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**HOUSE BILL NO. 931**

Offered January 9, 2002

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*A BILL to amend and reenact §§ 18.2-340.16, 18.2-340.19, and 18.2-340.33 of the Code of Virginia, relating to the Charitable Gaming Commission; fair market rental value.*

Patrons—Joannou and Drake

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-340.16, 18.2-340.19, and 18.2-340.33 of the Code of Virginia are amended and reenacted as follows:**

§ 18.2-340.16. Definitions.

As used in this article, unless the context requires a different meaning:

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to seventy-five, (ii) Commission-approved electronic devices which display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Commission-approved cards pursuant to subdivision 13 of § 18.2-340.18, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five columns headed respectively by the letters B.I.N.G.O.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles and games of chance explicitly authorized by this article.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands or tape.

"Commission" means the Charitable Gaming Commission.

"Fair market rental value" means the rent paid for premises for the conduct of charitable gaming that allows a qualified organization to achieve its minimum percentage for use of proceeds as required by the Commission while allowing the landlord a fair return on his leased premises, including services and equipment provided to the organization.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money received by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo" means a specific game of chance played by the random selection of one or more individually prepacked cards, made completely of paper or paper products, with winners being determined by the preprinted appearance of concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card which conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Jackpot" means a bingo game, exclusive of a "winner-take-all" bingo game, in which (i) all numbers on the card are covered, each number being selected at random, and with no more than one free space and (ii) the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, or employee thereof, which owns and leases, or leases any premise devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as a landlord.

"Organization" means any one of the following:

1. A volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being a part of the safety program of such political subdivision;

2. An organization operated exclusively for religious, charitable, community or educational purposes;

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- 59 3. An association of war veterans or auxiliary units thereof organized in the United States;  
60 4. A fraternal association or corporation operating under the lodge system;  
61 5. A local chamber of commerce; or  
62 6. A nonprofit organization that raises funds by conducting raffles which generate annual gross  
63 receipts of less than \$75,000, provided such gross receipts from the raffle, less expenses and prizes, are  
64 used exclusively for charitable, educational, religious or community purposes.

65 "Qualified organization" means any organization to which a valid permit has been issued by the  
66 Commission to conduct charitable gaming or any organization which is exempt pursuant to  
67 § 18.2-340.23.

68 "Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or  
69 prearranged number of one or more persons purchasing chances or (ii) a random contest in which the  
70 winning name or preassigned number of one or more persons purchasing chances is determined by a  
71 race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

72 For the purpose of this article, "raffle" shall include the use of individually prepackaged cards made  
73 completely of paper or paper products, with winners being determined by the appearance of preprinted  
74 concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses,  
75 such cards being commonly referred to as "pull tabs" or "seal cards" which conceal one or more  
76 numbers or symbols that have been designated in advance as prize winners. Such cards may be  
77 dispensed by electronic or mechanical equipment.

78 "Reasonable and proper business expenses" means business expenses actually incurred by a qualified  
79 organization and not otherwise allowed under this article or under Commission regulations on real estate  
80 and personal property tax payments, travel expenses, payments of utilities and trash collection services,  
81 legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of  
82 acquisition, maintenance, repair or construction of an organization's real property. For the purpose of this  
83 definition, salaries and wages of employees whose primary responsibility is to provide services for the  
84 principal benefit of an organization's members shall not qualify as a business expense.

85 "Supplier" means any person who offers to sell, sells or otherwise provides charitable gaming  
86 supplies to any qualified organization.

87 § 18.2-340.19. Regulations of the Commission.

88 The Commission shall adopt regulations ~~which~~that:

89 1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of  
90 its gross receipts for (i) those lawful religious, charitable, community or educational purposes for which  
91 the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition,  
92 construction, maintenance or repair of any interest in real property involved in the operation of the  
93 organization and used for lawful religious, charitable, community or educational purposes. The  
94 regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing  
95 manner based upon factors the Commission finds appropriate to and consistent with the purpose of  
96 charitable gaming.

97 2. Require the organization to have at least fifty percent of its membership consist of residents of the  
98 Commonwealth and specify the conditions under which a complete list of the organization's members  
99 who participate in the management, operation or conduct of charitable gaming may be required in order  
100 for the Commission to ascertain the percentage of Virginia residents; however, if an organization (i)  
101 does not consist of bona fide members and (ii) is exempt under § 501 (c) (3) of the United States  
102 Internal Revenue Code, the Commission shall exempt such organizations from the regulations adopted  
103 pursuant to this subdivision.

104 Membership lists furnished to the Commission in accordance with this subdivision shall not be a  
105 matter of public record and shall be exempt from disclosure under the provisions of the Freedom of  
106 Information Act (§ 2.2-4000 et seq.).

107 3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the  
108 nature and extent of the charitable gaming activity proposed to be conducted.

109 4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.

110 5. Define electronic and mechanical equipment used in the conduct of charitable gaming.

111 6. Prescribe the conditions under which a qualified organization may (i) provide food and  
112 nonalcoholic beverages to its members who participate in the management, operation or conduct of  
113 bingo and (ii) permit members who participate in the management, operation or conduct of bingo to  
114 play bingo.

115 7. Prescribe the conditions under which a qualified organization located in the Northern Virginia  
116 Planning District may sell raffle tickets for a raffle drawing which will be held outside the  
117 Commonwealth pursuant to subsection B of § 18.2-340.26.

118 8. Prescribe the conditions under which persons who are bona fide members of a qualified  
119 organization or a child, above the age of eleven years, of a bona fide member of such organization may  
120 participate in the conduct or operation of bingo games.

9. Prescribe the conditions under which a person below the age of eighteen years may play bingo, provided such person (i) has the consent of his parent or legal guardian or (ii) is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to Commission regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

11. *Establish a formula for the computation of fair market rental value.*

§ 18.2-340.33. (Effective July 1, 2002) Prohibited practices.

In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (iv) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. For the purposes of clause (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501 (c) (3), (7) or (10) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. No qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29.

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property *as determined in accordance with the regulations of the Commission*. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No building or other premises shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than two calendar days in any one calendar week. However, no building or other premises owned by (i) a qualified organization which is exempt from taxation pursuant to § 501 (c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27.

5. No person shall participate in the management, operation or conduct of any charitable game unless such person is and, for a period of at least thirty days immediately preceding such participation, has been a bona fide member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization.

6. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed thirty dollars per event for providing clerical assistance in the conduct of charitable games only for such organizations;

b. Persons under the age of nineteen who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

182 c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which  
183 such bingo games are played for providing uniformed security for such bingo games even if such officer  
184 is a member of the sponsoring organization, provided the remuneration paid to such member is in  
185 accordance with off-duty law-enforcement personnel work policies approved by the local  
186 law-enforcement official and further provided that such member is not otherwise engaged in the  
187 management, operation or conduct of the bingo games of that organization; and

188 d. A member of a qualified organization lawfully participating in the management, operation or  
189 conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for  
190 on-premises consumption during the bingo game provided the food and beverages are provided in  
191 accordance with Commission regulations.

192 7. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the  
193 conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for  
194 consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, or other  
195 game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer,  
196 distributor or supplier of bingo supplies or equipment be used by the organization. If equipment or  
197 services are included by a landlord in any lease or contract, the lease or contract shall itemize the  
198 amount attributable to the rent of the premises, equipment, and each service to be provided by the  
199 landlord.

200 The provisions of this subdivision shall not apply to any qualified organization conducting bingo  
201 games on its own behalf at premises owned by it.

202 8. No qualified organization shall enter into any contract with or otherwise employ or compensate  
203 any member of the organization on account of the sale of bingo supplies or equipment.

204 9. No organization shall award any bingo prize money or any merchandise valued in excess of the  
205 following amounts:

206 a. No bingo door prize shall exceed \$25;

207 b. No regular bingo or special bingo game prize shall exceed \$100;

208 c. No instant bingo prize for a single card shall exceed \$500; and

209 d. No bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of  
210 bingo jackpot prizes awarded in any one calendar day exceed \$1,000.

211 The provisions of this subdivision shall not apply to any bingo game in which all the gross receipts  
212 from players for that game, up to \$1,000, are paid as prize money back to the players, provided there is  
213 no more than one such game per calendar day of play and the prize money from any such game does  
214 not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

215 10. No organization shall award any raffle prize valued at more than \$100,000.

216 The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per  
217 calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3)  
218 of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where  
219 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the  
220 cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or  
221 educational organizations specifically chartered or organized under the laws of the Commonwealth and  
222 qualified as a § 501 (c) (3) tax-exempt organization or (ii) pull tabs or seal cards when played as  
223 permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

224 11. No qualified organization composed of or for deaf or blind persons which employs a person not  
225 a member to provide clerical assistance in the conduct of any charitable games shall conduct such games  
226 unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do  
227 business in the Commonwealth.

228 12. No person shall participate in the management, operation or conduct of any charitable game if,  
229 within the preceding five years, he has been convicted of a felony or crime of moral turpitude. In  
230 addition, no person shall participate in the management, operation or conduct of any charitable game if  
231 that person, within the preceding five years, has participated in the management, operation, or conduct  
232 of any charitable game which was found by the Commission or a court of competent jurisdiction to  
233 have been operated in violation of state law, local ordinance or Commission regulation.

234 13. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not  
235 circumvent any restrictions and prohibitions which would otherwise apply if a single organization were  
236 conducting such games. These restrictions and prohibitions shall include, but not be limited to, the  
237 frequency with which bingo games may be held, the value of merchandise or money awarded as prizes,  
238 or any other practice prohibited under this section.

239 14. A qualified organization shall not purchase any charitable gaming supplies for use in this  
240 Commonwealth from any person who is not currently registered with the Commission as a supplier  
241 pursuant to § 18.2-340.34.

242 15. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross  
243 receipts shall be used for an organization's social or recreational activities.