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## HOUSE BILL NO. 2214

Offered January 8, 2003

Prefiled January 8, 2003

*A BILL to amend and reenact §§ 18.2-340.19 and 18.2-340.20 of the Code of Virginia, relating to the Virginia Charitable Gaming Commission; fair market rental value; minimum percentage to charity; waiver.*

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 Patron—Suit
 

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Referred to Committee for Courts of Justice

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

**1. That §§ 18.2-340.19 and 18.2-340.20 of the Code of Virginia are amended and reenacted as follows:**

§ 18.2-340.19. Regulations of the Commission.

The Commission shall adopt regulations which:

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

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

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

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

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

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

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

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

8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of eleven years, of a bona fide member of such organization may 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.

§ 18.2-340.20. Denial, suspension or revocation of permit; hearings and appeals.

A. The Commission may deny, suspend or revoke the permit of any organization found not to be in strict compliance with the provisions of this article and the regulations of the Commission. The action of the Commission in denying, suspending, or revoking any permit shall be subject to the Administrative

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59 Process Act (§ 2.2-4000 et seq.).

60 B. Except as provided in §§ 18.2-340.30 and 18.2-340.36, no permit to conduct charitable gaming  
61 shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and  
62 the time and place for the hearing. At the discretion of the Commission, hearings may be conducted by  
63 hearing officers who shall be selected from the list prepared by the Executive Secretary of the Supreme  
64 Court. After a hearing on the issues, the Commission may refuse to issue or may suspend or revoke any  
65 such permit if it determines that the organization has not complied with the provisions of this article or  
66 the regulations of the Commission.

67 C. Any person aggrieved by a refusal of the Commission to issue any permit, the suspension or  
68 revocation of a permit, or any other action of the Commission, may seek review of such action in  
69 accordance with Article 4 (§ 2.2-4025 et seq.) of the Administrative Process Act.

70 D. ~~Until June 30, 2003~~ *Notwithstanding any provision of this chapter to the contrary*, the  
71 Commission shall not deny, suspend, or revoke the permit of any organization solely because of its  
72 failure to meet the required minimum percentage of its gross receipts required to be used for charitable  
73 purposes, as prescribed by regulations adopted pursuant to subdivision 1 of § 18.2-340.19, ~~unless~~  
74 ~~requested by the organization~~, provided that the organization (i) ~~was conducting gaming in a rented~~  
75 ~~facility prior to January 1, 2000, and~~ (ii) is otherwise in compliance with the laws and regulations  
76 governing charitable gaming in the Commonwealth, (ii) *has no pending criminal charges or prior*  
77 *convictions against it or any of its officers or game managers involving a felony related to fraud, theft*  
78 *or any financial crimes, or a misdemeanor related to moral turpitude; and* (iii) *has applied for and*  
79 *received a waiver under subsection E.*

80 E. *If an organization fails to meet the minimum percentage of gross receipts required to be used for*  
81 *charitable purposes, the organization may, within 90 days of receiving notice of such failure, apply for*  
82 *a waiver of such minimum percentage from the Commission. The Commission shall grant a waiver if it*  
83 *determines, based on information provided by the organization, that (i) after payment of gaming*  
84 *expenses and reasonable and proper business expenses, the organization has used its available proceeds*  
85 *for the lawful religious, charitable, community or educational purposes for which it was specifically*  
86 *chartered or organized and (ii) for the 3 years immediately preceding the submission of the waiver*  
87 *application, an average of at least 5 percent of the organization's gross receipts from charitable gaming*  
88 *were used for the lawful religious, charitable, community or educational purposes for which it was*  
89 *specifically chartered or organized. In the event an organization has not been conducting charitable*  
90 *gaming for 3 years or more, at least 5 percent of the organization's gross receipts from charitable*  
91 *gaming were used for those lawful religious, charitable, community or educational purposes for which it*  
92 *was specifically chartered or organized.*

93 F. *No permit shall be suspended, denied, revoked or terminated while the Commission investigates*  
94 *whether an organization qualifies for a waiver under subsection E.*