

# VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

## CHAPTER 554

*An Act to amend and reenact §§ 2.2-2455, 2.2-2456, 2.2-3705.6, 2.2-4002, 3.2-102, 18.2-325, 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22 through 18.2-340.26, 18.2-340.26:2, 18.2-340.28:2, 18.2-340.30, 18.2-340.31, 18.2-340.33 through 18.2-340.34:2, and 18.2-340.36 of the Code of Virginia, relating to the Virginia Department of Agriculture and Consumer Services; Charitable Gaming Board; powers and duties.*

[S 402]

Approved April 11, 2022

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2455, 2.2-2456, 2.2-3705.6, 2.2-4002, 3.2-102, 18.2-325, 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22 through 18.2-340.26, 18.2-340.26:2, 18.2-340.28:2, 18.2-340.30, 18.2-340.31, 18.2-340.33 through 18.2-340.34:2, and 18.2-340.36 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2455. Charitable Gaming Board; membership; terms; quorum; compensation; staff.**

A. The Charitable Gaming Board (the Board) is hereby established as a ~~policy~~ *an advisory* board within the meaning of § 2.2-2100 in the executive branch of state government. The purpose of the Board ~~shall be~~ *is* to advise the Department of Agriculture and Consumer Services on all aspects of the conduct of charitable gaming in Virginia.

B. The Board shall consist of ~~eleven~~ *nine* members who shall be appointed ~~in the following manner:~~

~~1. Six nonlegislative citizen members appointed by the Governor subject to confirmation by the General Assembly as follows: one member who is a member of a charitable organization subject to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in good standing with the Department; one member who is a charitable gaming supplier registered and in good standing with the Department; one member who is an owner, lessor, or lessee of premises where charitable gaming is conducted; at least one member who is or has been a law-enforcement officer in Virginia but who (i) is not a charitable gaming supplier registered with the Department, (ii) is not a lessor of premises where charitable gaming is conducted, (iii) is not a member of a charitable organization, or (iv) does not have an interest in or is not affiliated with such supplier or charitable organization or owner, lessor, or lessee of premises where charitable gaming is conducted; and two members~~ *five citizens* who do not have an interest in or are not affiliated with a charitable organization, charitable gaming supplier, or owner, lessor, or lessee of premises where charitable gaming is conducted;

~~2. Three nonlegislative citizen members appointed by the Speaker of the House of Delegates as follows: two members who are members of a charitable organization subject to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in good standing with the Department and one member who does not have an interest in or is not affiliated with a charitable organization, charitable gaming supplier, or owner, lessor, or lessee of premises where charitable gaming is conducted; and~~

~~3. Two nonlegislative citizen members appointed by the Senate Committee on Rules as follows: one member who is a member of a charitable organization subject to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in good standing with the Department and one member who does not have an interest in or is not affiliated with a charitable organization, charitable gaming supplier, or owner, lessor, or lessee of premises where charitable gaming is conducted.~~

To the extent practicable, the Board shall consist of individuals from different geographic regions of the Commonwealth. Each member of the Board 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. Members shall be appointed for four-year terms. Vacancies shall be filled by the ~~appointing authority Governor~~ in the same manner as the original appointment for the unexpired portion of the term. Each Board member shall be eligible for reappointment for a second consecutive term at the discretion of the ~~appointing authority 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. No sitting member of the General Assembly shall be eligible for appointment to the Board. The members of the Board shall serve at the pleasure of the ~~appointing authority Governor~~.

C. The Board shall elect from among its members a chairman ~~who is a member of a charitable organization subject to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2.~~ The Board shall elect a *and* vice-chairman from among its members.

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

E. For each day or part thereof spent in the performance of his duties, each member of the Board

shall receive such compensation and reimbursement for his reasonable expenses as provided in § 2.2-2104.

F. The Board shall adopt rules and procedures for the conduct of its business, including a provision that Board members shall abstain or otherwise recuse themselves from voting on any matter in which they or a member of their immediate family have a personal interest in a transaction as defined in § 2.2-3101. The Board shall meet at least four times a year, and other meetings may be held at any time or place determined by the Board or upon call of the chairman or upon a written request to the chairman by any two members. Except for emergency meetings and meetings governed by § 2.2-3708.2 requiring a longer notice, all members shall be duly notified of the time and place of any regular or other meeting at least 10 days in advance of such meeting.

G. Staff to the Board shall be provided by the Department of Agriculture and Consumer Services.

**§ 2.2-2456. Duties of the Charitable Gaming Board.**

The Board shall:

1. ~~Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of this chapter and the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations;~~

2. Advise the Department of Agriculture and Consumer Services on the conduct of charitable gaming in Virginia and recommend changes to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; ~~and~~

2. Advise on other matters related to charitable gaming that the Department of Agriculture and Consumer Services may request or the Board may deem necessary; and

3. Keep a complete and accurate record of its proceedings. A copy of such record and any other public records not exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.) shall be available for public inspection and copying during regular office hours at the Department of Agriculture and Consumer Services.

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

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

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

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

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

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

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad

Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale

in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the ~~Charitable Gaming Board~~ *Commissioner of Agriculture and Consumer Services* related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the appropriations act.

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information, or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Department shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or confidential proprietary information of the applicant. The Department shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

33. Financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a competitive application to be submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive position of the applicant. Such records shall not be withheld after they have been made public by HUD or VHDA.

34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer pursuant to § 54.1-3442.02.

**§ 2.2-4002. Exemptions from chapter generally.**

A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the following agencies shall be exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

1. The General Assembly.
2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.
3. The Department of Wildlife Resources in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.
4. The Virginia Housing Development Authority.
5. Municipal corporations, counties, and all local, regional, or multijurisdictional authorities created under this Code, including those with federal authorities.
6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such educational institutions shall be exempt from the publication requirements only with respect to regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion, and disciplining of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.
7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales, and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing, and differential.
8. The Virginia Resources Authority.
9. Agencies expressly exempted by any other provision of this Code.
10. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.2-1164.
11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23.1-207.
12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.
13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of § 3.2-5406.
14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.
16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.
17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual

live horse racing at race meetings licensed by the Commission.

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

20. The Board of Agriculture and Consumer Services in adopting, amending, or repealing regulations pursuant to subsection A (ii) of § 59.1-156.

21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending, or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

23. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

24. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.

25. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications, or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, militia, naval, or police functions.

7. The selection, tenure, dismissal, direction, or control of any officer or employee of an agency of the Commonwealth.

8. The conduct of elections or eligibility to vote.

9. Inmates of prisons or other such facilities or parolees therefrom.

10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

11. Traffic signs, markers, or control devices.

12. Instructions for application or renewal of a license, certificate, or registration required by law.

13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish, or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and any operating procedures for review of the deaths of persons with a developmental disability developed by the Developmental Disabilities Mortality Review Committee pursuant to § 37.2-314.1.

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

24. Any rules adopted by the ~~Charitable Gaming Board~~ *Department of Agriculture and Consumer Services* for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.



**§ 3.2-102. General powers and duties of the Commissioner.**

A. The Commissioner shall be vested with the powers and duties set out in § 2.2-601, the powers and duties herein provided, and such other powers and duties as may be prescribed by law, including those prescribed in Title 59.1. He shall be the executive officer of the Board, and shall see that its orders are carried out. He shall see to the proper execution of laws relating to the Department. Unless the Governor expressly reserves such power to himself, the Commissioner shall promote, protect, and develop the agricultural interests of the Commonwealth. The Commissioner shall develop, implement, and maintain programs within the Department including those that promote the development and marketing of the Commonwealth's agricultural products in domestic and international markets, including promotions, market development and research, marketing assistance, market information, and product grading and certification; promote the creation of new agribusiness including new crops, biotechnology and new uses of agricultural products, and the expansion of existing agribusiness within the Commonwealth; develop, promote, and maintain consumer protection programs that protect the safety and quality of the Commonwealth's food supply through food and dairy inspection activities, industry and consumer education, and information on food safety; preserve the Commonwealth's agricultural lands; ensure animal health and protect the Commonwealth's livestock industries through disease control and surveillance, maintaining animal health diagnostic laboratories, and encouraging the humane treatment and care of animals; protect public health and the environment through regulation and proper handling of pesticides, agricultural stewardship, and protection of endangered plant and insect species; protect crop and plant health and productivity; ensure consumer protection and fair trade practices in commerce; develop plans and emergency response protocols to protect the agriculture industry from bioterrorism, plant and animal diseases, and agricultural pests; assist as directed by the Governor in the Commonwealth's response to natural disasters; develop and implement programs and inspection activities to ensure that the Commonwealth's agricultural products move freely in trade domestically and internationally; and enter into agreements with federal, state, and local governments, land grant universities, and other organizations that include marketing, plant protection, pest control, pesticides, and meat and poultry inspection.

B. In addition, the Commissioner shall:

1. Establish and maintain a farm-to-school website. The purpose of the website shall be to facilitate and promote the purchase of Virginia farm products by schools, universities, and other educational institutions under the jurisdiction of the State Department of Education. The website shall present such current information as the availability of Virginia farm products, including the types and amount of products, and the names of and contact information for farmers, farm organizations, and businesses marketing such products; ~~and~~

2. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for licensed Virginia wineries and farm wineries, as defined in § 4.1-100. Such corporation shall provide wholesale wine distribution services for wineries and farm wineries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, including one owner or manager of a winery or farm winery licensee that is not served by a wholesaler when the owner or manager is appointed to the board; one owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year; and two owners or managers of wine wholesaler licensees. In making appointments to the board of directors, the Board shall consider nominations of winery and farm winery licensees submitted by the Virginia Wineries Association and wine wholesale licensees submitted by the Virginia Wine Wholesalers Association. The Commissioner shall require such corporation to report to him at least annually on its activities, including reporting the quantity of wine distributed for each winery and farm winery during the preceding year. The provisions of the Virginia Public Procurement Act shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section; ~~and~~

3. *Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations.*

**§ 18.2-325. Definitions.**

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b, regardless of whether the chance to win such prize, stake, or

other consideration or thing of value may be offered in the absence of a purchase.

"Illegal gambling" also means the playing or offering for play of any skill game.

2. "Interstate gambling" means the conduct of an enterprise for profit that engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity;

b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this subsection; and

c. Skill games.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually.

7. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery or Virginia Lottery Board, the Department of Agriculture and Consumer Services ~~or the Charitable Gaming Board~~, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

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

A. Charitable gaming as authorized herein shall be permitted in the Commonwealth as a means of funding qualified organizations but shall be conducted only in strict compliance with the provisions of this article. The Department of Agriculture and Consumer Services (~~the Department~~) is vested with control of all charitable gaming in the Commonwealth. The ~~Charitable Gaming Board~~ *Commissioner* shall have the 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 that may be granted or denied by the Department of ~~Agriculture and Consumer Services~~ or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this article.

#### **§ 18.2-340.16. Definitions.**

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

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 75, (ii) Department-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Department-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"Board" means the ~~Charitable Gaming Board~~ created pursuant to § 2.2-2455.

"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, Texas Hold'em poker tournaments, 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 seal cards, playing cards for Texas Hold'em poker, poker chips, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However, for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands, or tape.

"Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include, but not be limited to, (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"Department" means the Department of Agriculture and Consumer Services.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

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

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards, including Department-approved electronic versions thereof, with winners being determined by the preprinted or predetermined 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. Such cards may be dispensed by electronic or mechanical equipment.

"Jackpot" means a bingo game that the organization has designated on its game program as a jackpot game in which the prize amount is greater than \$100.

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

"Management" means the provision of oversight of a gaming operation, which may include, but is not limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting and maintaining required records and financial reports, and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.

"Network bingo" means a specific bingo game in which pari-mutuel play is permitted.

"Network bingo provider" means a person licensed by the Department to operate network bingo.

"Operation" means the activities associated with production of a charitable gaming activity, which may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the organization's management.

"Organization" means any one of the following:

1. A volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision;

2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code, is operated, and has always been operated, exclusively for educational purposes, and awards scholarships to accredited public institutions of higher education or other postsecondary schools licensed or certified by the Board of Education or the State Council of Higher Education for Virginia;

3. An athletic association or booster club or a band booster club established solely to raise funds for school-sponsored athletic or band activities for a public school or private school accredited pursuant to § 22.1-19 or to provide scholarships to students attending such school;

4. An association of war veterans or auxiliary units thereof organized in the United States;

5. A fraternal association or corporation operating under the lodge system;

6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide services and other resources to older Virginians, as defined in § 51.5-116;

7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to provide health care services or conduct medical research;

9. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and foster a spirit of understanding among the people of the world; (ii) promote the principles of good government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare of the community; (iv) provide a forum for the open discussion of matters of public interest; (v) encourage individuals to serve the community without personal financial reward; and (vi) encourage efficiency and promote high ethical standards in commerce, industries, professions, public works, and private endeavors;

12. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) raise awareness of law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations that are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of science and technology to advance the conservation of the environment, caves, or other natural resources; and (iii) raise funds for the conservation of the environment, caves, or other natural resources or provide grant opportunities to other nonprofit organizations that are devoted to such conservation efforts;

14. A local chamber of commerce; or

15. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an organization's annual gross receipts for the purposes of this subdivision.

"Pari-mutuel play" means an integrated network operated by a licensee of the Department comprised of participating charitable organizations for the conduct of network bingo games in which the purchase of a network bingo card by a player automatically includes the player in a pool with all other players in the network, and where the prize to the winning player is awarded based on a percentage of the total amount of network bingo cards sold in a particular network.

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

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

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization in the conduct of charitable gaming and not otherwise allowed under this article or under ~~Board~~ Department regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members shall not qualify as a business expense. However, payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense.

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

"Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards facedown that may be used individually, (ii) five cards shown face up are shared among all players in the game, (iii) players combine any number of their individual cards with the shared cards to make the highest five-card hand to win the value wagered during the game, and (iv) the ranking of hands and the rules of the game are governed by the official rules of the Poker Tournament Directors Association.

"Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i) who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

#### **§ 18.2-340.18. Powers and duties of the Department.**

The Department 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 Department 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 Board~~ *Department regulations*. The Department shall designate such agents and employees as it deems necessary and appropriate who shall be sworn to enforce the provisions of this article and the criminal laws of the Commonwealth and who shall be law-enforcement officers as defined in § 9.1-101.

2. The Department, 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 Department may compel the production of any books, documents, records, or memoranda of any organizations or supplier involved in the conduct of charitable gaming for the purpose of satisfying itself that this article and its regulations are strictly complied with. In addition, the Department 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 Department may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Department, it is necessary to do so for the effectual discharge of its duties.

5. The Department may compel any person conducting charitable gaming to file with the Department such documents, information, or data as shall appear to the Department to be necessary for the performance of its duties.

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

7. The Department may issue a charitable gaming permit while the permittee's tax-exempt status is pending approval by the Internal Revenue Service.

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

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

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

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

12. Beginning July 1, 2024, and at least once every five years thereafter, the Department shall convene a stakeholder work group to review the limitations on prize amounts and provide any recommendations to the General Assembly by November 30 of the year in which the stakeholder work group is convened.

#### **§ 18.2-340.19. Regulations of the Department.**

A. The ~~Board~~ *Department* shall adopt regulations that:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts for (i) those lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance, or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community, or educational purposes.

2. Specify the conditions under which a complete list of the organization's members who participate in the management, operation, or conduct of charitable gaming may be required in order for the ~~Board~~ *Department* to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 18.2-340.24.

Membership lists furnished to the ~~Board~~ *Department* in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

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

4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. ~~Board~~ *Department* regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play. Such regulations shall not prohibit the use of multiple video monitors or touchscreens on an electronic pull tab device.

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation, or conduct of bingo; (ii) permit members who participate in the management, operation, or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 18.2-340.33, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.

8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of 13 years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.

9. Prescribe the conditions under which a person below the age of 18 years may play bingo, provided that such person is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to ~~Board~~ *Department* regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

11. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 18.2-340.28:1 and establish a percentage of proceeds derived from network bingo sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

12. Prescribe the conditions under which a qualified organization may manage, operate, or contract with operators of, or conduct Texas Hold'em poker tournaments.

~~B. In addition to the powers and duties granted pursuant to § 2.2-2456 and this article, the Board~~ *The Commissioner* may, by regulation, approve variations to the card formats for bingo games, provided that such variations result in bingo games that are conducted in a manner consistent with the provisions of this article. ~~Board-approved~~ *Department-approved* variations may include, ~~but are not limited to,~~ bingo games commonly referred to as player selection games and 90-number bingo.

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

A. The Department 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 Department regulations of the Board only after the proposed action by the Department has been reviewed and approved by the Board.~~ The action of the Department in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

B. Except as provided in §§ 18.2-340.25, 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 Department, 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 Department 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 Board~~ *Department regulations*.

C. Any person aggrieved by a refusal of the Department to issue any permit, the suspension or revocation of a permit, or any other action of the Department may seek review of such action in accordance with Article 4 (§ 2.2-4025 et seq.) of the Administrative Process Act.

**§ 18.2-340.22. Only raffles, bingo, network bingo, instant bingo games, and Texas Hold'em poker tournaments permitted; prizes not gaming contracts.**

A. This article permits qualified organizations to conduct raffles, bingo, network bingo, instant bingo games, and Texas Hold'em poker tournaments. All games not explicitly authorized by this article or ~~Board~~ *Department* regulations adopted in accordance with § 18.2-340.18 are prohibited. Nothing herein shall be construed to authorize the ~~Board~~ *Department* to approve the conduct of any other form of poker in the Commonwealth.

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 Virginia Lottery's Pick-3 number or any number or other designation selected by the Virginia Lottery in connection with any lottery, as the basis for determining the winner of a raffle.

**§ 18.2-340.23. Organizations exempt from certain fees and reports.**

A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period from raffles conducted in accordance with the provisions of this article shall be required to (i) notify the Department of its intention to conduct raffles or (ii) comply with ~~Board~~ *Department* regulations governing raffles. If any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000, the Department shall require the organization to file by a specified date the report required by § 18.2-340.30.

B. Any (i) organization described in subdivision 15 of the definition of "organization" in § 18.2-340.16 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being part of the safety program of such political subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 and the payment of audit fees required by § 18.2-340.31. Nothing in this subsection shall be construed as exempting any organizations described in subdivision 15 of the definition of "organization" in § 18.2-340.16, volunteer fire departments, or volunteer emergency medical services agencies from any other provisions of this article or other ~~Board~~ *Department* regulations.

C. Nothing in this section shall prevent the Department from conducting any investigation or audit it deems appropriate to ensure an organization's compliance with the provisions of this article and, to the extent applicable, ~~Board~~ *Department* regulations.

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

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

1. Have been in existence and met on a regular basis in the Commonwealth 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 of a national or international civic organization which is exempt under § 501(c) of the United States Internal Revenue Code and which has a lodge or chapter holding a charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth; (ii) to booster clubs which have been operating for less than three years and which have been established solely to raise funds for school-sponsored activities in public schools or private schools accredited pursuant to § 22.1-19; (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.

3. Have at least 50 percent of its membership consist of residents of the Commonwealth; however, if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501(c)(3) of the United States Internal Revenue Code, the ~~Board~~ *Department* shall exempt such organizations from the requirements of this subdivision.

B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to exceed \$40,000 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 Department in conjunction with an application for a charitable gaming permit. If such documentation is filed, the Department may, after reviewing such documentation it deems necessary, issue a charitable gaming permit.

C. A permit shall be valid only for the dates and times designated in the permit.

**§ 18.2-340.25. Permit required; application fee; form of application.**

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

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, 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. No permit shall be valid for longer than two years. The application shall be a matter of public record.

All permits shall be subject to regulation by the Department 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 Department. The Department may require any prospective employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be

forwarded along with employee's, licensee's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, licensee, or applicant record or notification that no record exists, shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming.

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

E. Applications for renewal of permits shall be made in accordance with ~~Board Regulations~~ *Department regulations*. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

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

A. Except as provided in subsection B, a qualified organization may sell raffle tickets both in and out of the jurisdiction designated in its permit and shall conduct the drawing within the Commonwealth.

B. A qualified organization may sell raffle tickets for a raffle drawing which will be held outside the Commonwealth, provided the raffle is conducted in accordance with (i) ~~the Department regulations of the Board~~ and (ii) the laws and regulations of the jurisdiction in which the raffle drawing will be held.

C. Before a prize drawing, each stub or other detachable section of each ticket sold or won through some other authorized charitable game conducted by the same organization holding the raffle, shall be placed into a receptacle from which the winning tickets are drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance of being drawn.

**§ 18.2-340.26:2. Sale of instant bingo, pull tabs, or seal cards by certain booster clubs.**

As a part of its annual fund-raising event, any qualified organization that is an athletic association or booster club or a band booster club may sell instant bingo, pull tabs, or seal cards provided that (i) the sale is limited to a single event in a calendar year and (ii) the event is open to the public. The Department may require organizations authorized under this section to make such financial reporting as it deems necessary.

Nothing in this section shall be construed as exempting organizations authorized to sell instant bingo, pull tabs, or seal cards under this section from any other provisions of this article or other ~~Board~~ *Department* regulations.

**§ 18.2-340.28:2. Conduct of Texas Hold'em poker tournaments by qualified organizations; limitation of operator fee; conditions.**

A. Any organization qualified to conduct bingo games on or after July 1, 2019, may conduct Texas Hold'em poker tournaments. The ~~Board~~ *Commissioner* shall promulgate regulations establishing circumstances under which organizations qualified to conduct bingo games prior to July 1, 2019, may conduct Texas Hold'em poker tournaments.

B. A qualified organization may contract with an operator to administer Texas Hold'em poker tournaments. Limitations on operator fees shall be established by ~~Board~~ *Department* regulations.

C. A qualified organization shall accept only cash or, at its option, checks in payment of any charges or assessments for players to participate in Texas Hold'em poker tournaments. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in Texas Hold'em poker tournaments.

D. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or debit card or other electronic fund transfer in payment of any charges or assessments for players to participate in Texas Hold'em poker tournaments.

E. No qualified organization shall allow any individual younger than 18 years of age to participate in Texas Hold'em poker tournaments.

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

A. Each qualified organization shall keep a complete record of all inventory of charitable gaming supplies purchased, all receipts from its charitable gaming operation, and all disbursements related to such operation. Except as provided in § 18.2-340.23, each qualified organization shall file at least annually, on a form prescribed by the Department, a report of all such receipts and disbursements, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report and any other information related to its charitable gaming operation that the Department may require. In addition, the ~~Board~~ *Commissioner*, by regulation, may require any qualified organization whose net receipts exceed a specified amount during any three-month period to file a report of its



receipts and disbursements for such period. All reports filed pursuant to this section shall be a matter of public record.

B. All reports required by this section shall be filed on or before the date prescribed by the Department. The ~~Board~~ *Commissioner*, by regulation, shall establish a schedule of late fees to be assessed for any organization that fails to submit required reports by the due date.

C. Except as provided in § 18.2-340.23, each qualified organization shall designate or compensate an outside individual or group 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 Department shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner approved by the Department.

D. Each qualified organization shall maintain for three years a complete written record of (i) all charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved by the Department; (ii) the name and address of each individual to whom is awarded any charitable gaming prize or jackpot that meets or exceeds the requirements of Internal Revenue Service Publication 3079, 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.

E. The failure to file reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Department may grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, and no new permit shall be required.

**§ 18.2-340.31. Audit of reports; exemption; audit and administration fee; additional gross receipts assessment.**

A. All reports filed pursuant to § 18.2-340.30 shall be subject to audit by the Department in accordance with ~~Board~~ *Department* regulations. The Department may engage the services of independent certified public accountants to perform any audits deemed necessary to fulfill the Department's responsibilities under this article.

B. The Department shall prescribe a reasonable audit and administration fee to be paid by any organization conducting charitable gaming under a permit issued by the Department unless the organization is exempt from such fee pursuant to § 18.2-340.23. Such fee shall not exceed one and one-quarter percent of the gross receipts which an organization reports pursuant to § 18.2-340.30. The audit and administration fee shall accompany each report for each calendar quarter.

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

D. In addition to the fee imposed under subsection B, an additional fee of one-quarter of one percent of the gross receipts that an organization reports pursuant to § 18.2-340.30 shall be paid by the organization to the Treasurer of Virginia. All such amounts shall be collected and deposited in the same manner as prescribed in subsections B and C and shall be used for the same purposes.

**§ 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) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. Except as provided in § 18.2-340.34:1, 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 management and operation but not the conduct of charitable gaming.

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

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

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

4. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation, or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization.

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

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation, or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

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

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session; and

f. Volunteers of a qualified organization may be reimbursed for their reasonable and necessary travel expenses, not to exceed \$50 per session.

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

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

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

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

a. No bingo door prize shall exceed \$250 for a single door prize or \$500 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed \$100. However, up to 10 games per bingo session may feature a regular bingo or special bingo game prize of up to \$200;

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$2,000;

d. Except as provided in this subdivision 8, no bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games; and

e. No single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

9. The provisions of subdivision 8 shall not apply to:

Any progressive bingo game, in which (i) a regular or special prize, not to exceed \$100, is awarded on the basis of predetermined numbers or patterns selected at random and (ii) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the predetermined numbers or patterns are covered when a certain number of numbers is called, provided that (a) there are no more than six such games per session per organization, (b) the amount of increase of the progressive prize per session is no more than \$200, (c) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, (d) the organization separately accounts for the proceeds from such sale, and (e) such games are otherwise operated in accordance with the Department's rules of play.

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

The provisions of this subdivision shall not apply to a raffle conducted no more than three times per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501(c) tax-exempt organization. No more than one such raffle shall be conducted in any one geographical region of the Commonwealth.

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

12. No person shall participate in the management or operation of any charitable game if he has ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or financial crimes within the preceding five years. No person shall participate in the conduct of any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. 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 Department or a court of competent jurisdiction to have been operated in violation of state law, local ordinance, or ~~Board~~ Department regulation.

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

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

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

**§ 18.2-340.34. Suppliers of charitable gaming supplies; manufacturers of electronic games of chance systems; permit; qualification; suspension, revocation, or refusal to renew certificate; maintenance, production, and release of records.**

A. No person shall offer to sell, sell, or otherwise provide charitable gaming supplies to any qualified organization and no manufacturer shall distribute electronic games of chance systems for charitable gaming in the Commonwealth unless and until such person has made application for and has been issued a permit by the Department. An application for permit shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$1,000. Each permit shall remain valid for a period of one year from the date of issuance. Application for renewal of a permit shall be accompanied by a fee in the amount of \$1,000 and shall be made on forms prescribed by the Department.

B. The ~~Board~~ Commissioner shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the registration of suppliers and manufacturers of electronic games of chance systems for charitable gaming. The Department shall refuse to issue a permit to any supplier or manufacturer 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 that, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) violated the gaming laws of any jurisdiction within the last five years, including violations for failure to register; or (iv) had any

license, permit, certificate, or other authority related to charitable gaming suspended or revoked in the Commonwealth or in any other jurisdiction within the last five years. The Department may refuse to issue a permit to any supplier or manufacturer who has, or which has any officer, director, partner, or owner who has, (a) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth or (b) failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763.

C. The Department shall suspend, revoke, or refuse to renew the permit of any supplier or manufacturer for any conduct described in clause (i), (ii), (iii), or (iv) of subsection B. The Department may suspend, revoke, or refuse to renew the permit of any supplier or manufacturer for any conduct described in clause (a) or (b) of subsection B or for any violation of this article or regulation of the ~~Board~~ Department. Before taking any such action, the Department shall give the supplier or manufacturer a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. Each supplier shall document each sale of charitable gaming supplies, including electronic games of chance systems, and other items incidental to the conduct of charitable gaming, such as markers, wands, or tape, to a qualified organization on an invoice which clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the quantity 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 charitable gaming supplies, including electronic games of chance systems, or other items incidental to the conduct of charitable gaming as the ~~Board~~ Commissioner may prescribe by regulation. A legible copy of the invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.

Each manufacturer of electronic games of chance systems shall document each distribution of such systems to a qualified organization or supplier on an invoice which clearly shows (a) the name and address of the qualified organization or supplier to which such systems were distributed; (b) the date of distribution; (c) the serial number of each such system; and (d) any other information with respect to electronic games of chance systems as the ~~Board~~ Commissioner may prescribe by regulation. A legible copy of the invoice shall accompany the electronic games of chance systems when delivered to the qualified organization or supplier.

E. Each supplier and manufacturer 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 and manufacturer shall make such documents immediately available for inspection and copying to any agent or employee of the Department upon request made during normal business hours. This subsection shall not limit the right of the Department to require the production of any other documents in the possession of the supplier or manufacturer which relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished to the Department in accordance with this subsection shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

F. Each supplier and manufacturer shall provide to the Department the results of background checks and any other records or documents necessary for the Department to enforce the provisions of subsections B and C.

**§ 18.2-340.34:1. Bingo managers and callers; remuneration; registration; qualification; suspension, revocation, or refusal to renew certificate; exceptions.**

A. No person shall receive remuneration as a bingo manager or caller from any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Department. Application for registration shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$75. 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 \$75 and shall be made on forms prescribed by the Department.

B. As a condition of registration as a bingo manager, the applicant shall (i) have been a bona fide member of the qualified organization for at least 12 consecutive months prior to making application for registration and (ii) be required to complete a reasonable training course developed and conducted by the Department.

As a condition of registration as a bingo caller, the applicant shall be required to complete a reasonable training course developed and conducted by the Department.

The Department may refuse to register any bingo manager or caller who has (a) 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; (b) been convicted of or pleaded nolo contendere to a crime involving gambling; (c) 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 (d) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.

C. The Department may suspend, revoke, or refuse to renew the registration certificate of any bingo manager or caller for any conduct described in subsection B or for any violation of this article or *Department regulations of the Board*. Before taking any such action, the Department shall give the bingo manager or caller a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. The provisions of subsection A requiring registration for bingo callers with the Department shall not apply to a bingo caller for a volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision.

**§ 18.2-340.34:2. Licensing of network bingo providers; qualification; suspension, revocation, or refusal to renew license; maintenance, production, and release of records.**

A. No person shall sell or offer to sell or otherwise provide access to a network bingo network to any qualified organization unless and until such person has made application for and has been issued a license by the Department. An application for license shall be made on forms prescribed by the Department and shall be accompanied by a fee in the amount of \$500. Each license shall remain valid for a period of two years from the date of issuance. Application for renewal of a license shall be accompanied by a fee in the amount of \$500 and shall be made on forms prescribed by the Department.

B. The ~~Board~~ *Commissioner* shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the licensure of network bingo providers. The Department may refuse to issue a license to any network bingo provider that 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 that, 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; (iv) failed to file or been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; or (v) failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763.

C. The Department may suspend, revoke, or refuse to renew the license of any network bingo provider for any conduct described in subsection B or for any violation of this article or regulation of the ~~Board~~ *Department*. Before taking any such action, the Department shall give the network bingo provider a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. The ~~Department~~ *Commissioner* by regulation shall require network bingo providers to have onsite independent supervision of network bingo games as the numbers are called.

E. Each network bingo provider shall document each sale of network bingo supplies and other items incidental to the conduct of network bingo to a qualified organization on an invoice that clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each network bingo card, the quantity of cards sold, and the price per card paid by the qualified organization; and (iv) any other information required by the Department. A legible copy of the invoice shall accompany the network bingo supplies when delivered to the qualified organization.

F. Each network bingo provider shall maintain a legible copy of each invoice required by subsection E for a period of three years from the date of sale. Each network bingo provider shall make such documents immediately available for inspection and copying to any agent or employee of the Department upon request made during normal business hours. This subsection shall not limit the right of the Department to require the production of any other documents in the possession of the network bingo provider that relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished to the Department in accordance with this subsection shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

**§ 18.2-340.36. Suspension of permit.**

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

notify the organization in writing of such suspension.

B. Written notice specifying the particular basis for the immediate suspension shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Department or its designated hearing officer within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Department or a court of competent jurisdiction.

**2. That the regulations of the Charitable Gaming Board shall be administered by the Department of Agriculture and Consumer Services and shall remain in full force and effect until the Commissioner of Agriculture and Consumer Services promulgates regulations pursuant to this act.**

**3. That notwithstanding the second enactment of this act, the regulations promulgated by the Charitable Gaming Board regarding Texas Hold'em poker games and tournaments, which became effective on March 23, 2021, and were rescinded by the General Assembly pursuant to Item 105 of Chapter 552 of the Acts of Assembly of 2021, Special Session I, shall not take effect. The Commissioner of Agriculture and Consumer Services (the Commissioner) shall promulgate regulations regarding Texas Hold'em poker tournaments consistent with the provisions of Chapter 982 of the Acts of Assembly of 2020. The Commissioner's initial adoption of regulations necessary to implement the provisions of this enactment shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Commissioner shall provide an opportunity for public comment on the regulations prior to adoption.**

**4. That this act shall not be construed to affect existing appointments to the Charitable Gaming Board for the terms that have not expired. However, all new appointments made on or after July 1, 2022, shall be made in accordance with the provisions of this act.**