make a wager to select, or to receive, a prize with the winner determined by random selection through walking to music, colored space, a spinning wheel, drawing or any combination thereof;

(iii) For the purpose of this subdivision (9), "raffles" and "reverse raffles" mean a game of chance in which a participant is required to purchase a ticket, share, chance or similar record for a chance to win a prize, with the winner to be determined by random drawing;

(iv) For the purpose of this subdivision (9), "video lottery" means a lottery that allows a game to be played utilizing an electronic computer and an interactive terminal device, equipped with a video screen and keys, a keyboard or other equipment allowing input by an individual player, into which the player inserts coins or currency as consideration in order for play to be available, and through which terminal device, the player may receive free games or a voucher that can be redeemed for a cash or non-cash prize, or nothing, determined wholly or predominantly by chance;

(B) Any type of lottery game not expressly authorized in this subdivision (9) is prohibited.

§ 3-17-103. Annual events; applications; frequency; joint events; proceeds; omnibus list; authorization; financial accounting

(a)(1)(A)(i) A nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state shall submit an annual event application to the secretary by January 31 each year for the annual event period beginning July 1 of that calendar year and ending June 30 of the subsequent calendar year.

(ii) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a 501 (c)(3) organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within three (3) calendar days after April 14, 2015, for the annual event period beginning July 1, 2015, and ending June 30, 2016.

(iii) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the

secretary within five (5) calendar days after March 20, 2018, for the annual event period beginning July 1, 2017, and ending June 30, 2018.

(iv) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within five (5) calendar days after March 9, 2020, for the annual event period beginning July 1, 2020, and ending June 30, 2021.

(v) In addition to the submission deadline described in subdivision (a)(1)(A)(i), a nonprofit organization seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within two (2) calendar days after June 15, 2020, for the annual event period beginning July 1, 2020, and ending June 30, 2021.

(B) For purposes of the submission deadline, the postmark date on the annual event application is deemed to be the date of submission; provided, that, for the purposes of the submission deadline pursuant to subdivisions (a)(1)(A)(ii)-(v), an annual event application is not deemed to be submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

(2) The organization shall be a nonprofit organization as defined in § 3-17-102.

(3)(A) A nonprofit organization, including chapters or affiliates operating under the same tax exemption, shall not operate more than one (1) annual event within any twelve-month period beginning July 1 and ending June 30.

(B)(i) An annual event shall be operated at a single location within a county in Tennessee where the nonprofit organization has a physical presence or in a county that is contiguous to a county where the organization maintains a physical presence, as disclosed pursuant to § 3-17-104(e)(1), or a nonprofit organization may operate an annual event on the same day in one (1) county where it has a physical presence in each grand division of the state as described in §§ 4-1-201 -- 4-1-204. Such location, or locations, shall be listed as the location of the annual event in the annual event application pursuant to § 3-17-104(e)(4).

(ii) Nothing in this subdivision (a)(3)(B) shall be construed to limit the ability of an organization to sell tickets, shares, chances or similar records for an authorized annual event in any political subdivision of this state.

(iii) No more than two (2) annual events per calendar month shall be held at the same location in each county during any annual event period. For the purpose of this subdivision (a)(3)(B), "location" means a single physical site in a county identified by an address or unique descriptive feature.

(C) Notwithstanding any provision of this chapter to the contrary, a nonprofit organization authorized to conduct an annual event may change the location of the annual event if the location listed on the annual event application is subsequently unavailable during the time in which the annual event was to be conducted and if the following conditions are satisfied:

(i) Written notice is given to the secretary of state, Tennessee bureau of investigation and district attorney general for the judicial district in which the annual event is to be conducted, stating that the listed location is unavailable, the reason for unavailability, and the new location;

(ii) Sufficient public notice is given by means of posting notice on the organization's web site, if any, and by publication in a newspaper of general circulation in the county in which the annual event will be conducted; and

(iii) The new location complies with subdivision (a)(3)(B)(iii).

(4)(A) A nonprofit organization may operate an annual event in conjunction with one (1) or more nonprofit organizations under the following circumstances:

(i) Each nonprofit organization files an independent annual event application including, but not limited to, the appropriate application fee, in accordance with this chapter;

(ii) Each nonprofit organization submits, with the annual event application, a joint statement of authorization indicating the intention to conduct a joint annual event and listing all organizations participating in such joint event; and

(iii) Each nonprofit organization applicant is in compliance with this chapter and is eligible for inclusion on the omnibus list.

(B) If one (1) or more nonprofit organizations are not eligible for inclusion on the omnibus list, or fail to timely file an annual event application, all applicants for a joint annual event shall be excluded from the omnibus list. No provision of this subdivision (a)(4) shall be construed as authorizing a nonprofit organization participating in a joint event to operate, participate or conduct, jointly or otherwise, more than one (1) annual event within any twelve-month period beginning July 1 and ending June 30.

(5)(A)(i) Except as otherwise provided in this subdivision (a)(5), a nonprofit organization authorized to conduct an annual event pursuant to this chapter shall not employ, contract with, or otherwise utilize the services of any person including, but not limited to, any management company, consultant or other entity, to manage, conduct or operate any aspect of an annual event. An authorized annual event shall be managed, conducted and operated only by bona fide directors, officers or employees of a nonprofit organization who:

(a) Manage, conduct or operate only one (1) such annual event in any twelve-month period beginning on July 1 and ending on June 30 each year for any nonprofit organization; and

(b) Receive no compensation for duties associated with the annual event from the proceeds of the annual event except compensation otherwise due to such person in the normal course of business. In no event shall such person's normal compensation, or any other form of compensation or benefit including, but not limited to, any bonus payment or any other form of supplemental payment, be based upon or determined by reference to a percentage of the proceeds derived from the operation of the annual event, the number of people participating in the annual event or any other factor related to the annual event.

(ii) Unpaid volunteer personnel, including members of a nonprofit organization, may be utilized by a nonprofit organization to manage, conduct or operate an annual event.

(B)(i) Nothing in this subdivision (a)(5) or § 39-17-654(b) shall be construed as prohibiting a nonprofit organization from purchasing, leasing or accepting donations of

prizes, facilities, locations, advertising services, printing services, telephone services and any records, devices or other supplies necessary to conduct an authorized annual event; provided, that the compensation paid for such purchases or leases shall not be at a price greater than fair market value and shall not be based on a percentage of the proceeds of an annual event or by any other contingency agreement based on the proceeds of an annual event.

(ii) No nonprofit organization shall purchase or lease prizes, facilities, locations, advertising services, printing services, telephone services and any records, devices or other supplies necessary to conduct an authorized annual event from any director, officer or employee of the nonprofit organization.

(6)(A) Except as provided in subdivision (a)(6)(B), a nonprofit organization authorized to conduct an annual event pursuant to this chapter shall return all of the gross proceeds, less any amount expended pursuant to subdivision (a)(5)(B), to the organization for the purposes or programs described in § 3-17-104(e)(6), but in any event, a nonprofit organization shall return at least twenty-five percent (25%) of gross proceeds to the organization for the purposes or programs described in § 3-17-104(e)(6).

(B) A nonprofit organization that fails to return at least twenty-five percent (25%) of gross proceeds from the annual event to the purposes or programs described in § 3-17-104(e)(6) in any year shall file notice with the secretary on a form prescribed by the secretary. If, in the sound discretion of the secretary, the organization was not at fault in failing to return the required percentage, the organization shall be allowed to file an annual event application for the next annual event period; provided, that if an organization fails to return the required percentage in two (2) consecutive annual event periods, the organization shall be disqualified from filing annual event applications for a period of five (5) years. If an organization is not permitted by the secretary to file an event application pursuant to this subdivision (a)(6)(B), the organization may request a review pursuant to the procedure set forth in § 3-17-105(g).

(C) As used in this subdivision (a)(6), gross proceeds shall not include revenue disclosed as the fair market value of any donated prizes, goods and services.

(7) A nonprofit organization seeking authorization to conduct an annual event pursuant to this chapter shall be in compliance with the registration requirements for charitable organizations set forth in title 48, chapter 101, part 5, or be exempt from annual registration pursuant to § 48-101-502.

(b)(1) The secretary shall review all annual event applications timely submitted and shall transmit an omnibus list of qualifying applicants to the clerk of the senate and the clerk of the house of representatives in an electronic format, as is required by the respective clerks, on or before March 8 of each year. The omnibus list shall include, at a minimum, the name of the nonprofit organization, the name of the event, the type of lottery game, the event date for the event and the location or locations of the event. The omnibus list shall list nonprofit organizations alphabetically by county in which the annual event is proposed to be operated.

(2) In addition to the omnibus lists transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(ii) for the annual event period beginning July 1, 2015, and ending June 30, 2016. The list shall be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within five (5) calendar days after April 14, 2015.

(3) In addition to the omnibus lists transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(iii) for the annual event period beginning July 1, 2017, and ending June 30, 2018. The list must be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within seven (7) calendar days after March 20, 2018.

(4) In addition to the omnibus listing transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(iv) for the annual event period beginning July 1, 2020, and ending June 30, 2021. The list must be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within seven (7) calendar days after March 9, 2020.

(5) In addition to the omnibus listing transferred to the clerk of the senate and the clerk of the house of representatives pursuant to subdivision (b)(1), the secretary shall transfer an additional omnibus listing of any organizations approved pursuant to subdivision (a)(1)(A)(v) for the annual event period beginning July 1, 2020, and ending June 30, 2021. The list must be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within five (5) calendar days after June 15, 2020.

(c) Upon authorization by the general assembly, the clerk of the house last approving such authorization shall transmit a copy of such authorization to the secretary and to each district attorney general. The secretary shall transmit such authorization to each authorized nonprofit organization at the mailing address listed in such organization's annual event application; provided, that in the case of an organization with multiple chapters, branches or affiliates in Tennessee, such authorization shall be transmitted only to the primary mailing address of the applicant. Such authorization shall be posted on the web site of the secretary with such additional information as the secretary deems appropriate. At a minimum, the secretary shall post the name of the nonprofit organization, the name of the event, the type of lottery game, the event date for the event and the location, or locations, of the event.

(d)(1)(A)(i) An authorized annual event shall be held within twenty-eight (28) calendar days of the event date listed in the annual event application; provided, that nothing in this subdivision (d)(1) shall be construed as allowing two (2) annual events in any one-year period or as allowing a nonprofit organization to operate an annual event at authorized multiple locations on separate days.

(ii) Notwithstanding any law to the contrary, an organization that is authorized to hold an annual event from the period July 1, 2020, through December 31, 2020, may hold the authorized annual event no later than sixty (60) calendar days after the event date listed in the annual event application; provided, that such authorization under this subdivision (d)(1)(A)(ii) only applies on a one-time basis.

(B) A nonprofit organization shall give notice to each chief law enforcement officer of the county or municipality in which the annual event shall be conducted one hundred thirty (130) days prior to the event date listed in the annual event application; provided, that if the event date is within one hundred thirty (130) days from notification of authorization to conduct an annual event, the nonprofit organization shall immediately, upon receipt of such notification and prior to the commencement of selling any tickets, shares, chances or similar records, give notice to the chief law enforcement officer of each county or municipality in which the annual event shall be conducted. In accordance with subdivision (d)(1)(A), if the actual event date is different than the event date listed in the annual event application, a nonprofit organization shall give an additional notice to each chief law enforcement officer of the county or municipality in which the annual event shall be conducted prior to conducting the annual event. For the purposes of this subdivision (d)(1)(B), "notice" means a letter sent by

certified mail, or by actual physical delivery of a letter to the chief law enforcement officer or such officer's designee, containing, at a minimum, the following information:

- (i) The name of the nonprofit organization;
- (ii) The name of the event;
- (iii) The location of the event, including the physical address where the annual event will be conducted;
- (iv) The type of lottery game to be conducted;
- (v) The event date for the event listed in the annual event application;
- (vi) If applicable, the actual event date for the annual event if different than the event date listed in the annual event application;
- (vii) If applicable, additional locations of the event, including the physical address where the annual event will be conducted, if such event will be operated at authorized multiple locations;
- (viii) The name, address and telephone number of the nonprofit organization's chair, president or chief administrative officer; and
- (ix) If applicable, the name, address and telephone number of the person responsible for the operation of the annual event for the nonprofit organization, if different than the organization's chair, president or chief administrative officer.

(2) Except as provided in subdivision (d)(3), upon receipt of authorization from the secretary pursuant to subsection (c), a nonprofit organization may conduct all necessary activities for such event including, but not limited to, planning, advertising, promoting, printing of materials and tickets, shares, chances or similar records and the transportation of such records and other devices.

(3) A nonprofit organization, or any person authorized pursuant to subdivision (a)(5)(A) on behalf of the nonprofit organization, may sell tickets, shares, chances or similar records on the actual date of the annual event and for one hundred twenty (120) days immediately preceding the event date listed in the application and for any period after the event date listed in the annual event application but prior to the actual date of the annual event if such actual date is after the event date in accordance with subdivision (d)(1). No person shall sell tickets, shares, chances or similar records outside of the period authorized by this subdivision (d)(3). Notwithstanding any provision of this chapter to the contrary, the secretary shall establish rules and regulations concerning modification of the actual dollar amounts at which a ticket, share, chance or other similar record shall be sold by a nonprofit organization authorized to conduct an annual event; provided, that only one (1) such modification shall be made prior to the sale of any ticket, share, chance or other similar record and only in amounts within fifty dollars (\$50.00) of the actual dollar amounts disclosed pursuant to § 3-17-104(e)(5). Tickets, shares, chances or other similar records may be sold at a single price or at different value levels or tiers. If tickets, shares, chances or other similar records are sold at different value levels or tiers, then the organization shall keep a written or electronic record of each sale, which shall include the name, the amount paid, the mailing address, and the contact information of the purchaser for the purpose of issuing refunds if a cancellation of the annual event occurs.

(e)(1) Within ninety (90) days following the event date listed in the annual event application, a financial accounting as required pursuant to § 3-17-106 shall be submitted by the organization to the secretary.

(2) For purposes of this chapter, the postmark date on the financial accounting shall be considered the date of submission.

(3) The secretary shall post such accounting, or a synopsis of such accounting, on the web page of the secretary.

(f) Deleted by 2014 Pub.Acts, c. 699, § 10, eff. July 1, 2014.

(g)(1) Notwithstanding any provision of this chapter to the contrary, for the annual event period beginning July 1, 2015, and ending June 30, 2016, a nonprofit organization described in § 501 (c)(19) of the Internal Revenue Code (26 U.S.C. § 501(c)(19)) seeking to operate an annual event for the benefit of that organization located in this state may submit an annual event application to the secretary within three (3) calendar days after April 14, 2015. For purposes of this submission deadline, an annual event application shall not be considered submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

(2) In addition to the omnibus list transferred to the clerk of the senate and the clerk of the house of representatives by March 1, 2015, the secretary shall transfer an additional omnibus list listing any organizations approved pursuant to subdivision (g)(1) for the annual event period beginning July 1, 2015, and ending June 30, 2016. This list shall be transferred in a manner consistent with subsection (b) by twelve o'clock noon central daylight time (CDT) within five (5) calendar days after April 14, 2015.

§ 3-17-104. Annual event application deadlines; contents and attachments; uniform application form

(a) Except as otherwise provided in § 3-17-103(a)(1), all annual event applications shall be submitted to the secretary from July 1 to January 31 for the annual event period beginning July 1 following the close of the application period and ending June 30 of the subsequent calendar year.

(b) The secretary of state may prescribe and furnish forms and filing methods for all filings required by this part.

(c)(1) An initial application fee of fifty dollars (\$50.00) must be paid at the time of submission of an annual event application. An annual event application must not be accepted by the secretary unless accompanied by the initial application fee.

(2) The secretary shall collect a reasonable fee for annual event applications. The secretary may establish a fee schedule for annual event applications based on the gross revenue of the annual event. No fee shall exceed seven hundred dollars (\$700). Funds collected under this chapter shall be used by the secretary and the Tennessee bureau of investigation to defray the cost of administering this chapter, including, but not limited to, the cost of investigations pursuant to § 3-17-113.

(3) Annual event application fees are nonrefundable.

(d) All annual event applications shall be signed by the nonprofit organization's chair, president or chief administrative officer and the preparer of the application. Such persons shall certify under oath and subject to criminal penalties, including perjury, that the information contained in the annual event application is true and accurate.

(e) A nonprofit organization filing an annual event application shall submit, on a form prescribed by the secretary, the following information:

(1) The name, mailing address and physical address of the nonprofit organization. If the organization has multiple chapters or affiliates in Tennessee operating under the same tax exemption, the organization shall submit the physical addresses and mailing addresses of such multiple locations; provided that, for the purposes of this chapter, a post office box, or similar address at a mail or package delivery service, shall not be considered a physical address. If the principal office of the nonprofit organization is outside Tennessee, the organization shall submit the physical address and mailing address of such principal location;

(2) The name of the event;

(3) The date of the event;

(4) The location of the event;

(5) A description of the type of lottery game to be conducted. Such description shall include the estimated number of tickets, shares, chances or other similar records to be offered and the actual dollar amount at which a ticket, share, chance or other similar record shall be sold; provided that, if tickets, shares, chances or other similar records are to be sold at different value levels or tiers, then the actual dollar amounts and structure of such value levels or tiers;

(6) A description of the charitable use of the proceeds from the event;

(7) The name and telephone number of a contact person for the event;

(8) A copy of the organization's determination letter from the internal revenue service showing that the organization is exempt from federal income taxation under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(3) or § 501(c)(19) of the Internal Revenue Code;

(9)(A) A copy of the nonprofit organization's last annual report, Form 990, filed with the internal revenue service and any attached schedules for the organization's tax year ending immediately preceding the annual event application;

(B) If the organization has not filed an annual report with the internal revenue service for the organization's tax year ending immediately preceding the annual event application, the organization shall submit an affidavit from the nonprofit organization's chair, president or administrative officer affirming that the organization has not filed an annual report and shall begin to file annual reports as required by the provisions of this chapter; provided, that the organization may submit such affidavit only one (1) time;

(C) An organization shall not be required to comply with this subdivision (e)(9) if it is not required to file a Form 990 with the internal revenue service; provided, that the organization submits proof of such determination by the internal revenue service;

(10) The names and addresses of any officers, directors, trustees, and the principal salaried executive staff officer of the nonprofit organization;

(11) A sworn statement that the organization has been in continuous and active existence as a nonprofit organization located in Tennessee as defined by § 3-17-102;

(12) A sworn statement that no officer, director, trustee, or the principal salaried executive staff officer of the nonprofit organization has been convicted of a violation of § 39-14-103, § 39-14-104, § 39-14-105, § 39-16-702, § 39-16-703, title 39, chapter 17, parts 5 or 6, or a similar offense in another jurisdiction; and

(13) A sworn statement that the board, or functional equivalent, of the nonprofit organization has approved the filing of an annual event application and intends to operate an annual event if authorized by the general assembly.

§ 3-17-105. Annual event application review; amendments; omnibus list; claims commission review; damages

(a) The secretary shall examine each annual event application submitted under this chapter for inclusion on the omnibus list. An annual event shall be included on the omnibus list if:

(1) All annual event application filing requirements of § 3-17-104 are met;

(2) The secretary determines that the nonprofit organization has been recognized by the internal revenue service as a tax exempt nonprofit organization and that such exemption is valid at the time of filing an annual event application;

(3) The secretary determines that the organization is a nonprofit organization as defined in § 3-17-102; and

(4) The type of lottery game is authorized by the provisions of this chapter and article XI, § 5 of the Constitution of Tennessee.

(b)(1) The secretary shall establish rules and regulations concerning the acceptance of amendments to annual event applications otherwise consistent with this chapter including, but not limited to, amendments concerning conflicting locations for an annual event.

(2) Notwithstanding any law to the contrary, an organization may submit a request for a location or date change, regardless of whether such location or date is in actual conflict with another organization, to the secretary no later than twelve o'clock (12:00) noon central standard time (CST) on the fifteenth day of February each year.

(c) The secretary shall include all qualified annual event applicants on an omnibus list to be transmitted to the general assembly pursuant to the provisions of § 3-17-103(b).

(d)(1) Except as provided in subdivision (d)(2)(B), no extension of time shall be granted for submission, or completion, of an annual event application after the application deadline has passed for the appropriate annual event period.

(2)(A) Except as provided in subdivision (d)(2)(B), the secretary shall have no authority to accept, and shall not accept, an annual event application, or an amendment to an annual event application, submitted after the application deadline has passed for the appropriate annual event period as established pursuant to § 3-17-103(a)(1).

(B) For annual event applications submitted by twelve o'clock (12:00) noon central standard time (CST) prior to January 31 each year, the secretary shall notify any organization that would not otherwise be included on the omnibus list of the reason, or reasons, why such organization would not be included. Such notification shall be made by February 15 each year. Any such organization may submit an amended annual event application to the secretary no later than February 25 each year. Any such annual event shall be included on the omnibus list if the amended annual event application complies with this chapter.

(e) An annual event application may be permanently withdrawn prior to the date of transmission of the

omnibus list to the general assembly; provided, that once withdrawn, the nonprofit organization may not resubmit an annual event application for the annual event period in which the previously submitted application was withdrawn.

(f) If an annual event application is not included in the omnibus list, the secretary shall transmit notification to the applicant stating the basis for such non-inclusion by close of business on the last day of February.

(g) An applicant whose application is not included in the omnibus list may request in writing that the secretary reconsider the determination; provided, that such written request is filed with the secretary within three (3) calendar days from the date of notification of non-inclusion required by § 3-17-105(f). The secretary shall reconsider such determination and issue a final decision within seven (7) calendar days of receipt of such written request for reconsideration.

(h) Deleted by 2016 Pub.Acts, c. 821, § 5, eff. July 1, 2016.

§ 3-17-106. Annual event financial accounting; joint events; cancellations

(a)(1) An organization authorized by the general assembly to operate an annual event shall file, within ninety (90) calendar days following the actual event date, a financial accounting with the secretary in accordance with this section. An organization shall remit to the secretary the full application fee specified pursuant to § 3-17-104(c)(2), less the initial application fee paid pursuant to § 3-17-104(c)(1) with the submission of the financial accounting. A financial accounting must not be accepted by the secretary unless accompanied by the fees required pursuant to § 3-17-104(c).

(2) An organization that fails to file its financial accounting in accordance with this section may be assessed a late fee of twenty-five dollars (\$25.00) for each month, or portion thereof, that the accounting is late. The late filing fee shall accompany every late-filed financial accounting. If an organization fails to timely file the required financial accounting in any two (2) of three (3) consecutive annual event periods, the organization may, in the discretion of the secretary, be disqualified from filing future annual event applications, which decision is subject to the review and appeal procedures provided in § 3-17-105(g) and (h).

(b) For events grossing fifty thousand dollars (\$50,000) or less, the organization shall file a financial accounting, on a form prescribed by the secretary, showing the following:

(1) The gross amount of money received from the annual event;

(2) The amount of money expended by the organization including, for amounts exceeding one hundred dollars (\$100), the name and address of the payee, the category of expense, and the amount expended;

(3) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the nonprofit organization including, but not limited to, sufficient documentation indicating that all of the gross proceeds, less any amount expended pursuant to § 3-17-103(a)(5)(B), have been used, or have been earmarked, for the purposes or programs described in § 3-17-104(e)(6); and

(4) A list of all prize winners, including their names and addresses, of cash, goods or services valued at more than fifty dollars (\$50.00) and the prize received.

(c) For events grossing more than fifty thousand dollars (\$50,000), the organization shall file an audited financial statement prepared by an independent certified public accountant or an independent public accountant, on a form prescribed by the secretary, showing the following:

(1) The gross amount of money received from the proceeds of the annual event;

(2) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the nonprofit organization including, but not limited to, sufficient documentation indicating that all of the gross proceeds, less any amount expended pursuant to § 3-17-103(a)(5)(B), have been used, or have been earmarked, for the purposes or programs described in § 3-17-104(e)(6);

(3) An itemized list, including the name and address of the payee, of the amounts spent for all expenses; provided, that individual expenses of one hundred dollars (\$100) or less may be listed as miscellaneous expenses, by category, so long as the aggregate sum of all miscellaneous expenses is less than five thousand dollars (\$5,000); and

(4) A list of all prize winners, including their names and addresses, of cash, goods or services valued at more than fifty dollars (\$50.00) and the prize received.

(d) In the case of an annual event held jointly by two (2) or more nonprofit organizations as provided in § 3-17-103(a)(4), the financial accounting filed pursuant to this section shall be based on the gross amount of money jointly received and shall, in addition to the applicable requirements of subsection (b) or (c), show the amount disbursed, or to be disbursed, to each participating nonprofit organization. Such organizations may file the same financial accounting; provided, that the signature requirements of subsection (e) are satisfied.

(e) For events grossing fifty thousand dollars (\$50,000) or less, all financial accountings required by this section shall be signed by the chair, president or chief administrative officer of the nonprofit organization and the preparer of the report, or, if the chair, president or chief administrative officer is the preparer of the report, by such person and by one additional officer of the nonprofit organization. For events grossing more than fifty thousand dollars (\$50,000), all financial accountings required by this section shall be signed by the chair, president or chief administrative officer of the nonprofit organization and the preparer of the report. Such persons shall certify under oath and subject to criminal penalties, including perjury, that the information contained in the report is a true and accurate accounting of the funds received and expended during operation of the annual event.

(f)(1) A nonprofit organization that has received authorization to conduct an annual event, or conduct an annual event at multiple locations, may, at the discretion of the organization, cancel an annual event, or, if authorized at multiple locations, cancel a location of the annual event; provided, that:

(A) An affidavit from the nonprofit organization's chair, president or chief administrative officer is filed with the secretary and the chief law enforcement officer of the county or municipality stating that the annual event, or a location of a multiple location annual event, is cancelled, and the nature of the cancellation, within ten (10) calendar days of the decision to cancel the event or location. Such cancellation shall be posted on the web site of the secretary. Notwithstanding any provision of this chapter to the contrary, if a single location annual event is cancelled, no other notice to the chief law enforcement officer of the county or municipality or a financial accounting shall be required, except as provided in subdivision (f)(1)(B); if a location of a multiple location annual event is cancelled, no other notice to the chief law enforcement officer of the county or municipality of the cancelled location is required; and

(B) If cancellation occurs after the commencement of the sale of tickets, shares, chances or similar records, a full refund is offered for at least ninety (90) days following cancellation; provided, that if a location of a multiple location annual event is cancelled, only tickets, shares, chances or similar records for the cancelled location shall be required to be offered for at least ninety (90) days following cancellation. If a different value level or tiered pricing annual event is cancelled, any refund shall be for either the actual amount received by the

organization as evinced by the record of each sale or, if such record is lost or destroyed, the highest value level or tiered price charged on a per ticket, share, chance or other similar record basis. A nonprofit organization shall give reasonable public notice of cancellation in the area in which tickets, shares, chances or similar records were sold, including the terms of the refund offered. Such terms shall be included in the affidavit required pursuant to subdivision (f)(1)(A), including a mailing or physical address to submit a refund claim; and, within ninety (90) days of cancellation of an annual event, or a location of a multiple location annual event, the organization shall file an accounting of tickets sold, refunds made and ticket proceeds remaining with the secretary and the chief law enforcement officer of the county or municipality. Any remaining ticket proceeds shall be used in furtherance of the charitable purposes or programs described in § 3-17-104(e)(6) of the organization's annual event application.

(2) No annual event cancelled pursuant to this subsection (f) may be conducted during the annual event period. No multiple location annual event for which a location is cancelled pursuant to this subsection (f) may be conducted at such cancelled location during the annual event period.

(g)(1) Notwithstanding any other provision of this section to the contrary, for authorized annual events whose gross revenue does not actually exceed five thousand dollars (\$5,000), the organization shall file a financial accounting, on a form prescribed by the secretary, including the following:

(A) The gross amount of money received from the annual event;

(B) The amount expended for prizes and administrative costs; and

(C) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the nonprofit organization.

(2) Deleted by 2018 Pub.Acts, c. 584, § 6, eff. March 20, 2018.

§ 3-17-107. Annual event records; disclosure

Applications, reports, and all other documents and information required to be filed under this chapter, or by the secretary, shall be public records in the office of the secretary. The secretary, in the secretary's discretion, may compile, summarize, publish, or otherwise release to the public any information contained in applications and any other documents filed with or received by the secretary under this chapter.

§ 3-17-108. Annual event records; maintenance and inspection

(a) Every nonprofit organization subject to the provisions of this chapter and the rules and regulations prescribed by the secretary, shall keep:

(1) True and accurate fiscal records including, but not limited to, all income and expenses; and

(2) True and accurate records regarding the conduct of any annual event, including records of any documents, information, notices, or applications required to be prepared or filed pursuant to this chapter. Unless otherwise provided, such records shall be retained for a period of at least five (5) years after the event date to which they relate.

(b) Upon request and at a reasonable time and place within Tennessee, such records, as well as any other records regarding annual events within this state, shall be made available to the secretary, the

state and local government committee of the senate and the state government committee of the house of representatives, the attorney general and reporter, or an appropriate district attorney general for inspection.

§ 3-17-109. Annual event prizes and awards; winners

(a) No ticket, share, chance or similar record shall be purchased by and no prize or award shall be paid to:

(1) Any member of the board of directors of a nonprofit organization authorized by the general assembly to operate an annual event for such organization;

(2) Any officer or employee of a nonprofit organization authorized by the general assembly to operate an annual event for such organization;

(3) Any member of the immediate family of any person described in subdivisions (a)(1) or (a)(2) residing as a member of the same household in the principal place of residence of any such person;

(4) Any member of the general assembly during such member's term of office as a member of the general assembly; or

(5) The secretary or any employee of the secretary during the secretary's term of office and such employee's term of employment with the secretary.

(b) No ticket, share, chance or similar record for any specific authorized annual event shall be purchased by, and no prize or award shall be paid to:

(1) Any person providing printing services, telephone services and any records, devices or other gaming related supplies to conduct such specific authorized annual event;

(2) Any officer, employee, agent or subcontractor of any person described in subdivision (b)(1);
or

(3) Any member of the immediate family of any person described in subdivisions (b)(1) or (b)(2) residing as a member of the same household in the principal place of residence of any such person.

(c) For the purposes of this section, "immediate family" means a spouse, child, step-child, brother, sister, son-in-law, daughter-in-law, parent or grandparent.

(d) No ticket, share, chance or similar record for any specific authorized annual event shall be purchased by, and no prize or award shall be paid to, any individual providing prizes or any member of the immediate family of any individual providing prizes residing as a member of the same household in the principal place of residence of such individual.

(e) If an ineligible person is selected to win a prize or award, the organization shall not disburse the prize or award to the ineligible person but shall select a different person to whom the prize or award shall be paid. Notwithstanding any provision of this chapter to the contrary, the organization shall select a new winner within thirty (30) calendar days of the date on which the organization received notice of the ineligible winner.

§ 3-17-110. Annual event prizes and awards; value

(a) The ticket, share, chance or other similar record shall bear on its face the name of the nonprofit organization on whose behalf the event is being conducted.

(b) All cash prizes or awards exceeding fifty dollars (\$50.00) shall be paid by check from a designated account of the organization to a named individual. In the case of non-cash prizes or awards, payment shall be in the form of goods or services and, if applicable, by an appropriate legal instrument including, but not limited to, deeds, titles and gift certificates. Checks or other legal instruments payable to "cash" or "bearer" are expressly prohibited.

(c)(1) For single location annual events, the total value of all prizes awarded per annual event shall not exceed two hundred fifty thousand dollars (\$250,000); provided, that such limitation shall not apply to prizes of real property.

(2) For multiple location annual events, the total value of all prizes awarded per annual event location shall not exceed one hundred fifty thousand dollars (\$150,000); provided, that such limitation shall not apply to prizes of real property.

(3) Notwithstanding subdivisions (c)(1) and (2), for annual events conducted by a nonprofit organization that does not intend to raise gross revenue from the annual event exceeding five thousand dollars (\$5,000), the total value of all prizes awarded per annual event shall not exceed twenty-five thousand dollars (\$25,000).

(d) Authorized nonprofit organizations offering a prize of real property pursuant to subsection (c) may offer a cash equivalent prize not to exceed the fair market value of the real property; provided, that any such cash equivalent prize shall be disclosed in the rules of the specific annual event prior to the sale of any ticket, share, chance or other similar record for such annual event and, if a cash equivalent prize is awarded, shall comply with subsection (b).

§ 3-17-111. Violations; disqualification from submitting annual event applications

Any person who is convicted of a violation of § 39-16-702, § 39-16-703, or title 39, chapter 17, parts 5 and 6 shall be permanently disqualified from submitting an annual event application.

§ 3-17-112. Preemption

The general assembly, by enacting this chapter, intends to preempt any other regulation of the area covered by this chapter. No political subdivision or agency may enact or enforce a law, ordinance, resolution or regulation that regulates or prohibits any conduct in the area covered by this chapter.

§ 3-17-113. Annual event compliance; penalties; investigations

(a) The secretary may publicly or privately investigate, as the secretary of state deems necessary, any person or organization that the secretary has reason to believe has violated this chapter. The secretary may assess a civil penalty against any person, or a nonprofit organization, not to exceed fifty thousand dollars (\$50,000) for a violation of this chapter or any rule or regulation adopted pursuant to this chapter. Any hearing on the imposition of a civil penalty pursuant to this section shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) The Tennessee bureau of investigation shall have jurisdiction over, and shall investigate, violations of §§ 39-17-651 -- 39-17-657 and reports of official misconduct concerning this chapter in a manner consistent with title 38, chapter 6, part 1.

(c) Subsection (a) shall apply to applications and annual events to be conducted on and after July 1, 2005.

§ 3-17-114. Criminal background checks; immunity

(a) The secretary of state may establish, by duly promulgated rules and regulations, the procedures and criteria for requiring and obtaining criminal background checks for officers, directors, trustees, and the principal salaried executive staff officer who will operate the annual event for a nonprofit organization. No background check shall be conducted on any such person unless the secretary finds good cause, based upon objective criteria, that the information contained in the annual event application, or supporting documentation, is ambiguous, false or insufficient; provided, that a background check may be required for good cause if based upon reliable information from a law enforcement agency. The secretary of state may utilize the Tennessee bureau of investigation or the federal bureau of investigation to conduct criminal background checks.

(b) Procedures and payments of costs associated with criminal background checks shall be governed by §§ 38-6-103 and 38-6-109. The nonprofit organization that has filed an annual event application shall be responsible for payment of all criminal background checks required by this section. The secretary of state shall not pay for any criminal background check required by this section.

(c) Criminal background checks may include fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation.

(d) The secretary of state shall be immune from suit for declining to approve the conducting of an annual event based upon criminal background information received pursuant to this section.

(e)(1) In the event that the secretary establishes procedures and criteria for requiring and obtaining criminal background checks, such checks shall not be performed upon officers, directors or trustees who receive no compensation for their duties associated with the nonprofit organization.

(2) In the event that the secretary establishes procedures and criteria for requiring and obtaining criminal background checks, such provisions shall only apply to annual event applications for the operation of annual events to be conducted on and after July 1, 2005.

§ 3-17-115. Secretary of state rules and regulations

(a) The secretary of state is authorized to promulgate rules and regulations as the secretary of state may deem necessary to effectuate the purposes of this chapter. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Notwithstanding §§ 4-5-208 and 4-5-209 or any other law to the contrary, the secretary of state is authorized to promulgate emergency rules to implement this chapter.