

LD2879605

SENATE BILL NO. 1020

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 2, 1995)

(Patron Prior to Substitute—Senator Colgan)

A BILL to amend and reenact §§18.2-334.2, 58.1-4000, 58.1-4001, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4009, 58.1-4010, 58.1-4011, 58.1-4012, 58.1-4017, 58.1-4021, 58.1-4022, 58.1-4027, and 58.1-4028 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4100 through 58.1-4122; 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 as part of the State Lottery Department.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-334.2, 58.1-4000, 58.1-4001, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4009, 58.1-4010, 58.1-4011, 58.1-4012, 58.1-4017, 58.1-4021, 58.1-4022, 58.1-4027, and 58.1-4028 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4100 through 58.1-4122, as follows:

§ 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 § 58.1-4101 which have received a permit as set forth in § 18.2-340.2. § 58.1-4110, or which are exempt from the permit requirement under § 58.1-4108.

Article 1.

State Lottery Law.

§ 58.1-4000. Short title.

This chapter article shall be known and may be cited as the "State Lottery Law."

§ 58.1-4001. Establishment of state lottery.

This chapter article establishes a lottery to be operated by the Commonwealth which will produce revenue consonant with the probity of the Commonwealth and the general welfare of its people, to be used for the public purpose.

§ 58.1-4002. Definitions.

For the purposes of this chapter article:

"Board" means the State Lottery Board established by this chapter article.

"Department" means the State Lottery Department created in this chapter article.

"Director" means the Director of the State Lottery Department.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter article.

§ 58.1-4003. State Lottery Department established.

Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive or judicial branches of government, a State Lottery Department, which shall include (i) a Director and a State Lottery Board for the purpose of operating a state lottery and (ii) the Charitable Gaming Commission created pursuant to Article 2 of this chapter for the purpose of administering and enforcing the charitable gaming law.

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer the operation of the lottery in accordance with the provisions of this chapter article and with the rules and regulations promulgated hereunder.

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond from licensed agents as provided in subsection D of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer at least once every month with the Board on the operation and administration of the lottery; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he

60 deems necessary and advisable to improve the operation and administration of the lottery.

61 5. Suspend, revoke or refuse to renew any license issued pursuant to this ~~chapter~~ *article* or the rules
62 and regulations adopted hereunder.

63 6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the
64 lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the
65 Director shall not be assigned by the holder thereof except by specific approval of the Director.

66 7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery
67 revenues, prize disbursements and other expenses for the preceding month.

68 8. Report monthly to the Governor, the Secretary of Finance and the Chairmen of the Senate Finance
69 Committee, House Finance Committee and House Appropriations Committee the total lottery revenues,
70 prize disbursements and other expenses for the preceding month, and make an annual report, which shall
71 include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the
72 Governor and the General Assembly. Such annual report shall also include such recommendations for
73 changes in this ~~chapter~~ *article* as the Director and Board deem necessary or desirable.

74 9. Report immediately to the Governor and the General Assembly any matters which require
75 immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this
76 ~~chapter~~ *article* or the rules and regulations adopted hereunder or to rectify undesirable conditions in
77 connection with the administration or operation of the lottery.

78 10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in
79 excess of \$600 in the manner required by the lottery rules and regulations.

80 11. Provide for the withholding of the applicable amount of state and federal income tax of persons
81 claiming a prize for a winning ticket in excess of \$5,001.

82 C. The Director and the director of security or investigators appointed by the Director shall be vested
83 with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department
84 and to investigate violations of the statutes and regulations that the Director is required to enforce.

85 § 58.1-4007. Powers of the Board.

86 A. The Board shall have the power to adopt regulations governing the establishment and operation of
87 a lottery. The regulations governing the establishment and operation of the lottery shall be promulgated
88 by the Board after consultation with the Director. Except as provided in § 58.1-4028, such regulations
89 shall be in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.). The regulations shall
90 provide for all matters necessary or desirable for the efficient, honest and economical operation and
91 administration of the lottery and for the convenience of the purchasers of tickets or shares, and the
92 holders of winning tickets or shares. The regulations, which may be amended, repealed or supplemented
93 as necessary, shall include, but not be limited to, the following:

94 1. The type or types of lottery to be conducted.

95 2. The price or prices of tickets or shares in the lottery; however, all such sales shall be for cash.

96 3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the
97 public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes
98 and (ii) returned to the Commonwealth as net revenues.

99 4. The manner of selecting the winning tickets or shares.

100 5. The manner of payment of prizes to the holders of winning tickets or shares.

101 6. The frequency of the drawings or selections of winning tickets or shares without limitation.

102 7. Without limitation as to number, the type or types of locations at which tickets or shares may be
103 sold.

104 8. The method to be used in selling tickets or shares.

105 9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

106 10. The licensing of agents to sell tickets or shares who will best serve the public convenience and
107 promote the sale of tickets or shares. No person under the age of eighteen shall be licensed as an agent.
108 A licensed agent may employ a person who is sixteen years of age or older to sell or otherwise vend
109 tickets at the agent's place of business so long as the employee is supervised in the selling or vending of
110 tickets by the manager or supervisor in charge at the location where the tickets are being sold.
111 Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

112 11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to
113 provide for the adequate availability of tickets or shares to prospective buyers and for the convenience
114 of the public.

115 12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other
116 sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 of this
117 ~~chapter~~ *article*.

118 13. Such other matters necessary or desirable for the efficient and economical operation and
119 administration of the lottery.

120 The Board shall also promulgate regulations, after consultation with the Director, relative to
121 departmental procurement which include standards of ethics for procurement consistent with the

provisions of Article 4 (§ 11-72 et seq.) of Chapter 7 of Title 11 and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director.

B. The Board shall carry on a continuous study and investigation of the lottery throughout the Commonwealth to:

1. Ascertain any defects of this ~~chapter~~ article or the regulations issued hereunder which cause abuses in the administration and operation of the lottery and any evasions of such provisions.

2. Formulate, with the Director, recommendations for changes in this ~~chapter~~ article and the regulations promulgated hereunder to prevent such abuses and evasions.

3. Guard against the use of this ~~chapter~~ article and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.

4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this ~~chapter~~ article.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws which may be in effect in other states or countries, (ii) any literature on the subject which may be published or available, (iii) any federal laws which may affect the operation of the lottery, and (iv) the reaction of Virginia citizens to the potential features of the lottery with a view to recommending or effecting changes that will serve the purpose of this ~~chapter~~ article.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision 10 of subsection A of this section and subdivision 5 of subsection B of § 58.1-4006 of this ~~chapter~~ article.

E. The Board shall have the authority to initiate procedures for planning, acquisition, and construction of capital projects as set forth in Article 6 (§ 2.1-224 et seq.) of Chapter 14 and Article 5 (§ 2.1-480 et seq.) of Chapter 32 of Title 2.1.

§ 58.1-4009. Licensing of lottery sales agents; penalty.

A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business primarily as a lottery sales agent. Before issuing such license the Director shall consider such factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to serve the public convenience; and (iv) the volume of expected sales.

B. For the purposes of this section, the term "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies and instrumentalities thereof.

C. The chief security officer of the State Lottery Department shall conduct a background investigation, to include a National Criminal Records search and a Virginia Criminal History Records search, on applicants for licensure as lottery sales agents. The Director may refuse to issue a license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, or (iv) convicted of a felony. The Director may refuse to grant a license or may suspend, revoke or refuse to renew a license issued pursuant to this ~~chapter~~ article to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection or (iv) convicted of a felony. Whoever knowingly and willfully falsifies, conceals or misrepresents a material fact or knowingly and willfully makes a false, fictitious or fraudulent statement or representation in any application for licensure to the State Lottery Department for lottery sales agent, shall be guilty of a Class 1 misdemeanor.

D. Prior to issuance of a license, every lottery sales agent shall be bonded by a surety company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the regulations of the Department, payable to the State Lottery Department and conditioned upon the faithful performance of his duties.

E. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the regulations of the Department.

§ 58.1-4010. Authority of persons licensed as lottery sales agents; annual fee.

A. Notwithstanding any other provision of law, any person licensed as provided in this ~~chapter~~ article is hereby authorized to act as a lottery sales agent.

B. The rules and regulations of the lottery shall provide for an annual license fee to be collected

183 from each lottery sales agent. Such fee, as promulgated by rule and regulation of the Board, shall be
184 designed to recover all or such portion of the installation and annual operational costs borne by the
185 Department in providing services to the agent.

186 § 58.1-4011. Meaning of "gross receipts".

187 A. Notwithstanding the provisions of Chapter 37 of this title or § 58.1-4025 of this ~~chapter~~ *article*
188 relating to local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the
189 compensation actually paid to a licensed sales agent as provided by rule or regulation adopted by the
190 Board consistent with the provisions of subdivision 11 of subsection A of § 58.1-4007.

191 B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental
192 payments for the business premises on which state lottery tickets are sold on the basis of retail sales
193 shall have that portion of rental payment based on sales of state lottery tickets or shares computed on
194 the basis of the compensation received as a lottery agent from the State Lottery Department.

195 § 58.1-4012. Suspension and revocation of licenses.

196 The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued
197 pursuant to this ~~chapter~~ *article*. Such license may, however, be temporarily suspended by the Director
198 without prior notice, pending any prosecution, hearing or investigation, whether by a third party or by
199 the Director. A license may be suspended, revoked or refused renewal by the Director for one or more
200 of the following reasons:

201 1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;

202 2. Failure to file a bond if required by the Director or to comply with instructions and rules and
203 regulations of the Department concerning the licensed activity, especially with regard to the prompt
204 payment of claims;

205 3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;

206 4. Failure to file any return or report, to keep records or to pay any fees or other charges required by
207 this ~~chapter~~ *article*;

208 5. Any act of fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the
209 Commonwealth lottery;

210 6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative
211 costs and public convenience is adequately served by other licensees;

212 7. A material change, since issuance of the license, with respect to any matters required to be
213 considered by the Director under this ~~chapter~~ *article*; or

214 8. Other factors established by Department regulation.

215 § 58.1-4017. Alteration and forgery; presentation of counterfeit or altered ticket or share; penalty.

216 Any person who forges, alters or fraudulently makes any lottery ticket or share with intent to present
217 for payment or to transfer to another person to be presented for payment or knowingly presents for
218 payment or transfers to another person to be presented for payment such forged, altered or fraudulently
219 made counterfeit lottery ticket or share sold pursuant to this ~~chapter~~ *article* is guilty of a Class 6 felony.

220 § 58.1-4021. Deposit of moneys received by agents; performance of functions, etc., in connection
221 with operation of lottery; compensation of agents.

222 A. The Director shall require all lottery sales agents to deposit to the credit of the State Lottery Fund
223 in banks, designated by the State Treasurer, all moneys received by such agents from the sale of lottery
224 tickets or shares, less any amount paid as prizes or retained as compensation to agents for the sale of
225 the tickets or shares, and to file with the Director, or his designated agents, reports of their receipts,
226 transactions and disbursements pertaining to the sale of lottery tickets in such form and containing such
227 information as he may require. Such deposits and reports shall be submitted at such times and within
228 such intervals as shall be prescribed by rule and regulation of the Department. The Director may arrange
229 for any person, including a bank, to perform such functions, activities or services in connection with the
230 operation of the lottery as he may deem advisable pursuant to this ~~chapter~~ *article* and the rules and
231 regulations of the Department, and such functions, activities and services shall constitute lawful
232 functions, activities and services of the person.

233 B. The rules and regulations of the Department shall provide for a service charge to the licensed
234 agent if any payor bank dishonors a check or draft tendered for deposit to the credit of the State Lottery
235 Fund by a licensed agent or for an electronic transfer of funds to the State Lottery Fund from the
236 account of a licensed agent for money received from the sale of lottery tickets.

237 The regulations of the Department shall provide for a service charge and penalty to a licensed agent
238 if any payor bank dishonors a check or draft from the account of a licensed agent tendered for payment
239 of any prize by a licensed agent to any claimant. Any such charge or penalty so collected by the
240 Department shall be used first to reimburse the claimant for any charges or penalties incurred by him as
241 a result of the licensed agent's dishonored check tendered as payment of any prize and the remainder to
242 offset the Department's administrative costs.

243 C. A licensed agent shall be charged interest as provided in § 58.1-15 on the money that is not
244 timely paid to the State Lottery Fund in accordance with the rules and regulations of the Department

and shall in addition thereto pay penalties as provided by rules and regulations of the Department.

D. Should the Department refer the debt of any licensed agent to the Attorney General, the Department of Taxation as provided in § 58.1-520 et seq., or any other central collection unit of the Commonwealth, an additional service charge shall be imposed in the amount necessary to cover the administrative costs of the Department and agencies to which such debt is referred.

E. All proceeds from the sale of lottery tickets or shares received by a person in the capacity of a sales agent shall constitute a trust fund until deposited into the State Lottery Fund either directly or through the Department's authorized collection representative. Proceeds shall include cash proceeds of the sale of any lottery products, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares. Sales agents shall be personally liable for all proceeds.

F. If the Director determines that the deposit or collection from any sales agent of any moneys or proceeds under this section is or will be jeopardized or will otherwise be delayed, he may adjust either the time or the interval or both for such deposits or collections of any sales agent; require that all such moneys or proceeds shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets prior to their deposit or collection under this section; and require such other security of any sales agent as he may deem advisable to ensure the timely deposit or collection of moneys or proceeds to the credit of the State Lottery Fund.

Collection of moneys or proceeds "is or will be jeopardized or will otherwise be delayed" when (i) a check, draft, or electronic funds transfer to the credit of the State Lottery Fund is dishonored as described in subsection B; (ii) an independent auditor states that the lottery sales agent's financial condition raises substantial doubt about its ability to continue as a going concern; or (iii) the lottery sales agent (a) closes for business or fails to maintain normal business hours without reasonable explanation, (b) has a credit record reflecting recent actions which cast doubt as to its creditworthiness, (c) states it has or may have cash flow problems or may be unable to meet its financial obligations, (d) states it may seek the protection of the federal bankruptcy or state insolvency law, (e) refuses to purchase additional lottery tickets or returns tickets ordered without good cause, or (f) does any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect moneys or proceeds which are or will become due and payable to the State Lottery Fund.

§ 58.1-4022. State Lottery Fund.

A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and compensation of agents as authorized by regulation and any other revenues received under this ~~chapter~~ *article*, shall be placed in a special fund known as the "State Lottery Fund." Notwithstanding any other provisions of law, interest earned from moneys in the State Lottery Fund shall accrue to the benefit of such Fund.

B. The total costs for the operation and administration of the lottery shall be funded from the State Lottery Fund and shall be in such amount as provided in the general appropriation act. Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive of agent compensation, shall at no time exceed ten percent of the total annual estimated gross revenues to be generated from lottery sales. However, should it be anticipated at any time by the Director that such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the Director shall immediately report such information to the Board, the Governor and the Chairmen of Senate Finance and House Appropriations Committees. From the moneys in the Fund, the Comptroller shall establish a special reserve fund in such amount as shall be provided by regulation of the Department for (i) operation of the lottery, or (ii) use if the game's pay-out liabilities exceed its cash on hand.

C. Any start-up sums appropriated from the general fund of the Commonwealth necessary to commence operation of a state lottery shall be repaid within the first twelve months of initial lottery sales.

D. Appropriation of lottery revenues shall be made only upon actual and audited collections as transferred to the general fund and shall in no event be predicated upon an estimation of such revenues. No later than ten days after receipt of the audit report required by § 58.1-4023, the Comptroller shall transfer to the general fund, less the special reserve fund, the audited balances of the State Lottery Fund.

E. As a function of the administration of this ~~chapter~~ *article*, funds may be expended for the purposes of reasonably informing the public concerning (i) the facts embraced in the subjects contained in subdivisions 1 through 7 of subsection A of § 58.1-4007 and (ii) the fact that the net proceeds are paid into the general fund of the Commonwealth; but no funds shall be expended for the primary purpose of inducing persons to participate in the lottery.

§ 58.1-4027. Judicial review.

The action of the Board in granting, or in refusing to grant, in suspending or revoking any license under the provisions of this ~~chapter~~ *article* shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.). Such review shall be limited to the evidential

record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

§ 58.1-4028. Transitional provisions.

A. In order to implement the lottery expeditiously, the initial rules and regulations shall be adopted by the Board and approved by the Governor, but shall not be subject to the Administrative Process Act (§ 9-6.14:1 et seq.) during the first twelve-month period following the effective date of this ~~chapter~~ article. At the end of such period, all rules and regulations shall automatically expire. Thereafter, all rules and regulations shall fully comply with the provisions of the Administrative Process Act.

B. The Director may issue temporary licenses upon conditions as he deems necessary, subject, however, to all limitations set forth in this ~~chapter~~ article, for a term which shall not extend beyond one year after the effective date of this act.

Article 2.

Charitable Gaming Law.

§ 58.1-4100. 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.

§ 58.1-4101. 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.

"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.

§ 58.1-4102. Charitable Gaming Commission established.

A. There is hereby established 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.

§ 58.1-4103. 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

429 the purposes of this article. Such regulations may include penalties for violations. The regulations shall
430 be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).

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

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

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

440 8. The Commission may issue interim certification of tax-exempt status and collect a fee therefor in
441 accordance with subsection B of § 58.1-4109.

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

445 10. The Commission, its agents and employees may conduct such audits, in addition to those
446 required by § 58.1-4116, as they deem necessary and desirable.

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

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

451 § 58.1-4104. Regulations of the Commission.

452 The Commission shall adopt regulations which:

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

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

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

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

470 § 58.1-4105. Denial, suspension or revocation of permit; hearings and appeals.

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

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

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

485 § 58.1-4106. Executive Secretary; staff.

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

490 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.

§ 58.1-4107. Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts.

A. This article permits qualified organizations and organizations exempted under § 58.1-4108 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 State Lottery Department in connection with any lottery, as the basis for determining the winner of a raffle.

§ 58.1-4108. Organizations exempt from certain permit, financial reporting and audit requirements.

Any organization that reasonably expects to realize gross receipts of \$10,000 or less in any twelve-month period shall be exempt from the requirements of § 58.1-4110 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 organization 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 the organization's actual gross receipts for the twelve-month period exceed \$10,000 the Commission may require the organization to file by a specified date the report required by § 58.1-4115. 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.

§ 58.1-4109. 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) 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) 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.

§ 58.1-4110. Annual permit required; application fee; form of application.

A. Except as provided for in § 58.1-4108, 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.

552 C. In no case shall an organization receive more than one permit allowing it to conduct charitable
553 gaming; however, nothing in this section shall be construed to prohibit granting special permits
554 pursuant to § 58.1-4112.

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

557 § 58.1-4111. Sale of raffle tickets; drawings.

558 A qualified organization may sell raffle tickets both in and out of the jurisdiction designated in its
559 permit and shall conduct the drawing within the Commonwealth; however pull-tab devices used as part
560 of a raffle as permitted in § 58.1-4101 may be sold only upon the premises owned or exclusively leased
561 by the organization and at such times as the portion of the premises in which the pull-tab devices are
562 sold is open only to members and their guests.

563 § 58.1-4112. Conduct of bingo games; special permits.

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

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

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

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

575 § 58.1-4113. Conduct of instant bingo.

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

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

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

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

591 § 58.1-4114. Joint operation of bingo games; written reports; special permit required.

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

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

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

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

604 § 58.1-4115. Reports of gross receipts and disbursements required; form of reports; failure to file.

605 A. Each qualified organization shall keep a complete record of all receipts from its charitable
606 gaming operation and all disbursements related to such operation. Each qualified organization shall file
607 at least annually, on a form prescribed by the Commission, a report of all such receipts and
608 disbursements, the amount of money on hand attributable to charitable gaming as of the end of the
609 period covered by the report and any other information related to its charitable gaming operation that
610 the Commission may require. In addition, the Commission, by regulation, may require any qualified
611 organization whose receipts exceed a specified amount during any three-month period to file a report of
612 its receipts and disbursements for such period. All reports filed per this section shall be a matter of
613 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 § 58.1-4104 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 presents fairly 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 § 58.1-4104; 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 the requirements of § 58.1-4116.

E. Each qualified organization shall designate an individual who shall be responsible for filing 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 § 58.1-4104 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.

§ 58.1-4116. Audit of reports; exemption; fee.

A. Except as provided in § 58.1-4108, all reports filed pursuant to § 58.1-4115 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 § 58.1-4115 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.

§ 58.1-4117. 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.

§ 58.1-4118. 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 § 58.1-4114.

C. No person shall pay or receive for use of any premises devoted, in whole or in part, to the

675 conduct of any charitable games, any consideration in excess of the current fair market rental value of
676 such property. Fair market rental value consideration shall not be based upon or determined by
677 reference to a percentage of the proceeds derived from the operation of any charitable games or to the
678 number of people in attendance at such charitable games.

679 D. No building or other premises shall be utilized in whole or in part for the purpose of conducting
680 bingo games more frequently than two calendar days in any one calendar week. Notwithstanding, no
681 building or other premises owned by a qualified organization and qualified as a tax-exempt organization
682 pursuant to § 501 (c) (3) of the Internal Revenue Code shall be utilized in whole or in part for the
683 purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

684 The provisions of this subsection shall not apply to the playing of bingo games pursuant to a special
685 permit issued in accordance with § 58.1-4112.

686 E. No person shall participate in the management, operation or conduct of any charitable game
687 unless such person is and, for a period of at least ninety days immediately preceding such participation,
688 has been a bona fide member of the organization; however, the provisions of this subsection shall not
689 apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf
690 or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such
691 employees' participation is limited to the management, operation or conduct of no more than one raffle
692 per year; or (iii) the spouse of any such bona fide member of a qualified organization provided at least
693 one bona fide member is present.

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

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

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

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

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

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

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

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

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

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

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

721 The provisions of this subsection shall not apply to any qualified organization in which all the gross receipts
722 from players for that game are paid as prize money back to the players provided there is no more than
723 one such game per calendar day of play and the prize money from any such game does not exceed
724 \$1,000, such games being commonly referred to as "winner-take-all" games.

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

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

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

business in the Commonwealth.

L. 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.

M. Qualified organizations jointly conducting bingo games pursuant to § 58.1-4114 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.

N. 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 to § 58.1-4119.

§ 58.1-4119. 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. 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) 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 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 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.

§ 58.1-4120. 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.

§ 58.1-4121. 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 apply to any judge, magistrate, or other person having authority to issue criminal warrants for the

798 *immediate suspension of the permit of the organization conducting the bingo game or raffle. If the*
799 *judge, magistrate, or person to whom such application is presented is satisfied that probable cause*
800 *exists to suspend the permit, he shall suspend the permit. Immediately upon such suspension, the officer*
801 *shall notify the organization in writing of such suspension. Upon such suspension, the officer may seize*
802 *the charitable gaming supplies and equipment owned by the organization, including prizes.*

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

808 *§ 58.1-4122. Criminal penalties.*

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

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

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

813 **3. That the provisions of this act shall become effective on July 1, 1996, except that §§ 58.1-4102,**
814 **58.1-4103, 58.1-4104, and 58.1-4106 shall become effective in due course.**

815 **4. That the Charitable Gaming Commission shall promulgate regulations in accordance with**
816 **Article 2 (§ 58.1-4100 et seq.) of Title 58.1 as soon as practicable on or after July 1, 1995.**

817 **5. That the provisions of Article 1.1 (§ 18.2-340.1 et seq.) of Title 18.2 and any ordinances adopted**
818 **pursuant thereto by local governing bodies shall remain in effect until July 1, 1996, when the**
819 **Charitable Gaming Commission shall be vested with control of all charitable gaming in the**
820 **Commonwealth and implement its regulations in accordance with Article 2 (§ 58.1-4100 et seq.) of**
821 **Title 58.1.**

822 **6. That the Charitable Gaming Commission shall report to the Governor and the General**
823 **Assembly of Virginia not later than January 1, 1996, with respect to the advisability of repealing**
824 **the percentage limitation set forth in § 58.1-4113 B and any appropriate statutory or regulatory**
825 **modifications necessary to accomplish such repeal.**