

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 837

An Act to amend and reenact §§ 2.1-1.5, 2.1-1.9, 2.1-20.4, 2.1-51.27, 2.1-342, 9-6.25:3, and 18.2-334.2 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 8 of Title 18.2 an article numbered 1.1:1, consisting of sections numbered 18.2-340.15 through 18.2-340.38; and to repeal Article 1.1 (§§ 18.2-340.1 through 18.2-340.14) of Chapter 8 of Title 18.2 of the Code of Virginia, relating to the conduct of charitable gaming; bingo and raffles; creation of the Charitable Gaming Commission; penalty.

[S 1020]

Approved May 5, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 2.1-1.9, 2.1-20.4, 2.1-51.27, 2.1-342, 9-6.25:3, and 18.2-334.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 8 of Title 18.2 an article numbered 1.1:1, consisting of sections numbered 18.2-340.15 through 18.2-340.38, as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or *the* enabling legislation of the entities:

Authorities

Richmond Eye and Ear Hospital Authority.
Small Business Financing Authority.
State Education Assistance Authority.
Virginia Agriculture Development Authority.
Virginia College Building Authority.
Virginia Education Loan Authority.
Virginia Housing Development Authority.
Virginia Innovative Technology Authority.
Virginia Port Authority.
Virginia Public Building Authority.
Virginia Public School Authority.
Virginia Resources Authority.
Virginia Student Assistance Authorities.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.
Board of Commissioners, Virginia Port Authority.
Board of Directors, Richmond Eye and Ear Hospital Authority.
Board of Directors, Small Business Financing Authority.
Board of Directors, Virginia Student Assistance Authorities.
Board of Directors, Virginia Innovative Technology Authority.
Board of Directors, Virginia Resources Authority.
Board of Regents, Gunston Hall Plantation.
Board of Regents, James Monroe Memorial Law Office and Library.
Board of Trustees, Family and Children's Trust Fund.
Board of Trustees, Frontier Culture Museum of Virginia.
Board of Trustees, Jamestown-Yorktown Foundation.
Board of Trustees, Miller School of Albemarle.
Board of Trustees, Rural Virginia Development Foundation.
Board of Trustees, The Science Museum of Virginia.
Board of Trustees, Virginia Museum of Fine Arts.
Board of Trustees, Virginia Museum of Natural History.
Board of Trustees, Virginia Outdoor Foundation.
(Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund.
Board of Visitors, Christopher Newport University.
Board of Visitors, The College of William and Mary in Virginia.
Board of Visitors, George Mason University.
Board of Visitors, Gunston Hall Plantation.
Board of Visitors, James Madison University.
Board of Visitors, Longwood College.
Board of Visitors, Mary Washington College.

Board of Visitors to Mount Vernon.
 Board of Visitors, Norfolk State University.
 Board of Visitors, Old Dominion University.
 Board of Visitors, Radford University.
 Board of Visitors, University of Virginia.
 Board of Visitors, Virginia Commonwealth University.
 Board of Visitors, Virginia Military Institute.
 Board of Visitors, Virginia Polytechnic Institute and State University.
 Board of Visitors, Virginia State University.
 Governing Board, Virginia College Building Authority.
 Governing Board, Virginia Public School Authority.
 Library Board, The Library of Virginia.
 State Board for Community Colleges, Virginia Community College System.

Commissions

Alexandria Historical Restoration and Preservation Commission.
Charitable Gaming Commission.
 Chesapeake Bay Bridge and Tunnel Commission.
 Hampton Roads Sanitation District Commission.

Districts

Chesapeake Bay Bridge and Tunnel District.
 Hampton Roads Sanitation District.

Educational Institutions

Christopher Newport University.
 College of William and Mary in Virginia.
 Frontier Culture Museum of Virginia.
 George Mason University.
 James Madison University.
 Jamestown-Yorktown Foundation.
 Longwood College.
 Mary Washington College.
 Miller School of Albemarle.
 Norfolk State University.
 Old Dominion University.
 Radford University.
 The Science Museum of Virginia.
 University of Virginia.
 Virginia Commonwealth University.
 Virginia Community College System.
 Virginia Military Institute.
 Virginia Museum of Fine Arts.
 Virginia Polytechnic Institute and State University.
 The Library of Virginia.
 Virginia State University.

Foundations

Chippokes Plantation Farm Foundation.
 Rural Virginia Development Foundation.
 Virginia Conservation and Recreation Foundation.
 Virginia Historic Preservation Foundation.
 Virginia Outdoor Foundation.

Museum

Virginia Museum of Natural History.

Plantation

Gunston Hall Plantation.

System

Virginia Retirement System.

§ 2.1-1.9. Commissions.

Notwithstanding the definition for "commission" as provided in § 2.1-1.2, the following entities shall be referred to as commissions:

Charitable Gaming Commission
 Commission on Local Government
 Marine Resources Commission
 Milk Commission
 Virginia Commission for the Arts
 Virginia Employment Commission.

§ 2.1-20.4. Bodies receiving compensation.

A. Notwithstanding any other provision of law, the following commissions, boards, etc., shall be those which receive compensation from state funds pursuant to § 2.1-20.3:

Accountancy, Board for
Agriculture and Consumer Services, Board of
Air Pollution Control Board, State
Airports Authority, Virginia
Apprenticeship Council
Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
Athletic Board, Virginia
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Building Code Technical Review Board, State
Charitable Gaming Commission
Chesapeake Bay Local Assistance Board
Child Day Care and Early Childhood Programs, Virginia Council on
Coal Mining Examiners, Board of
College Building Authority
Commonwealth Transportation Board
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Correctional Education, Board of
Corrections, Board of
Cosmetology, Board for
Criminal Justice Services Board
Deaf and Hard-of-Hearing, Advisory Board for the
Dentistry, Board of
Education, State Board of
Education Loan Authority, Virginia - Board of Directors
Elections, State Board of
Environment, Council on the
Fire Services Board, Virginia
Funeral Directors and Embalmers, Board of
Game and Inland Fisheries, Board of
Geology, Board for
Health, State Board of
Health Professions, Board of
Hearing Aid Specialists, Board for
Higher Education, State Council of
Historic Resources, Board of
Housing and Community Development, Board of
Information Management, Council on
Marine Resources Commission
Medical Assistance Services, Board of
Medical Complaint Investigation Committee
Medicine, Board of
Mental Health, Mental Retardation and Substance Abuse Services Board, State
Milk Commission
Mineral Mining Examiners, Board of
Nursing, Board of
Nursing Home Administrators, Board of
Occupational Therapy, Advisory Board on
Oil and Gas Conservation Board, Virginia
Opticians, Board for
Optometry, Board of
Pesticide Control Board
Pharmacy, Board of
Physical Therapy, Advisory Board on
Port Authority, Board of Commissioners of the Virginia
Professional and Occupational Regulation, Board for

Professional Counselors, Board of
Professional Soil Scientists, Board for
Psychology, Board of
Public Defender Commission
Public School Authority, Virginia
Purchases and Supply Appeals Board
Real Estate Appraiser Board
Real Estate Board
Recreation Specialists, Board of
Rehabilitative Services, Board of
Respiratory Therapy, Advisory Board on
Safety and Health Codes Board
Seed Potato Board
Social Services, Board of
Social Work, Board of
State Health Department Sewage Handling and Disposal Appeal Review Board
Substance Abuse Certification Board
Surface Mining Review, Board of
Treasury Board
Veterans' Affairs, Board on
Veterinary Medicine, Board of
Virginia Board for Asbestos Licensing
Virginia Health Planning Board
Virginia Manufactured Housing Board
Virginia Veterans Care Center Board of Trustees
Virginia Waste Management Board
Visually Handicapped, Virginia Board for the
Waste Management Facility Operators, Board for
Water Control Board, State
Waterworks and Wastewater Works Operators, Board for
Well Review Board, Virginia
Youth and Family Services, State Board of.

B. Individual members of boards, commissions, committees, councils, and other similar bodies appointed at the state level and receiving compensation for their services on January 1, 1980, but who will not receive compensation under the provisions of this article, shall continue to receive compensation at the January 1, 1980, rate until such member's current term expires.

§ 2.1-51.27. Agencies for which responsible.

The Secretary of Administration shall be responsible to the Governor for the following agencies: Department of Information Technology, Council on Information Management, Department of Personnel and Training, Department of General Services, Compensation Board, Secretary of the Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, and Commission on Local Government, and *Charitable Gaming Commission*. The Governor may, by executive order, assign any other state executive agency to the Secretary of Administration, or reassign any agency listed above to another secretary.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.

A. Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of this Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to citizens of this Commonwealth, representatives of newspapers and magazines with circulation in this Commonwealth, and representatives of radio and television stations broadcasting in or into this Commonwealth. The custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within five work days after the receipt of the request by the public body which is the custodian of the requested records. Such citizen request shall designate the requested records with reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall not be necessary to invoke the provisions of this chapter and the time limits for response by the public body. The response by the public body within such five work days shall be one of the following responses:

1. The requested records shall be provided to the requesting citizen.
2. If the public body determines that an exemption applies to all of the requested records, it may refuse to release such records and provide to the requesting citizen a written explanation as to why the records are not available with the explanation making specific reference to the applicable Code sections which make the requested records exempt.

3. If the public body determines that an exemption applies to a portion of the requested records, it may delete or excise that portion of the records to which an exemption applies, disclose the remainder of the requested records and provide to the requesting citizen a written explanation as to why these portions of the record are not available to the requesting citizen with the explanation making specific reference to the applicable Code sections which make that portion of the requested records exempt. Any reasonably segregatable portion of an official record shall be provided to any person requesting the record after the deletion of the exempt portion.

4. If the public body determines that it is practically impossible to provide the requested records or to determine whether they are available within the five-work-day period, the public body shall so inform the requesting citizen and shall have an additional seven work days in which to provide one of the three preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records; however, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the citizen requesting the information.

Official records maintained by a public body on a computer or other electronic data processing system which are available to the public under the provisions of this chapter shall be made reasonably accessible to the public at reasonable cost.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

B. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in this Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions of this chapter.

Criminal incident information relating to felony offenses shall not be excluded from the provisions of this chapter; however, where the release of criminal incident information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information.

2. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

3. State income, business, and estate tax returns, personal property tax returns, scholastic records and personnel records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; however, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

Where the person who is the subject of medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall be reviewed only and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed to any person except the subject by the administrator or chief medical officer of the facility or except as provided by law.

For the purposes of this chapter such statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in subsection A of this section. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education, such right of access may be asserted by the subject person.

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or other papers held or requested by the mayor or other chief executive officer of any political subdivision which are specifically concerned with the evaluation of performance of the duties and functions of any locally elected official and were prepared after June 30, 1992.

Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of the General Assembly held by the Division of Legislative Services shall not be released by the Division without the prior consent of the member.

5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the Commonwealth and any other writing protected by the attorney-client privilege.

6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of an active administrative investigation concerning a matter which is properly the subject of an executive or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

7. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

8. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

9. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by

the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

14. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or § 62.1-134.1.

15. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services and records, documents and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of this Commonwealth.

17. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

18. Financial statements not publicly available filed with applications for industrial development financings.

19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Economic Development or local industrial or economic development authorities or organizations, used by the Department and such entities for business, trade and tourism development.

21. Information which was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

22. Documents as specified in § 58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

26. Fisheries data which would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

27. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

29. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or

licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Youth and Family Services, the Virginia Department of Youth and Family Services or any facility thereof to the extent as determined by the Director of the Department of Youth and Family Services, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

- (i) Security manuals, including emergency plans that are a part thereof;
- (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;
- (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;
- (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
- (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;
- (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;
- (vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and
- (viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

34. Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body which has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game

to which it pertains.

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of this title, or by any county, city, or town.

42. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Care System pursuant to § 32.1-112.

43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline; however, nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation.

46. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

47. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

48. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration.

49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

50. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

51. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

52. Patient level data collected by the Virginia Health Services Cost Review Council and not yet processed, verified, and released, pursuant to § 9-166.7, to the Council by the nonprofit organization with which the Executive Director has contracted pursuant to § 9-166.4.

53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce

Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

55. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

a. Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

b. Surveillance techniques;

c. Installation, operation, or utilization of any alarm technology;

d. Engineering and architectural drawings of the Museum or any warehouse;

e. Transportation of the Museum's collections, including routes and schedules; or

f. Operation of the Museum or any warehouse used by the Museum involving the:

(1) Number of employees, including security guards, present at any time; or

(2) Busiest hours, with the maximum number of visitors in the Museum.

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

(i) Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

(ii) Surveillance techniques;

(iii) The installation, operation, or utilization of any alarm technology;

(iv) Engineering and architectural drawings of such government stores or warehouses;

(v) The transportation of merchandise, including routes and schedules; and

(vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:

a. Number of employees present during each shift;

b. Busiest hours, with the maximum number of customers in such government store; and

c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to § 54.1-2506.1.

58. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 3 of subsection B of this section, or to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to, any public officer, official or employee at any level of state, local or regional government in this Commonwealth or to the compensation or benefits paid by any corporation organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their officers or employees. The provisions of this subsection, however, shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

§ 9-6.25:3. Supervisory boards.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following supervisory boards:

Alcoholic Beverage Control Board

Board for Branch Pilots

Board of Commissioners, Virginia Port Authority

Board of Game and Inland Fisheries

Board of Regents, Gunston Hall Plantation

Board of Regents, James Monroe Memorial Law Office and Library

Board of Trustees, Chippokes Plantation Farm Foundation

Board of Trustees, Frontier Culture Museum of Virginia

Board of Trustees, Jamestown-Yorktown Foundation

Board of Trustees, The Science Museum of Virginia

Board of Trustees, Virginia Museum of Fine Arts

Board of Trustees, Virginia Retirement System

Board of Trustees, Virginia Veterans Care Center
 Board of Trustees, Virginia War Memorial Foundation
 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund
 Board of Visitors, Christopher Newport University
 Board of Visitors, George Mason University
 Board of Visitors, James Madison University
 Board of Visitors, Longwood College
 Board of Visitors, Mary Washington College
 Board of Visitors, Norfolk State University
 Board of Visitors, Old Dominion University
 Board of Visitors, Radford University
 Board of Visitors, The College of William and Mary in Virginia
 Board of Visitors, University of Virginia
 Board of Visitors, Virginia Commonwealth University
 Board of Visitors, Virginia Military Institute
 Board of Visitors, Virginia Polytechnic Institute and State University
 Board of Visitors, Virginia State University
Charitable Gaming Commission
 Commonwealth's Attorneys' Services Council
 Compensation Board
 Governing Board, Virginia College Building Authority
 Governing Board, Virginia Public School Authority
 State Board for Community Colleges, Virginia Community College System
 State Board of Education
 State Certified Seed Board
 State Council of Higher Education for Virginia
 Virginia Agricultural Council
 Virginia Bright Flue-Cured Tobacco Board
 Virginia Board for People with Disabilities
 Virginia Cattle Industry Board
 Virginia Corn Board
 Virginia Dark-Fired Tobacco Board
 Virginia Egg Board
 Virginia Horse Industry Board
 Virginia Marine Products Board
 Virginia Peanut Board
 Virginia Pork Industry Board
 Virginia Soybean Board
 Virginia State Apple Board
 Virginia Sweet Potato Board.

§ 18.2-334.2. Same; bingo games, raffles and duck races conducted by certain organizations.

Nothing in this article shall apply to any bingo game, instant bingo, raffle, or duck race conducted solely by organizations as defined in subdivisions 1 (a) and 1 (b) of § 18.2-340.1 and meeting the qualifications set forth in § 18.2-340.3 and having § 18.2-340.16 which have received a permit as set forth in § 18.2-340.2 § 18.2-340.25, or which are exempt from the permit requirement under § 18.2-340.23.

Article 1.1:1.

Charitable Gaming.

§ 18.2-340.15. *State control of charitable gaming.*

A. *Charitable gaming as authorized herein shall be permitted in the Commonwealth as a means of funding qualified organizations. The Charitable Gaming Commission is vested with control of all charitable gaming in the Commonwealth, with plenary power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.*

B. *The conduct of any charitable gaming is a privilege which may be granted or denied by the Charitable Gaming Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this article.*

§ 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 individual cards having randomly numbered squares ranging from one to seventy-five, 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., with each column having five randomly numbered squares, except the center column which shall contain one free space.

"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 any other equipment or product manufactured for or intended to be used in the conduct of charitable games.

"Commission" means the Charitable Gaming Commission.

"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.

"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 voluntary fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the voluntary 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;
3. An association of war veterans or auxiliary units thereof organized in the United States; or
4. A fraternal association or corporation operating under the lodge system.

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

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

For the purpose of this article, "raffle" shall include the use of individually prepackaged cards made completely of paper or paper products, with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses, such cards being commonly referred to as "pull tabs."

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

§ 18.2-340.17. Charitable Gaming Commission established.

A. There is hereby established, in the Office of the Secretary of Administration, the Charitable Gaming Commission. The Commission shall consist of seven members appointed by the Governor, subject to confirmation by the General Assembly. Each member of the Commission shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office. To the extent practicable, the Commission shall consist of individuals from different geographic regions of the Commonwealth. Upon initial appointment, three members shall be appointed for four-year terms, two for three-year terms, and two for two-year terms. Thereafter, all members shall be appointed for four-year terms. Vacancies shall be filled by the Governor in the same manner as the original appointment for the unexpired portion of the term. Each Commission member shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than four years shall thereafter be eligible for reappointment to two consecutive terms of four years each. The Commission shall elect a chairman from among its members. No member of the General Assembly while serving as a member shall be eligible for appointment to the Commission.

B. The members of the Commission shall serve at the pleasure of the Governor.

C. Each member of the Commission shall receive fifty dollars for each day or part thereof spent in the performance of his duties and in addition shall be reimbursed for his reasonable expenses incurred therein.

D. A quorum shall consist of four members. The decision of a majority of those members present and voting shall constitute a decision of the Commission.

E. The Commission shall adopt rules and procedures for the conduct of its business. The Commission shall establish and maintain a business office within the Commonwealth at a place to be determined by

the Commission. The Commission shall meet at least six times a year, and other meetings may be held at any time or place determined by the Commission or upon call of the chairman or upon a written request to the chairman by any two members. All members shall be duly notified of the time and place of any regular or other meeting at least ten days in advance of such meetings.

F. The Commission shall keep a complete and accurate record of its proceedings. A copy of the record shall be available for public inspection and copying.

§ 18.2-340.18. Powers and duties of the Commission.

The Commission shall have all powers and duties necessary to carry out the provisions of this article and to exercise the control of charitable gaming as set forth in § 18.2-340.15. Such powers and duties shall include but not be limited to the following:

1. The Commission is vested with jurisdiction and supervision over all charitable gaming authorized under the provisions of this article and including all persons that conduct or provide goods, services or premises used in the conduct of charitable gaming. It may employ such persons as are necessary to ensure that charitable gaming is conducted in conformity with the provisions of this article and the regulations of the Commission. The Commission may designate such agents and employees as it deems necessary and appropriate to be vested with like power to enforce the provisions of this article and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of any county, city or town.

2. The Commission, its agents and employees and any law-enforcement officers charged with the enforcement of charitable gaming laws shall have free access to the offices, facilities or any other place of business of any organization, including any premises devoted in whole or in part to the conduct of charitable gaming. These individuals may enter such places or premises for the purpose of carrying out any duty imposed by this article, securing records required to be maintained by an organization, investigating complaints, or conducting audits.

3. The Commission may compel the production of any books, documents, records, or memoranda of any organizations or supplier for the purpose of satisfying itself that this article and its regulations are strictly complied with. In addition, the Commission may require the production of an annual balance sheet and operating statement of any person granted a permit pursuant to the provisions of this article and may require the production of any contract to which such person is or may be a party.

4. The Commission shall promulgate regulations under which charitable gaming shall be conducted in the Commonwealth and all such other regulations that it deems necessary and appropriate to effect the purposes of this article. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).

5. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

6. The Commission may compel any person holding a permit to file with the Commission such documents, information or data as shall appear to the Commission to be necessary for the performance of its duties.

7. The Commission may enter into arrangements with any governmental agency of this or any other state or any locality in the Commonwealth for the purposes of exchanging information or performing any other act to better ensure the proper conduct of charitable gaming.

8. The Commission may issue interim certification of tax-exempt status and collect a fee therefor in accordance with subsection B of § 18.2-340.24.

9. The Commission shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission and any recommendations for legislation applicable to charitable gaming in the Commonwealth.

10. The Commission, its agents and employees may conduct such audits, in addition to those required by § 18.2-340.31, as they deem necessary and desirable.

11. The Commission may limit the number of organizations for which a person may manage, operate or conduct charitable games.

12. The Commission may report any alleged criminal violation of this article to the appropriate attorney for the Commonwealth for appropriate action.

§ 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. 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 membership 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 (§ 2.1-340 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.

§ 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.

B. No permit to conduct charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for the hearing. At the discretion of the Commission, hearings may be conducted by hearing officers who shall be selected from the list prepared by the Executive Secretary of the Supreme Court. After a hearing on the issues, the Commission may refuse to issue or may suspend or revoke any such permit if it determines that the organization has not complied with the provisions of this article or the regulations of the Commission.

C. Any person aggrieved by a refusal of the Commission to issue any permit, the suspension or revocation of a permit, or any other action of the Commission, may, within thirty days of such action, appeal to the circuit court in the jurisdiction where such charitable gaming was being or would have been conducted. If the court finds based on the record of the Commission that the action of the Commission is not supported by credible evidence, it shall order such relief as it deems appropriate. The decision of the court shall be subject to appeal as in other cases at law.

§ 18.2-340.21. Executive Secretary; staff.

The Commission shall appoint an Executive Secretary and such other employees as it deems essential to perform its duties under this article, who shall possess such authority and perform such duties as the Commission shall prescribe or delegate to them. Such employees shall be compensated as provided by the Commission.

The Executive Secretary, in addition to any other duties prescribed by the Commission, shall keep a true and full record of all proceedings of the Commission and preserve at the Commission's principal office all books, documents and papers of the Commission.

§ 18.2-340.22. Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts.

A. This article permits qualified organizations and organizations exempted under § 18.2-340.23 from obtaining a permit to conduct raffles, bingo and instant bingo games. All games not explicitly authorized by this article are prohibited.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this article shall prohibit an organization from using the State Lottery Department's Pick-3 number or any number or other designation selected by the State Lottery Department in connection with any lottery, as the basis for determining the winner of a raffle.

§ 18.2-340.23. Organizations exempt from certain permit, financial reporting and audit requirements.

Any organization that reasonably expects to realize gross receipts of \$25,000 or less in any twelve-month period and a volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue squad is located as being a part of the safety program of such political subdivision shall be exempt from the requirements of § 18.2-340.25 if, prior to conducting charitable gaming, it notifies the Commission, on a form prescribed by the Commission, that it will conduct charitable gaming. Any such organizations also shall be exempt from the financial reporting and audit requirements of this article and the payment of audit fees but shall file with the Commission, at such time or times as may be required by the Commission, a resolution of its board of directors stating that the organization has complied with the provisions of this article. If any of the organization's actual gross receipts for the twelve-month period exceed \$25,000, the Commission may require the organization to file by a specified date the report required by § 18.2-340.30. Nothing in this section shall prevent the Commission from conducting any investigation or audit it deems appropriate to ensure the organization's compliance with the provisions of this article or the Commission's regulations.

§ 18.2-340.24. Eligibility for permit; exceptions; where valid.

A. To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the county, city or town or in a county, city or town adjacent to the county, city or town wherein the organization proposes to conduct charitable gaming for a period of at least three years immediately prior to applying for a permit.

The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or

international fraternal order or to a national or international civic organization which is exempt under § 501 (c) (3) of the United States Internal Revenue Code and which has a lodge or chapter holding a charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth; (ii) to booster clubs which have been operating for less than three years and which have been established solely to raise funds for school-sponsored activities in public schools which are less than three years old; (iii) to recently established volunteer fire and rescue companies or departments, after county, city or town approval; or (iv) to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another, complies with the requirements of subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

2. Be operating currently and have always been operated as a nonprofit organization.

B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to exceed \$75,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501 (c) of the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal Revenue Service, the same documentation may be filed with the Commission for an interim certification of tax-exempt status. If such documentation is filed, the Commission may, after reviewing such documentation it deems necessary, issue its determination of tax-exempt status within sixty days of receipt of such documentation. The Commission may charge a reasonable fee, not to exceed \$500. This interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its determination of tax-exempt status, or for eighteen months, whichever is earlier.

C. A permit shall be valid only for the locations designated in the permit.

§ 18.2-340.25. Annual permit required; application fee; form of application.

A. Except as provided for in § 18.2-340.23, prior to the commencement of any charitable game, an organization shall obtain an annual permit from the Commission.

B. All applications for a permit shall be acted upon by the Commission within sixty days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Commission, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. The application shall be a matter of public record.

All permits shall be subject to regulation by the Commission to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Commission.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming; however, nothing in this section shall be construed to prohibit granting special permits pursuant to § 18.2-340.27.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Commission and shall be accompanied by payment of the fee for processing the application.

§ 18.2-340.26. Sale of raffle tickets; drawings.

A qualified organization may sell raffle tickets both in and out of the jurisdiction designated in its permit and shall conduct the drawing within the Commonwealth; however pull-tab devices used as part of a raffle as defined in § 18.2-340.16 may be sold only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the pull-tab devices are sold is open only to members and their guests.

§ 18.2-340.27. Conduct of bingo games; special permits.

A. A qualified organization shall accept only cash or, at its option, checks in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or debit card or other electronic fund transfer in payment of any charges or assessments for players to participate in bingo games.

C. Bingo games may be held by qualified organizations no more frequently than two calendar days in any calendar week, except in accordance with subsection D.

D. A special permit may be granted a qualified organization which entitles it to conduct more frequent operations of bingo games during carnivals, fairs and other similar events which are located in the jurisdiction designated in the permit.

§ 18.2-340.28. Conduct of instant bingo.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo as a part of such bingo game and only at such location and at such times as designated in the permit for regular bingo games.

B. The gross receipts in the course of a reporting year from the playing of instant bingo shall not exceed fifty percent of the gross receipts of an organization's bingo operation.

C. Any organization conducting instant bingo shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such instant bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Instant bingo

supplies shall be paid for only by check drawn on an account of the organization. During the conduct of instant bingo, the supplier's invoice, or a legible true copy thereof, for the instant bingo supplies being used shall be maintained by the organization on the premises where the instant bingo is being conducted.

D. No qualified organization shall sell any instant bingo card to any individual under eighteen years of age.

§ 18.2-340.29. Joint operation of bingo games; written reports; special permit required.

A. Any two qualified organizations may jointly organize and conduct bingo games provided both have fully complied with all other provisions of this article.

B. Any two qualified organizations jointly conducting such games shall be (i) subject to the same restrictions and prohibitions contained in this article that would apply to a single organization conducting bingo games and (ii) required to furnish to the Commission a written report setting forth the location where such games will be held, the division of manpower, costs, and proceeds for each game to be jointly conducted.

Upon a finding that the division of manpower and costs for each game bears a reasonable relationship to the division of proceeds, the Commission shall issue a special permit for the joint conduct of all approved games.

C. No bingo game shall be jointly conducted until the special permit issued pursuant to subsection B is obtained by the organizations.

§ 18.2-340.30. Reports of gross receipts and disbursements required; form of reports; failure to file.

A. Each qualified organization shall keep a complete record of all receipts from its charitable gaming operation and all disbursements related to such operation. Each qualified organization shall file at least annually, on a form prescribed by the Commission, a report of all such receipts and disbursements, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report and any other information related to its charitable gaming operation that the Commission may require. In addition, the Commission, by regulation, may require any qualified organization whose receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed per this section shall be a matter of public record.

B. All reports required by this section shall be acknowledged in the presence of a notary public and filed on or before the date prescribed by the Commission.

C. The financial report shall be accompanied by a certificate, verified under oath, by the board of directors or the executive committee, if any, of the organization stating that the proceeds of charitable gaming have been used only for those purposes specified in § 18.2-340.19 and that the operation of the charitable games has been in accordance with the provisions of this article.

D. Any qualified organization having annual gross receipts from charitable gaming in excess of \$250,000, as shown on its annual financial report, shall attach to such report an opinion of a licensed independent certified public accountant that in all material respects (i) the annual financial report fairly presents beginning cash, receipts, operating costs, use of proceeds, and ending cash; (ii) the proceeds of all charitable games have been used for those purposes specified in § 18.2-340.19; and (iii) the gross receipts have been used in accordance with the provisions of this article. The opinion required by this subsection shall be in addition to any other opinion that may be required by the Commission.

E. Each qualified organization shall designate an individual who shall be responsible for filling an annual and, if required, quarterly financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Commission shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner approved by the Commission.

F. Each qualified organization shall maintain (i) for three years a written record of the dates on which bingo games are played, the number of people in attendance on each date and the amount of the gross receipts and prizes paid on each day; (ii) a record of the name and address of each individual to whom a regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

G. The failure to file reports when due and, when required, the opinion of a licensed independent certified public accountant in accordance with subsection D, shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report or the opinion is properly filed and a new permit is obtained.

§ 18.2-340.31. Audit of reports; exemption; fee.

A. Except as provided in § 18.2-340.23, all reports filed pursuant to § 18.2-340.30 shall be subject to audit by the Commission in accordance with Commission regulations.

B. The Commission shall prescribe a reasonable audit fee not to exceed the actual cost of the audit if the audit is conducted by an independent auditor or accountant, or if the audit is conducted by the Commission, two percent of (i) the gross receipts which an organization reports pursuant to § 18.2-340.30 and (ii) the interest income on money the organization has received from charitable

gaming operations. The audit fee shall accompany each annual report.

C. The audit fee shall be payable to the Commission. All audit fees received by the Commission shall be separately accounted for and shall be used only for the purposes of auditing and regulating charitable gaming.

§ 18.2-340.32. Authority of local governments.

The governing body of any county, city or town may adopt an ordinance consistent with this article and the regulations of the Commission which (i) prohibits the playing of instant bingo and (ii) establishes reasonable hours during which bingo games may be played within such jurisdiction. If the governing body of any town adopts an ordinance pursuant to the provisions of this section, such town shall not be subject to any ordinance adopted by the county within which such town lies.

§ 18.2-340.33. 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 operating costs, (ii) publicizing the time and date of charitable gaming, (iii) prizes, (iv) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (v) 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.

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. 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 a qualified organization and qualified as a tax-exempt organization pursuant to § 501 (c) of the Internal Revenue Code 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 ninety days immediately preceding such participation, has been a bona fide member of the organization; however, 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; or (iii) the spouse of any such bona fide member of a qualified organization provided at least one bona fide member is present.

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; and

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.

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

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

8. No qualified organization shall enter into any contract with or otherwise employ or compensate

any member of the organization on account of the sale of bingo supplies or equipment.

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

- a. No bingo door prize shall exceed \$25;
- b. No regular bingo or special bingo game prize shall exceed \$100;
- c. No instant bingo prize for a single card shall exceed \$500; and
- d. No bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one calendar day exceed \$1,000.

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

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

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

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

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

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

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

§ 18.2-340.34. Suppliers of charitable gaming supplies; registration; qualification; suspension, revocation or refusal to renew certificate; maintenance and production of records.

A. No person shall offer to sell, sell or otherwise provide charitable gaming supplies to any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Commission. An application for registration shall be made on forms prescribed by the Commission and shall be accompanied by a fee in the amount of \$500. Each registration certificate shall remain valid for a period of one year from the date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$500 and shall be made on forms prescribed by the Commission.

B. The Commission shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the registration of suppliers. The Commission may refuse to register any supplier who has, or which has any officer, director, partner, or owner who has (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (iv) been delinquent in the filing of any tax returns or the payment of any taxes due the Commonwealth.

C. The Commission may suspend, revoke or refuse to renew the registration certificate of any supplier for any conduct described in subsection B or for any violation of this article or regulation of the Commission. Before taking any such action, the Commission shall give the supplier a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard.

D. Each supplier shall document each sale of charitable gaming supplies to a qualified organization on an invoice which clearly shows (i) the name and address of the qualified organization to which the supplies were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of

instant bingo cards and pull-tab raffle cards, the quality of deals sold and the price per deal paid by the qualified organization; (iv) the serial number of the top sheet in each packet of bingo paper, the serial number for each series of uncollated bingo paper, and the cut, color and quantity of bingo paper sold; and (v) any other information with respect to items of charitable gaming supplies as the Commission may prescribe by regulation. A legible copy of the invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.

E. Each supplier shall maintain a legible copy of each invoice required by subsection D for a period of three years from the date of sale. Each supplier shall make such documents immediately available for inspection and copying to any agent or employee of the Commission upon request made during normal business hours. This subsection shall not limit the right of the Commission to require the production of any other documents in the possession of the supplier which relate to its transactions with qualified organizations.

§ 18.2-340.35. Assistance from Department of State Police.

The Department of the State Police, upon request of the Commission, shall assist in the conduct of investigations by the Commission.

§ 18.2-340.36. Suspension of permit.

A. When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this article or the regulations of the Commission, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit of the organization conducting the bingo game or raffle. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit, he shall suspend the permit. Immediately upon such suspension, the officer shall notify the organization in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Commission or its designated hearing officer within ten days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Commission or a court of competent jurisdiction.

§ 18.2-340.37. Criminal penalties.

A. Any person who violates the provisions of this article shall be guilty of a Class 1 misdemeanor.

B. Each day in violation shall constitute a separate offense.

§ 18.2-340.38. Transitional provisions.

A. In order to implement the statewide regulation of charitable gaming expeditiously, the initial rules and regulations shall be adopted by the Commission but shall not be subject to the Administrative Process Act (§ 9-6.14:1 et seq.) during the first twelve-month period following the earliest effective date of any portion of this article. Thereafter, all rules and regulations shall fully comply with the provisions of the Administrative Process Act.

B. The Commission may issue temporary licenses upon conditions as it deems necessary, subject however to all limitations set forth in this article, for a term which shall not extend beyond one year after the latest effective day of any portion of this article.

2. That Article 1.1 (§§ 18.2-340.1 through 18.2-340.14) of Chapter 8 of Title 18.2 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on July 1, 1996, except that §§ 18.2-340.16 through 18.2-340.19 and 18.2-340.21 and the repeal of § 18.2-340.1 shall become effective in due course.

4. That the Charitable Gaming Commission shall promulgate regulations in accordance with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 as soon as practicable on or after July 1, 1995.

5. That the provisions of Article 1.1 (§ 18.2-340.1 et seq.) of Chapter 8 of Title 18.2 and any ordinances adopted pursuant thereto by local governing bodies shall remain in effect until July 1, 1996, when the Charitable Gaming Commission shall be vested with control of all charitable gaming in the Commonwealth and implement its regulations in accordance with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. No local governing body shall collect, in advance, any audit fee for the review of charitable gaming financial reports required to be filed by Article 2 (§ 18.2-340.1 et seq.) of Chapter 8 of Title 18.2.

6. That the Charitable Gaming Commission shall report to the Governor and the General Assembly of Virginia not later than January 1, 1997, with respect to the advisability of repealing the percentage limitation set forth in subsection B of § 18.2-340.28 and any appropriate statutory or regulatory modifications necessary to accomplish such repeal.