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SENATE BILL NO. 133

Offered January 10, 1996

A BILL to amend and reenact §§ 2.1-344, 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.22, 18.2-340.23, 18.2-340.24, 18.2-340.25, 18.2-340.26, 18.2-340.28, 18.2-340.29, 18.2-340.30, 18.2-340.33, 18.2-340.34, 18.2-340.37, 18.2-340.38, and 58.1-3 of the Code of Virginia, relating to the Charitable Gaming Commission; penalty.

Patron—Colgan

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-344, 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.22, 18.2-340.23, 18.2-340.24, 18.2-340.25, 18.2-340.26, 18.2-340.28, 18.2-340.29, 18.2-340.30, 18.2-340.33, 18.2-340.34, 18.2-340.37, 18.2-340.38, and 58.1-3 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-344. Executive or closed meetings.

A. Public bodies are not required to conduct executive or closed meetings. However, should a public body determine that an executive or closed meeting is desirable, such meeting shall be held only for the following purposes:

1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body; and evaluation of performance of departments or schools of state institutions of higher education where such matters regarding such specific individuals might be affected by such evaluation. Any teacher shall be permitted to be present during an executive session or closed meeting in which there is a discussion or consideration of a disciplinary matter which involves the teacher and some student or students and the student or students involved in the matter are present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board.

2. Discussion or consideration of admission or disciplinary matters concerning any student or students of any state institution of higher education or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at an executive or closed meeting, if such student, parents or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the condition, acquisition or use of real property for public purpose, or of the disposition of publicly held property, or of plans for the future of a state institution of higher education which could affect the value of property owned or desirable for ownership by such institution.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. The investing of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members, consultants or attorneys, pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by counsel.

8. In the case of boards of visitors of state institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign person and accepted by a state institution of higher education shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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60 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science
61 Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and
62 grants.

63 10. Discussion or consideration of honorary degrees or special awards.

64 11. Discussion or consideration of tests or examinations or other documents excluded from this
65 chapter pursuant to § 2.1-342 B 9.

66 12. Discussion, consideration or review by the appropriate House or Senate committees of possible
67 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
68 filed by the member, provided the member may request in writing that the committee meeting not be
69 conducted in executive session.

70 13. Discussion of strategy with respect to the negotiation of a siting agreement or to consider the
71 terms, conditions, and provisions of a siting agreement if the governing body in open meeting finds that
72 an open meeting will have a detrimental effect upon the negotiating position of the governing body or
73 the establishment of the terms, conditions and provisions of the siting agreement, or both. All
74 discussions with the applicant or its representatives may be conducted in a closed meeting or executive
75 session.

76 14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
77 activity and estimating general and nongeneral fund revenues.

78 15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to
79 § 2.1-342 B 3, and those portions of disciplinary proceedings by any regulatory board within the
80 Department of Professional and Occupational Regulation or Department of Health Professions, *or*
81 *proceedings regarding applications, denial, suspension or revocation of permits or licenses issued by the*
82 *Charitable Gaming Commission* conducted pursuant to § 9-6.14:11 or § 9-6.14:12 during which the
83 board *or Commission* deliberates to reach a decision.

84 16. Discussion, consideration or review of State Lottery Department matters related to proprietary
85 lottery game information and studies or investigations exempted from disclosure under subdivisions 37
86 and 38 of subsection B of § 2.1-342.

87 17. Those portions of meetings by local government crime commissions where the identity of, or
88 information tending to identify, individuals providing information about crimes or criminal activities
89 under a promise of anonymity is discussed or disclosed.

90 18. Discussion, consideration, review and deliberations by local community corrections resources
91 boards regarding the placement in community diversion programs of individuals previously sentenced to
92 state correctional facilities.

93 19. Those portions of meetings of the Virginia Health Services Cost Review Council in which the
94 Council discusses filings of individual health care institutions which are confidential pursuant to
95 subsection B of § 9-159.

96 20. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
97 of, or information tending to identify, any prisoner who (i) provides information about crimes or
98 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
99 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
100 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

101 21. Discussion of plans to protect public safety as it relates to terrorist activity.

102 22. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and
103 its wholly owned subsidiaries, discussion or consideration of (i) proprietary information provided by, and
104 financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) the
105 condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate
106 the disclosure of which would have a substantial adverse impact on the value of such real estate or
107 result in a competitive disadvantage to the corporation or subsidiary.

108 23. Those portions of meetings in which individual child death cases are discussed by the State Child
109 Fatality Review Team established pursuant to § 32.1-283.1.

110 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in an
111 executive or closed meeting shall become effective unless the public body, following the meeting,
112 reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule,
113 contract, regulation or motion which shall have its substance reasonably identified in the open meeting.
114 Nothing in this section shall be construed to require the board of directors of any authority created
115 pursuant to the Industrial Development and Revenue Bond Act (§ 15.1-1373 et seq.), or any public body
116 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
117 to which subdivision A 5 of this section applies. However, such business or industry must be identified
118 as a matter of public record at least thirty days prior to the actual date of the board's authorization of
119 the sale or issuance of such bonds.

120 C. Public officers improperly selected due to the failure of the public body to comply with the other
121 provisions of this section shall be de facto officers and, as such, their official actions are valid until they

obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same regulations for holding executive or closed sessions as are applicable to any other public body.

§ 18.2-340.15 (Effective July 1, 1996) State control of charitable gaming.

A. Charitable gaming as authorized herein shall be permitted in the Commonwealth as a means of funding qualified organizations to enhance the integrity of charitable gaming through equal regulation, allow fundraising opportunities for legitimate charities, require accountability from all participants in charitable gaming while maximizing returns to charities, and protect the public interest by allowing charitable gaming as a social fundraising concept, without the commercial element of gambling. The Charitable Gaming Commission is vested with control of all charitable gaming in the Commonwealth, with plenary power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.

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

§ 18.2-340.16. Definitions.

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

"Adjusted gross receipts" means the total amount of money received by an organization from charitable gaming after the deduction of prizes.

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

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

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

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

"Commission" means the Charitable Gaming Commission.

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

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

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

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

"Management, operation, or conduct of charitable gaming" includes the provision of oversight and supervision of charitable gaming; preparation of daily, quarterly or annual financial reports; deposit of proceeds from charitable gaming activities; check writing or approval authority; purchase authority for charitable gaming equipment or supplies; negotiation of contracts or leases; service as a volunteer worker or assistant, or involvement in charitable gaming in any manner other than as a player.

"Organization" means any one of the following:

1. A voluntary fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue squad is located as being a part of the safety program of such political subdivision;

2. An organization operated exclusively for religious, charitable, community or educational purposes;

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

4. A fraternal association or corporation operating under the lodge system.

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

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

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

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

193 § 18.2-340.18. Powers and duties of the Commission.

194 The Commission shall have all powers and duties necessary to carry out the provisions of this article
195 and to exercise the control of charitable gaming as set forth in § 18.2-340.15. Such powers and duties
196 shall include but not be limited to the following:

197 1. The Commission is vested with jurisdiction and supervision over all charitable gaming authorized
198 under the provisions of this article and including all persons that conduct or provide goods, services or
199 premises used in the conduct of charitable gaming. It may employ such persons as are necessary to
200 ensure that charitable gaming is conducted in conformity with the provisions of this article and the
201 regulations of the Commission. The Commission may designate such agents and employees as it deems
202 necessary and appropriate to be vested with like power to enforce the provisions of this article and the
203 criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of any county, city
204 or town.

205 2. The Commission, its agents and employees and any law-enforcement officers charged with the
206 enforcement of charitable gaming laws shall have free access to the offices, facilities or any other place
207 of business of any organization, including any premises devoted in whole or in part to the conduct of
208 charitable gaming. These individuals may enter such places or premises for the purpose of carrying out
209 any duty imposed by this article, securing records required to be maintained by an organization,
210 investigating complaints, or conducting audits.

211 3. The Commission may compel the production of any books, documents, records, or memoranda of
212 any organizations or supplier for the purpose of satisfying itself that this article and its regulations are
213 strictly complied with. In addition, the Commission may require the production of an annual balance
214 sheet and operating statement of any person granted a permit pursuant to the provisions of this article
215 and may require the production of any contract to which such person is or may be a party.

216 4. The Commission shall promulgate regulations under which charitable gaming shall be conducted
217 in the Commonwealth and all such other regulations that it deems necessary and appropriate to effect
218 the purposes of this article. Such regulations may include penalties for violations. The regulations shall
219 be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).

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

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

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

229 8. The Commission may issue interim certification of tax-exempt status and collect a fee therefor in
230 accordance with subsection B of § 18.2-340.24.

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

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

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

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

240 13. *In addition to the fees authorized pursuant to §§ 18.2-340.31 and 18.2-340.34, the Commission*
241 *may levy and collect reasonable fees sufficient to cover all expenses for the administration and*
242 *operation of the Commission.*

243 14. *The Commission shall require a background investigation to include a Virginia criminal history*
244 *record information check of the following persons: (i) every person applying for a permit to conduct*

charitable gaming or license to sell charitable gaming supplies and equipment and (ii) all employees of the Commission, Employees of the Commission shall be fingerprinted before and as a condition of employment. Persons convicted of a felony or crime of moral turpitude shall not be employed by the Commission.

15. The Commission may issue provisional permits or licenses which shall be valid for no more than 180 days pending completion of background investigations.

16. The Commission may request verification of compliance with state and federal tax law by persons applying for permits and licenses, or holders thereof seeking renewal of such permits or licenses. § 18.2-340.19. Regulations of the Commission.

The Commission shall adopt regulations which:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage 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 lease, 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. The regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing manner based upon factors the Commission finds appropriate to and consistent with the purpose of charitable gaming.

2. Require the organization to have at least fifty percent of its membership consist of residents of the Commonwealth and specify the conditions under which a complete list of the organization's membership may be required in order for the Commission to ascertain the percentage of Virginia residents; 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 Commission shall exempt such organizations from the regulations adopted pursuant to this subdivision.

Membership lists furnished to the Commission 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 (§ 2.1-340 et seq.).

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

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

5. Define a limit for reasonable rent paid by organizations to lease premises to conduct charitable gaming.

6. Define electronic and mechanical equipment used in the conduct of charitable gaming.

§ 18.2-340.22 (Effective July 1, 1996) Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts.

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

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

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

§ 18.2-340.23 (Effective July 1, 1996) Organizations exempt from certain permit, financial reporting and audit requirements.

Any organization that reasonably expects to realize gross receipts of \$25,000 or less in any twelve-month period and a volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the voluntary fire department or rescue squad is located as being a part of the safety program of such political subdivision shall be exempt from the requirements of § 18.2-340.25 if, prior to conducting charitable gaming, it notifies the Commission, on a form prescribed by the Commission, that it will conduct charitable gaming. Any such organizations also shall be exempt from the financial reporting and audit requirements of this article and the payment of audit fees but shall file with the Commission, at such time or times as may be required by the Commission, a resolution of its board of directors stating that the organization has complied with the provisions of this article. If any of the organization's actual gross receipts for the twelve-month period exceed \$25,000, the Commission may require the organization to file by a specified date the report required by § 18.2-340.30. The Commission may require any organization which anticipated gross receipts for a twelve-month period to be \$25,000 or less, but which realized gross receipts of more than \$25,000 in such period, to file by a specified date the report required by § 18.2-340.30. Nothing in this section shall prevent the Commission from conducting any investigation

306 or audit it deems appropriate to ensure ~~the~~ *an exempt* organization's compliance with the provisions of
307 this article or the Commission's regulations.

308 § 18.2-340.24 (Effective July 1, 1996) Eligibility for permit; exceptions; where valid.

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

310 1. Have been in existence and met on a regular basis in the county, city or town or in a county, city
311 or town adjacent to the county, city or town wherein the organization proposes to conduct charitable
312 gaming for a period of at least three years immediately prior to applying for a permit.

313 The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or
314 international fraternal order or ~~to~~ *of* a national or international civic organization which is exempt under
315 § 501 (c) (3) of the United States Internal Revenue Code and which has a lodge or chapter holding a
316 charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth;
317 (ii) to booster clubs which have been operating for less than three years and which have been
318 established solely to raise funds for school-sponsored activities in public schools which are less than
319 three years old; (iii) to recently established volunteer fire and rescue companies or departments, after
320 county, city or town approval; or (iv) to an organization which relocates its meeting place on a
321 permanent basis from one jurisdiction to another, complies with the requirements of subdivision 2 of this
322 section, and was the holder of a valid permit at the time of its relocation.

323 2. Be operating currently and have always been operated as a nonprofit organization.

324 B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to
325 exceed \$75,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501 (c) of
326 the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal
327 Revenue Service, the same documentation may be filed with the Commission for an interim certification
328 of tax-exempt status. If such documentation is filed, the Commission may, after reviewing such
329 documentation it deems necessary, issue its determination of tax-exempt status within sixty days of
330 receipt of such documentation. The Commission may charge a reasonable fee, not to exceed \$500. This
331 interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its
332 determination of tax-exempt status, or for eighteen months, whichever is earlier.

333 C. A permit shall be valid only for the locations designated in the permit.

334 § 18.2-340.25 (Effective July 1, 1996) Annual permit required; application fee; form of application.

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

337 B. All *completed* applications for a permit shall be acted upon by the Commission within sixty days
338 from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the
339 discretion of the Commission, a permit may be issued. All permits when issued shall be valid for the
340 period specified in the permit unless it is sooner suspended or revoked. The application shall be a matter
341 of public record.

342 All ~~permits~~ *organizations, except those exempted pursuant to § 18.2-340.23*, shall be subject to
343 regulation by the Commission to ensure the public safety and welfare in the operation of charitable
344 games. The permit shall only be granted after a reasonable investigation has been conducted by the
345 Commission.

346 C. In no case shall an organization receive more than one permit allowing it to conduct charitable
347 gaming; however, nothing in this section shall be construed to prohibit granting special permits pursuant
348 to § 18.2-340.27.

349 D. Application for a charitable gaming permit shall be made on forms prescribed by the Commission
350 and shall be accompanied by payment of the ~~fee~~ *fees for the permit applied for and for* processing the
351 application.

352 § 18.2-340.26 (Effective July 1, 1996) Sale of raffle tickets; drawings.

353 A qualified organization may sell raffle tickets both in and out of the jurisdiction designated in its
354 permit and shall conduct the drawing within the Commonwealth; however, pull-tab devices used as part
355 of a raffle as defined in § 18.2-340.16 may be sold only upon the premises owned or exclusively leased
356 by the organization and at such times as the portion of the premises in which the pull-tab devices are
357 sold is open only to members and their guests.

358 § 18.2-340.28. (Effective July 1, 1996) Conduct of instant bingo.

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

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

364 C. Any organization conducting instant bingo shall maintain a record of the date, quantity and card
365 value of instant bingo supplies purchased as well as the name and address of the supplier of such instant
366 bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of
367 the organization verifying any information required by this subsection. Instant bingo supplies shall be

paid for only by check drawn on an account of the organization. During the conduct of instant bingo, the supplier's invoice, or a legible true copy thereof, for the instant bingo supplies being used shall be maintained by the organization on the premises where the instant bingo is being conducted.

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

§ 18.2-340.29 (Effective July 1, 1996) Joint operation of bingo games; written reports; special permit required.

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

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

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

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

§ 18.2-340.30 (Effective July 1, 1996) Reports of gross receipts and disbursements required; form of reports; failure to file.

A. Each qualified organization shall keep a complete record of all receipts from its charitable gaming operation and all disbursements related to such operation. Each qualified organization shall file at least annually, on a form prescribed by the Commission, 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 Commission may require. In addition, the Commission, by regulation, may require any qualified organization whose 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 per this section shall be a matter of public record.

B. All reports required by this section shall be acknowledged in the presence of a notary public and filed on or before the date prescribed by the Commission.

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

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

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

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

G. The failure to file reports when due and, when required, the opinion of a licensed independent certified public accountant in accordance with subsection D, shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report or the opinion is properly filed and a new permit is obtained.

§ 18.2-340.33 (Effective July 1, 1996) 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 operating costs, (ii) publicizing the time and date of charitable gaming, (iii) prizes, (iv) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (v) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

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

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

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games, *unless permitted by regulation of the Commission*.

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

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

5. No person shall participate in the management, operation or conduct of any charitable game unless such person is and, for a period of at least ninety days immediately preceding such participation, has been a bona fide member of the organization; however, the provisions of this 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; or (iii) the spouse of any such bona fide member of a qualified organization provided at least one bona fide member is present.

6. 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 thirty dollars per event for providing clerical assistance in the conduct of charitable games only for such organizations; and

b. Persons under the age of nineteen 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.

7. 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, markers, 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. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment, and each service to be provided by the landlord.

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

8. 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.

9. 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 \$25;

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

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

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

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

10. No organization shall award any raffle prize valued at more than \$100,000, *or in the case of a pull-tab raffle, any prize valued in excess of \$500.*

The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) 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) (3) tax-exempt organization ~~or (ii) pull-tab devices when played as permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.~~

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

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 this Commonwealth from any person who is not currently registered with the Commission as a supplier pursuant to § 18.2-340.34.

15. *No person under the age of 18 years shall play bingo or participate in the management, operation or conduct of bingo games.*

§ 18.2-340.34 (Effective July 1, 1996) Suppliers of charitable gaming supplies; licensure; qualification; suspension, revocation or refusal to issue or renew license; maintenance and production of records.

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

B. The Commission shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the ~~registration~~ *licensing* of suppliers. The Commission may refuse to ~~register~~ *license* any supplier who has, or which has any officer, director, partner, or owner who has (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (iv) been delinquent in the filing of any tax returns or the payment of any taxes due the Commonwealth.

C. The Commission may suspend, revoke or refuse to ~~issue or renew the registration certificate~~ *license* of any supplier for any conduct described in subsection B or for any violation of this article or regulation of the Commission. Before taking any such action, the Commission shall give the supplier a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard.

D. Each supplier shall document each sale of charitable gaming supplies to a qualified organization on an invoice which clearly shows (i) the name and address of the qualified organization to which the supplies were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the ~~quality~~ *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

552 paper sold; and (v) any other information with respect to items of charitable gaming supplies as the
553 Commission may prescribe by regulation. A legible copy of the invoice shall accompany the charitable
554 gaming supplies when delivered to the qualified organization.

555 E. Each supplier shall maintain a legible copy of each invoice required by subsection D for a period
556 of three years from the date of sale. Each supplier shall make such documents immediately available for
557 inspection and copying to any agent or employee of the Commission upon request made during normal
558 business hours. This subsection shall not limit the right of the Commission to require the production of
559 any other documents in the possession of the supplier which relate to its transactions with qualified
560 organizations.

561 § 18.2-340.37 (Effective July 1, 1996) Criminal penalties.

562 A. Any person who *willfully and knowingly files, or causes to be filed, a false application, report or*
563 *other document or who willfully and knowingly makes a false statement, or causes a false statement to*
564 *be made, on any application, report or other document required to be filed with or made to the*
565 *Commission shall be guilty of a Class 6 felony.*

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

568 B- C. Each day in violation shall constitute a separate offense.

569 § 18.2-340.38 (Effective July 1, 1996) Transitional provisions.

570 A. In order to implement the statewide regulation of charitable gaming expeditiously, the initial rules
571 and regulations shall be adopted by the Commission but shall not be subject to the Administrative
572 Process Act (§ 9-6.14:1 et seq.) during the first ~~twelve-month~~ *twenty-four-month* period following the
573 earliest effective date of any portion of this article. Thereafter, all rules and regulations shall fully
574 comply with the provisions of the Administrative Process Act.

575 B. The Commission may issue temporary licenses upon conditions as ~~its~~ *it* deems necessary, subject
576 however to all limitations set forth in this article, for a term which shall not extend beyond one year
577 after the latest effective ~~day~~ *date* of any portion of this article.

578 § 58.1-3. Secrecy of information; penalties.

579 A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax
580 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
581 revenue officer or employee, or any former officer or employee of any of the aforementioned offices
582 shall not divulge any information acquired by him in the performance of his duties with respect to the
583 transactions, property, including personal property, income or business of any person, firm or
584 corporation. Such prohibition specifically includes any copy of a federal return or federal return
585 information required by Virginia law to be attached to or included in the Virginia return. Any person
586 violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this
587 subsection shall not be applicable, however, to:

588 1. Matters required by law to be entered on any public assessment roll or book;

589 2. Acts performed or words spoken or published in the line of duty under the law;

590 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a
591 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
592 its study, provided that any such information obtained shall be privileged;

593 4. The sales price, date of construction, physical dimensions or characteristics of real property, or to
594 any information required for building permits.

595 B. Nothing contained in this section shall be construed to prohibit the publication of statistics so
596 classified as to prevent the identification of particular reports or returns and the items thereof or the
597 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together
598 with any relevant information which in the opinion of the Department may assist in the collection of
599 such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing
600 whether a person, firm or corporation is licensed to do business in that locality and divulging, upon
601 written request, the name and address of any person, firm or corporation transacting business under a
602 fictitious name.

603 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
604 Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director
605 of finance or other similar collector of county, city or town taxes who, for the performance of his
606 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
607 Commissioner of the Department of Social Services, upon written request, information on the amount of
608 income reported by persons on their state income tax returns who have applied for public assistance
609 benefits as defined in § 63.1-87; (iii) provide to the Executive Director of the State Education Assistance
610 Authority, upon written request, the names and home addresses of those persons identified by the
611 Authority as having defaulted on loans guaranteed by the Authority; (iv) provide current address
612 information upon request to state agencies and institutions for their confidential use in facilitating the
613 collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use

in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; ~~and~~ (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; *and (xi) provide to the Executive Secretary of the Charitable Gaming Commission such tax information as may be necessary to identify those applicants for charitable gaming permits and licenses who have not filed required returns or who owe delinquent taxes.* The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D of this section. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

2. That an emergency exists and the provisions § 18.2-340.38 of this act is in force from its passage.

3. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is