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## HOUSE BILL NO. 470

Offered January 19, 1998

A *BILL to amend and reenact §§ 18.2-340.19 and 18.2-340.33 of the Code of Virginia, relating to charitable gaming.*

Patrons—Diamonstein, Barlow, Crittenden, Hamilton and Putney; Senators: Maxwell, Norment and Williams

Referred to Committee on General Laws

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

**1. That §§ 18.2-340.19 and 18.2-340.33 of the Code of Virginia are amended and reenacted as follows:**

§ 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, *fraternal* 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, *fraternal* 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 members who participate in the management, operation or conduct of charitable gaming 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 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.

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 and (ii) permit members who participate in the management, operation or conduct of bingo to play bingo.

7. Prescribe the conditions under which a qualified organization located in the Northern Virginia Planning District may sell raffle tickets for a raffle drawing which will be held outside the Commonwealth pursuant to subsection C 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 eleven 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 eighteen years may play bingo, provided such person (i) has the consent of his parent or legal guardian or (ii) is accompanied by his parent or legal guardian.

§ 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 operating costs, (ii) publicizing the time and date of charitable gaming, (iii) prizes, (iv) those lawful religious, charitable, community, *fraternal* 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, *fraternal* or

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60 educational purposes. For the purposes of clause (v), such expenses may include the expenses of a  
61 corporation formed for the purpose of serving as the real estate holding entity of a qualified  
62 organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501 (c)  
63 (3), (7) or (10) of the Internal Revenue Code and (b) the membership of the qualified organization is  
64 identical to such holding entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

134 The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per  
135 calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3)  
136 of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where  
137 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the  
138 cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or  
139 educational organizations specifically chartered or organized under the laws of the Commonwealth and  
140 qualified as a § 501 (c) (3) tax-exempt organization or (ii) pull tabs or seal cards when played as  
141 permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

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

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

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

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