

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 18.2-340.20 and 18.2-340.33 of the Code of Virginia, relating to charitable gaming, rental of premises and property therefor.

[H 811]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-340.20 and 18.2-340.33 of the Code of Virginia are amended and reenacted as follows:

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

A. The Commission may deny, suspend or revoke the permit of any organization found not to be in strict compliance with the provisions of this article and the regulations of the Commission. The action of the Commission in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).

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

C. Any person aggrieved by a refusal of the Commission to issue any permit, the suspension or revocation of a permit, or any other action of the Commission, may seek review of such action in accordance with Article 4 (§ 9-6.14:15 et seq.) of the Administrative Process Act.

D. *Until July 1, 2001, the Charitable Gaming Commission shall not deny, suspend, or revoke the permit of any organization solely because of its failure to meet the required minimum percentage of its gross receipts required to be used for charitable purposes, as prescribed by regulations adopted pursuant to subdivision 1 of § 18.2-340.19, unless requested by the organization, provided (i) that the organization was conducting gaming in a rented facility prior to January 1, 2000, and (ii) that the organization is otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth.*

§ 18.2-340.33. Prohibited practices.

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

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

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

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

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. 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.

No lease or rental of any premises devoted to the conduct of charitable gaming shall be conditioned upon the use or purchase of any services, products, or readily portable property from any landlord or

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57 *other person, unless they are included in the rent being paid for the premises. Nothing herein shall*
 58 *prohibit any landlord from requiring in such lease or rental of any such premises that the organization*
 59 *shall provide certain services, products, or readily portable property related to the lease or rental of*
 60 *such premises.*

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

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

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

72 The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by
 73 qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor
 74 of a qualified organization, provided such employees' participation is limited to the management,
 75 operation or conduct of no more than one raffle per year; or (iii) the spouse or family member of any
 76 such bona fide member of a qualified organization provided at least one bona fide member is present.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per
120 calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3)
121 of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where
122 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the
123 cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or
124 educational organizations specifically chartered or organized under the laws of the Commonwealth and
125 qualified as a § 501 (c) (3) tax-exempt organization or (ii) pull tabs or seal cards when played as
126 permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

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

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

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

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

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

147 **2. That the Virginia Charitable Gaming Commission shall examine (i) the ways in which fair**
148 **market rental value for both real property and the personal property used therewith for bingo**
149 **games may be appropriately computed; (ii) the ways rents for real property and any personal**
150 **property used in connection with such real property for bingo games are reported or should be**
151 **reported to the Commission; and (iii) the nexus between such rents paid, the reporting of such**
152 **rents, and the ability of qualified organizations, as defined in § 18.2-340.16, to meet the minimum**
153 **percentages of gross receipts required to be used for those lawful religious, charitable, community,**
154 **or educational purposes for which the organizations are specifically chartered or organized. The**
155 **Virginia Charitable Gaming Commission shall report its findings and recommendations to the**
156 **Governor and General Assembly on or before January 10, 2001.**

157 **3. That the provisions of this act shall expire on July 1, 2001.**