

LD2813633

SENATE BILL NO. 1020

Offered January 23, 1995

A BILL to amend and reenact §§ 2.1-1.5, 2.1-1.9, 2.1-20.4, 2.1-51.34, 9-6.25:3. and 18.2-334.2 of the Code of Virginia; to amend the Code of Virginia by adding in Title 18.2 an article numbered 1.1:1, consisting of sections numbered 18.2-340.15 through 18.2-340.37; and to repeal Article 1.1 (§§ 18.2-340.1 through 18.2-340.14) 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.

Patrons—Colgan, Benedetti, Lambert, Robb and Stosch; Delegates: Cantor, Croshaw, DeBoer (By Request) and Woodrum

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 2.1-1.9, 2.1-20.4, 2.1-51.34, 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 Title 18.2 an article numbered 1.1:1, consisting of sections numbered 18.2-340.15 through 18.2-340.37, 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.

INTRODUCED

SB1020

- 60 Board of Visitors, James Madison University.
 61 Board of Visitors, Longwood College.
 62 Board of Visitors, Mary Washington College.
 63 Board of Visitors to Mount Vernon.
 64 Board of Visitors, Norfolk State University.
 65 Board of Visitors, Old Dominion University.
 66 Board of Visitors, Radford University.
 67 Board of Visitors, University of Virginia.
 68 Board of Visitors, Virginia Commonwealth University.
 69 Board of Visitors, Virginia Military Institute.
 70 Board of Visitors, Virginia Polytechnic Institute and State University.
 71 Board of Visitors, Virginia State University.
 72 Governing Board, Virginia College Building Authority.
 73 Governing Board, Virginia Public School Authority.
 74 Library Board, The Library of Virginia.
 75 State Board for Community Colleges, Virginia Community College System.
 76 Commissions
 77 Alexandria Historical Restoration and Preservation Commission.
 78 *Charitable Gaming Commission*.
 79 Chesapeake Bay Bridge and Tunnel Commission.
 80 Hampton Roads Sanitation District Commission.
 81 Districts
 82 Chesapeake Bay Bridge and Tunnel District.
 83 Hampton Roads Sanitation District.
 84 Educational Institutions
 85 Christopher Newport University.
 86 College of William and Mary in Virginia.
 87 Frontier Culture Museum of Virginia.
 88 George Mason University.
 89 James Madison University.
 90 Jamestown-Yorktown Foundation.
 91 Longwood College.
 92 Mary Washington College.
 93 Miller School of Albemarle.
 94 Norfolk State University.
 95 Old Dominion University.
 96 Radford University.
 97 The Science Museum of Virginia.
 98 University of Virginia.
 99 Virginia Commonwealth University.
 100 Virginia Community College System.
 101 Virginia Military Institute.
 102 Virginia Museum of Fine Arts.
 103 Virginia Polytechnic Institute and State University.
 104 The Library of Virginia.
 105 Virginia State University.
 106 Foundations
 107 Chippokes Plantation Farm Foundation.
 108 Rural Virginia Development Foundation.
 109 Virginia Conservation and Recreation Foundation.
 110 Virginia Historic Preservation Foundation.
 111 Virginia Outdoor Foundation.
 112 Museum
 113 Virginia Museum of Natural History.
 114 Plantation
 115 Gunston Hall Plantation.
 116 System
 117 Virginia Retirement System.
 118 § 2.1-1.9. Commissions.
 119 Notwithstanding the definition for "commission" as provided in § 2.1-1.2, the following entities shall
 120 be referred to as commissions:
 121 *Charitable Gaming Commission*

122 Commission on Local Government
 123 Marine Resources Commission
 124 Milk Commission
 125 Virginia Commission for the Arts
 126 Virginia Employment Commission.
 127 § 2.1-20.4. Bodies receiving compensation.
 128 A. Notwithstanding any other provision of law, the following commissions, boards, etc., shall be
 129 those which receive compensation from state funds pursuant to § 2.1-20.3:
 130 Accountancy, Board for
 131 Agriculture and Consumer Services, Board of
 132 Air Pollution Control Board, State
 133 Airports Authority, Virginia
 134 Apprenticeship Council
 135 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
 136 Athletic Board, Virginia
 137 Auctioneers Board
 138 Audiology and Speech-Language Pathology, Board of
 139 Aviation Board, Virginia
 140 Barbers, Board for
 141 Branch Pilots, Board for
 142 Building Code Technical Review Board, State
 143 *Charitable Gaming Commission*
 144 Chesapeake Bay Local Assistance Board
 145 Child Day Care and Early Childhood Programs, Virginia Council on
 146 Coal Mining Examiners, Board of
 147 College Building Authority
 148 Commonwealth Transportation Board
 149 Conservation and Development of Public Beaches, Board on
 150 Conservation and Recreation, Board of
 151 Contractors, Board for
 152 Correctional Education, Board of
 153 Corrections, Board of
 154 Cosmetology, Board for
 155 Criminal Justice Services Board
 156 Deaf and Hard-of-Hearing, Advisory Board for the
 157 Dentistry, Board of
 158 Education, State Board of
 159 Education Loan Authority, Virginia - Board of Directors
 160 Elections, State Board of
 161 Environment, Council on the
 162 Fire Services Board, Virginia
 163 Funeral Directors and Embalmers, Board of
 164 Game and Inland Fisheries, Board of
 165 Geology, Board for
 166 Health, State Board of
 167 Health Professions, Board of
 168 Hearing Aid Specialists, Board for
 169 Higher Education, State Council of
 170 Historic Resources, Board of
 171 Housing and Community Development, Board of
 172 Information Management, Council on
 173 Marine Resources Commission
 174 Medical Assistance Services, Board of
 175 Medical Complaint Investigation Committee
 176 Medicine, Board of
 177 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 178 Milk Commission
 179 Mineral Mining Examiners, Board of
 180 Nursing, Board of
 181 Nursing Home Administrators, Board of
 182 Occupational Therapy, Advisory Board on

183 Oil and Gas Conservation Board, Virginia
 184 Opticians, Board for
 185 Optometry, Board of
 186 Pesticide Control Board
 187 Pharmacy, Board of
 188 Physical Therapy, Advisory Board on
 189 Port Authority, Board of Commissioners of the Virginia
 190 Professional and Occupational Regulation, Board for
 191 Professional Counselors, Board of
 192 Professional Soil Scientists, Board for
 193 Psychology, Board of
 194 Public Defender Commission
 195 Public School Authority, Virginia
 196 Purchases and Supply Appeals Board
 197 Real Estate Appraiser Board
 198 Real Estate Board
 199 Recreation Specialists, Board of
 200 Rehabilitative Services, Board of
 201 Respiratory Therapy, Advisory Board on
 202 Safety and Health Codes Board
 203 Seed Potato Board
 204 Social Services, Board of
 205 Social Work, Board of
 206 State Health Department Sewage Handling and Disposal Appeal Review Board
 207 Substance Abuse Certification Board
 208 Surface Mining Review, Board of
 209 Treasury Board
 210 Veterans' Affairs, Board on
 211 Veterinary Medicine, Board of
 212 Virginia Board for Asbestos Licensing
 213 Virginia Health Planning Board
 214 Virginia Manufactured Housing Board
 215 Virginia Veterans Care Center Board of Trustees
 216 Virginia Waste Management Board
 217 Visually Handicapped, Virginia Board for the
 218 Waste Management Facility Operators, Board for
 219 Water Control Board, State
 220 Waterworks and Wastewater Works Operators, Board for
 221 Well Review Board, Virginia
 222 Youth and Family Services, State Board of.

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

227 § 2.1-51.34. Agencies for which responsible.

228 The Secretary of Finance shall be responsible for the following agencies: *Charitable Gaming*
 229 *Commission*, Department of Accounts, Department of Planning and Budget, Department of Taxation,
 230 Department of Treasury and Department of the State Internal Auditor. The Governor, by executive order,
 231 may assign any other state executive agency to the Secretary of Finance, or reassign any agency listed.

232 § 9-6.25:3. Supervisory boards.

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

235 Alcoholic Beverage Control Board
 236 Board for Branch Pilots
 237 Board of Commissioners, Virginia Port Authority
 238 Board of Game and Inland Fisheries
 239 Board of Regents, Gunston Hall Plantation
 240 Board of Regents, James Monroe Memorial Law Office and Library
 241 Board of Trustees, Chippokes Plantation Farm Foundation
 242 Board of Trustees, Frontier Culture Museum of Virginia
 243 Board of Trustees, Jamestown-Yorktown Foundation
 244 Board of Trustees, the Science Museum of Virginia

245 Board of Trustees, Virginia Museum of Fine Arts
 246 Board of Trustees, Virginia Retirement System
 247 Board of Trustees, Virginia Veterans Care Center
 248 Board of Trustees, Virginia War Memorial Foundation
 249 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund
 250 Board of Visitors, Christopher Newport University
 251 Board of Visitors, George Mason University
 252 Board of Visitors, James Madison University
 253 Board of Visitors, Longwood College
 254 Board of Visitors, Mary Washington College
 255 Board of Visitors, Norfolk State University
 256 Board of Visitors, Old Dominion University
 257 Board of Visitors, Radford University
 258 Board of Visitors, The College of William and Mary in Virginia
 259 Board of Visitors, University of Virginia
 260 Board of Visitors, Virginia Commonwealth University
 261 Board of Visitors, Virginia Military Institute
 262 Board of Visitors, Virginia Polytechnic Institute and State University
 263 Board of Visitors, Virginia State University
 264 *Charitable Gaming Commission*
 265 Commonwealth's Attorneys' Services Council
 266 Compensation Board
 267 Governing Board, Virginia College Building Authority
 268 Governing Board, Virginia Public School Authority
 269 State Board for Community Colleges, Virginia Community College System
 270 State Board of Education
 271 State Certified Seed Board
 272 State Council of Higher Education for Virginia
 273 Virginia Agricultural Council
 274 Virginia Bright Flue-Cured Tobacco Board
 275 Virginia Board for People with Disabilities
 276 Virginia Cattle Industry Board
 277 Virginia Corn Board
 278 Virginia Dark-Fired Tobacco Board
 279 Virginia Egg Board
 280 Virginia Horse Industry Board
 281 Virginia Marine Products Board
 282 Virginia Peanut Board
 283 Virginia Pork Industry Board
 284 Virginia Soybean Board
 285 Virginia State Apple Board
 286 Virginia Sweet Potato Board.
 287 § 18.2-334.2. Same; bingo games, raffles and duck races conducted by certain organizations.
 288 Nothing in this article shall apply to any bingo game, instant bingo, raffle, or duck race conducted
 289 solely by organizations as defined in subdivisions 1 (a) and 1 (b) of § 18.2-340.1 and meeting the
 290 qualifications set forth in § 18.2-340.3 and having § 18.2-340.16 which have received a permit as set
 291 forth in § 18.2-340.2, § 18.2-340.25, or which are exempt from the permit requirement under
 292 § 18.2-340.23.

293 *Article 1.1:1.*

294 *Charitable Gaming.*

295 § 18.2-340.15. *State control of charitable gaming.*

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

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

304 § 18.2-340.16. *Definitions.*

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

306 "Bingo" means a specific game of chance played with individual cards having randomly numbered
307 squares ranging from one to seventy-five, in which prizes are awarded on the basis of designated
308 numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such
309 cards shall have five columns headed respectively by the letters B.I.N.G.O., with each column having
310 five randomly numbered squares, except the center column which shall contain one free space.

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

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

315 "Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers,
316 instant bingo cards, pull-tab cards, and any other equipment or product manufactured for or intended to
317 be used in the conduct of charitable games.

318 "Commission" means the Charitable Gaming Commission.

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

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

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

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

332 "Organization" means any one of the following:

- 333 1. A voluntary fire department or rescue squad or auxiliary unit thereof which has been recognized
334 by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue
335 squad is located as being a part of the safety program of such political subdivision;
336 2. An organization operated exclusively for religious, charitable, community or educational purposes;
337 3. An association of war veterans or auxiliary units thereof organized in the United States; or
338 4. A fraternal association operating under the lodge system.

339 "Qualified organization" means any organization to which a valid permit has been issued by the
340 Commission to conduct charitable gaming.

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

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

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

351 § 18.2-340.17. Charitable Gaming Commission established.

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

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

366 C. Each member of the Commission shall receive fifty dollars for each day or part thereof spent in
367 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 general 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 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

429 of its gross receipts for (i) those lawful religious, charitable, community or educational purposes for
430 which the organization is specifically chartered or organized or (ii) those expenses relating to the
431 acquisition, construction, maintenance or repair of any interest in real property involved in the
432 operation of the organization and used for lawful religious, charitable, community or educational
433 purposes. The regulation may provide for a graduated scale of percentages of gross receipts to be used
434 in the foregoing manner based upon factors the Commonwealth finds appropriate to and consistent with
435 the purpose of charitable gaming.

436 2. Require the organization to have a membership consisting of at least fifty percent residents of the
437 Commonwealth and specifying the conditions under which a complete list of the organization's
438 membership may be required in order for the Commission to ascertain the percentage of Virginia
439 residents.

440 Membership lists furnished to the Commission in accordance with this subdivision shall not be a
441 matter of public record and shall be exempt from disclosure under the provisions of the Freedom of
442 Information Act (§ 2.1-340 et seq.).

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

445 § 18.2-340.20. Denial, suspension or revocation of permit; hearings and appeals.

446 A. The Commission may deny, suspend or revoke the permit of any organization found not to be in
447 strict compliance with the provisions of this article and the regulations of the Commission.

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

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

460 § 18.2-340.21. Executive Secretary; staff.

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

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

468 § 18.2-340.22. Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts.

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

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

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

477 § 18.2-340.23. Organizations exempt from certain permit, financial reporting and audit requirements.

478 Any organization that reasonably expects to realize gross receipts of \$10,000 or less in any
479 twelve-month period shall be exempt from the requirements of § 18.2-340.25 if, prior to conducting
480 charitable gaming, it notifies the Commission, on a form prescribed by the Commission, that it will
481 conduct charitable gaming. Any such organization also shall be exempt from the financial reporting and
482 audit requirements of this article and the payment of audit fees but shall file with the Commission, at
483 such time or times as may be required by the Commission, a resolution of its board of directors stating
484 that the organization has complied with the provisions of this article. If the organization's actual gross
485 receipts for the twelve-month period exceed \$10,000 the Commission may require the organization to
486 file by a specified date the report required by § 18.2-340.30. Nothing in this section shall prevent the
487 Commission from conducting any investigation or audit it deems appropriate to ensure the
488 organization's compliance with the provisions of this article or the Commission's regulations.

489 § 18.2-340.24. Eligibility for permit; exceptions; where valid.

490 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) where the Commission provides for the issuance of a charitable gaming permit 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) (3) 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.

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 permitted 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 operation 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

552 designated in the permit for regular bingo games.

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

555 C. Any organization conducting instant bingo shall maintain a record of the date, quantity and card
556 value of instant bingo supplies purchased as well as the name and address of the supplier of such
557 instant bingo supplies. The organization shall also maintain a written invoice or receipt from a
558 nonmember of the organization verifying any information required by this subsection. Instant bingo
559 supplies shall be paid for only by check drawn on an account of the organization. During the conduct
560 of instant bingo, the supplier's invoice, or a legible true copy thereof, for the instant bingo supplies
561 being used shall be maintained by the organization on the premises where the instant bingo is being
562 conducted.

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

565 § 18.2-340.29. Joint operation of bingo games; written reports; special permit required.

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

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

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

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

578 § 18.2-340.30. Reports of gross receipts and disbursements required; form of reports; failure to file.

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

588 B. All reports required by this section shall be made on the following form and acknowledged in the
589 presence of a duly authorized notary public and filed on or before the date prescribed by the
590 Commission.

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

595 D. Any qualified organization having annual gross receipts from charitable gaming in excess of
596 \$250,000, as shown on its annual financial report, shall attach to such report an opinion of a licensed
597 independent certified public accountant that in all material respects (i) the annual financial report
598 presents fairly beginning cash, receipts, operating costs, use of proceeds, and ending cash; (ii) the
599 proceeds of all charitable games have been used for those purposes specified in § 18.2-340.19; and (iii)
600 the gross receipts have been used in accordance with the provisions of this article. The opinion required
601 by this subsection shall be in addition to the requirements of § 18.2-340.31.

602 E. Each qualified organization shall designate an individual who shall be responsible for filling an
603 annual and, if required, quarterly financial report if the organization goes out of business or otherwise
604 ceases to conduct charitable gaming activities. The Commission shall require such reports as it deems
605 necessary until all proceeds of any charitable gaming have been used for the purposes specified in
606 § 18.2-340.19 or have been disbursed in a manner approved by the Commission.

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

613 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 audited by the Commission.

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; penalties.

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

A. 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.

B. 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 subsection shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29.

C. 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.

D. 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. Notwithstanding, no building or other premises owned by a qualified organization and qualified as a tax-exempt organization pursuant to § 501 (c) (3) 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 subsection shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27.

E. 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 subsection 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.

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

1. 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

2. Persons under the age of nineteen who sell raffle tickets for a qualified organization to raise

675 funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes
676 from the organization.

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

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

687 H. No qualified organization shall enter into any contract with or otherwise employ or compensate
688 any member of the organization on account of sale of bingo supplies or equipment.

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

691 1. No bingo door prize shall exceed \$25;

692 2. No regular bingo or special bingo game prize shall exceed \$100;

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

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

696 The provisions of this subsection shall not apply to any bingo game in which all the gross receipts
697 from players for that game are paid as prize money back to the players provided there is no more than
698 one such game per calendar day of play and the prize money from any such game does not exceed
699 \$1,000, such games being commonly referred to as "winner-take-all" games.

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

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

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

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

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

724 N. A qualified organization shall not purchase any charitable gaming supplies for use in this
725 Commonwealth from any person who is not currently registered with the Commission as a supplier to
726 § 18.2-340.34.

727 § 18.2-340.34. Suppliers of charitable gaming supplies; registration; qualification; suspension,
728 revocation or refusal to renew certificate; maintenance and production of records.

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

736 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) is 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 registration 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 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 of alleged violations of this article or the regulations of the Commission.

§ 18.2-340.36. Seizure of charitable gaming supplies and equipment used in violation of law or regulations; 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 suspend immediately the conduct of any charitable gaming by such organization. In such event, the officer also may seize the charitable gaming supplies and equipment owned by the organization, including prizes. Such officer shall advise the organization in writing that the organization's permit to conduct charitable gaming has been suspended.

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. Except as provided in subsection B, any person who violates the provisions of this article shall be guilty of a Class 1 misdemeanor.

B. Any person who receives remuneration for participating in the management, operation or conduct of any charitable game, except those individuals authorized by § 18.2-340.33 F to receive such remuneration, shall be guilty of larceny and shall be punished as provided in Chapter 5 (§ 18.2-77 et seq.) of this title. In addition, any person who violates the provisions of subsection A of § 18.2-340.33 shall be guilty of larceny and shall be punished as provided in Chapter 5 of this title.

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

2. That Article 1.1 (§§ 18.2-340.1 through 18.2-340.14) 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 §§ 18.2-340.17, 18.2-340.18, 18.2-340.19 and 18.2-340.21 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 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 Title 18.2 and any ordinances adopted pursuant thereto by local governing bodies shall remain in effect until July 1, 1996, when the

798 Charitable Gaming Commission shall be vested with control of all charitable gaming in the
799 Commonwealth and implement its regulations in accordance with Article 1.1:1 (§ 18.2-340.15 et
800 seq.) of Title 18.2.

801 6. That the Charitable Gaming Commission shall report to the Governor and the General
802 Assembly of Virginia not later than January 1, 1996, with respect to the advisability of repealing
803 the percentage limitation set forth in § 18.2-340.28 B and any appropriate or regulatory
804 modifications necessary to accomplish such repeal.

805 7. That the provisions of this act may result in a net increase in periods of imprisonment in state
806 correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation
807 is \$250,000.