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HOUSE BILL NO. 811

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 9, 2000)

(Patron Prior to Substitute—Delegate Joannou)

A BILL to amend and reenact § 18.2-340.33 of the Code of Virginia, relating to the Virginia Charitable Gaming Commission; fair market rental value.

Be it enacted by the General Assembly of Virginia:

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

§ 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. *For the purposes of this subdivision, current fair market yearly rental value for any organization shall be no more than twelve percent of the assessed value of the property. If the premises used for charitable gaming is only a portion of the property, the fair market yearly rental value shall be equal to the ratio of the square footage of such portion to the total square footage of the building, with such amount prorated among the organizations renting the building in proportion to the time used by each organization for the conduct of charitable gaming relative to the total time such portion is available for rent.*

In computing the total time the premises is available for rent, any period of time while the property is not normally rented in any one day shall be disregarded.

The yearly rental of any equipment, furniture, or other not readily-portable personal property used in connection with the conduct of charitable gaming that is affixed to or in the rented premises, such as caller stands, sound systems, monitors, flash boards, blowers, chairs, tables, and the like, shall be presumed to be reasonable and proper if the rental of these items is no more than twenty-four percent of the original cost of such equipment, prorated in the same manner as the rent for the premises.

No lease or rental of any premises devoted in whole or in part 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 other person, unless they are included in the current fair market rent being paid for the premises.

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

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

5. No person shall participate in the management, operation or conduct of any charitable game unless

60 such person is and, for a period of at least thirty days immediately preceding such participation, has
61 been a bona fide member of the organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

109 The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per
110 calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3)
111 of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where
112 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the
113 cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or
114 educational organizations specifically chartered or organized under the laws of the Commonwealth and
115 qualified as a § 501 (c) (3) tax-exempt organization or (ii) pull tabs or seal cards when played as
116 permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

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

121 12. No person shall participate in the management, operation or conduct of any charitable game if,

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

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

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

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

137 **2. That the provisions of the first enactment of this act shall not become effective unless reenacted**
138 **by the 2001 Session of the General Assembly.**

139 **3. That the Virginia Charitable Gaming Commission shall examine (i) the ways in which fair**
140 **market rental value may be appropriately computed; (ii) the designated percentages of gross**
141 **receipts derived by an organization as defined in § 18.2-340.16, required to be used for those**
142 **lawful religious, charitable, community or educational purposes for which the organization is**
143 **specifically chartered or organized; and (iii) the nexus between such rents paid and these**
144 **designated percentages. The Virginia Charitable Gaming Commission shall report its findings and**
145 **recommendations to the Governor and General Assembly on or before December 15, 2000 .**