



State of Utah

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BULLETIN 2020-14

TO: Utah-licensed insurance producers
FROM: Todd E. Kiser, Utah Insurance Commissioner
DATE: June 22, 2020
SUBJECT: **Using Raffles in Marketing Non-Title Insurance Products**

Insurance producers sometimes use raffles in their marketing efforts. A raffle generally requires a person to do something to obtain a ticket or other form of entry to win a prize. Depending on its particulars, a producer-sponsored raffle may or may not be permissible under Utah law. This Bulletin identifies a series of questions that a producer who contemplates sponsoring a raffle should consider. By doing so, the producer will gain insight into the proper design of a raffle. Because separate rules apply to the title insurance industry, a title insurance producer should not rely on information in this Bulletin.

Question 1: Is the raffle an illegal lottery?

Utah's criminal code prohibits "gambling" which includes a "lottery." Utah Code §§ 76-10-1101(8) and 76-10-1102. A lottery is a "scheme" to distribute property by chance among persons who have paid or given up something of value for the opportunity to obtain the property. Utah Code §§ 76-10-1101(14). With a producer-sponsored raffle, if a potential client must pay or give up something of value to obtain a raffle ticket, then a producer runs the risk of being prosecuted for conducting an illegal lottery. Additionally, a producer who sponsors an illegal lottery may have conducted business using dishonest practices in violation of § 31A-23a-111(5)(b)(xvi)(A) and may have engaged in a practice that endangers the legitimate interests of customers and the public in violation of § 31A-23a-111(5)(b)(xxiv).

Question 2: If the raffle is not an illegal lottery, is offering a raffle ticket a prohibited inducement to buy, continue, or terminate insurance coverage because the ticket is a "benefit" that is not "specified in" or "directly related to" an insurance contract?

The second question is based on the general rule that a producer cannot induce a person to enter into, continue, or terminate an insurance contract by offering a "benefit" that is not "specified in" or "directly related to" an insurance contract. Utah Code § 31A-23a-402.5(1).

Under this rule, a raffle ticket could be a "benefit" because it confers on the holder an opportunity to win a prize. Additionally, this benefit is not likely "specified in" or "directly related to" an insurance policy. Therefore, the general rule may prohibit a producer from giving a raffle ticket under the circumstances described in § 31A-23a-402.5(1).

However, the raffle inquiry does not end with this statute. Two exceptions to the general rule, identified in Questions 3 and 4, make it permissible for a producer to provide a raffle ticket to a client or potential client.

Question 3: Is the raffle ticket a permissible social courtesy?

Under the third question, giving a raffle ticket is permitted as a "social courtesy" as long as its receipt is not "conditioned on a quote or the purchase of a particular insurance product[.]" § 31A-23a-402.5(4)(a). The facts of a case will determine whether the raffle ticket is conditioned on a quote or a purchase. The value of a ticket is one relevant fact in that determination:

- If its value is \$100 or less, a ticket is "presumed" to be a "social courtesy" that is not "conditioned on a quote or purchase of a particular insurance product[.]" § 31A-23a-402.5(7)(a). If, however, other facts show that the gift of such a ticket is actually conditioned on a quote or a purchase, the presumption will fall away. In that case, the gift of the ticket is an impermissible inducement.
- If its value is \$10 or less, the ticket is by definition a permissible social courtesy. In that case, the gift of such a ticket may be "conditioned on receipt of a quote of a particular insurance product." § 31A-23a-402.5(7)(b).

If giving a raffle ticket is not a permissible social courtesy under §§ 31A-23a-402.5(4)(a) and (7), it still may be a permissible gift of a good or service.

Question 4: Is the raffle ticket a permissible good or service?

Question 4 is based on a statute that allows a producer to provide "goods or services" to a potential client if: (1) the goods or services are available to the general public on the same terms; (2) the goods or services are not "contingent on" a quote or a purchase; and (3) the producer doesn't charge for the goods or services after the fact. § 31A-23a-402.5(10).

The particulars of a producer-sponsored raffle can be so varied that it's important to consider whether each of these requirements is met. For example:

- Is a raffle ticket a "good[]" or service[]"?
- If raffle tickets are offered only to members of or participants in a particular organization, are the tickets available to the general public on the same terms?
- If buying insurance and obtaining a quote are only two of several ways to obtain a raffle ticket, is obtaining a ticket "contingent on" a purchase or a quote?

If you have questions about this bulletin as it applies to health and life insurance, please send your email to health.uid@utah.gov. If you have questions about this bulletin as it applies to property and casualty insurance, please send your email to prop-cas@utah.gov.

DATED this 22nd day of June 2020.



Todd E. Kiser
Utah Insurance Commissioner