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**HOUSE BILL NO. 396**

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Krizek)

*A BILL to amend and reenact §§ 18.2-340.16 and 18.2-340.28:2 of the Code of Virginia, relating to charitable gaming; Texas Hold'em poker tournaments.*

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

**1. That §§ 18.2-340.16 and 18.2-340.28:2 of the Code of Virginia are amended and reenacted as follows:**

**§ 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.

"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. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this article.

"Charitable gaming permit" or "permit" means a permit issued by the Department to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

"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 (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.

"Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

"Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming less the total amount in prize money paid out to players.

"Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct electronic gaming.

"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 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 that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by 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,

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60 employee, or immediate family member thereof, which owns and leases, or leases any premises devoted in  
61 whole or in part to the conduct of bingo games or other charitable gaming pursuant to this article, and any  
62 person residing in the same household as a landlord.

63 "Management" means the provision of oversight of a gaming operation, which may include the  
64 responsibilities of applying for and maintaining a permit or authorization, compiling, submitting, and  
65 maintaining required records and financial reports, and ensuring that all aspects of the operation are in  
66 compliance with all applicable statutes and regulations.

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

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

69 "Operation" means the activities associated with production of a charitable gaming or electronic gaming  
70 activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming and  
71 electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming and  
72 electronic gaming designated by the organization's management.

73 "Organization" means any one of the following:

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

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

82 3. An athletic association or booster club or a band booster club established solely to raise funds for  
83 school-sponsored athletic or band activities for a public school or private school accredited pursuant to  
84 § 22.1-19 or to provide scholarships to students attending such school;

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

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

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

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

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

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

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

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

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

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

118 14. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code  
119 that manages a museum that is operated, and has always been operated, exclusively for the purposes of  
120 musical heritage and the legacy of the "1927 Bristol Sessions";

121 15. An organization (i) established on or before December 31, 1963, as a result of its members being

122 prohibited from joining similar existing organizations because of laws such as the Public Assemblages Act of  
 123 1926, which required the racial segregation of all public events in the Commonwealth; (ii) that is exempt  
 124 from income tax pursuant to § 501(c)(7) of the Internal Revenue Code; and (iii) that is operated, and has  
 125 always been operated, for community awareness and action through educational, economic, and cultural  
 126 service activities;

127 16. An organization established on or before December 31, 1977, that is exempt from income tax pursuant  
 128 to § 501(c)(7) of the Internal Revenue Code and is incorporated, in part, to raise funds for donation to  
 129 organizations whose missions include promoting early detection of and public education about and  
 130 supporting research and treatment options for heart disease and various cancers;

131 17. A local chamber of commerce; or

132 18. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the Internal  
 133 Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or seal cards that  
 134 generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less expenses and prizes,  
 135 are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding  
 136 § 18.2-340.26:1, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an  
 137 organization's annual gross receipts for the purposes of this subdivision.

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

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

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

149 "Reasonable and proper business expenses" means business expenses actually incurred by a qualified  
 150 organization in the conduct of charitable gaming and not otherwise allowed under this article or under  
 151 Department regulations on real estate and personal property tax payments, travel expenses, payments of  
 152 utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office  
 153 equipment and costs of acquisition, maintenance, repair, or construction of an organization's real property.  
 154 For the purpose of this definition, (i) salaries and wages of employees whose primary responsibility is to  
 155 provide services for the principal benefit of an organization's members or (ii) expenses for social or  
 156 recreational activities for the principal benefit of a social organization's members may qualify as a business  
 157 expense, if so determined by the Department. However, payments made pursuant to § 51.1-1204 to the  
 158 Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and  
 159 proper business expense.

160 "Social organization" means any qualified organization that provides certification to the Department that  
 161 it is:

162 1. An accredited public institution of higher education or other postsecondary school licensed or certified  
 163 by the Board of Education or the State Council of Higher Education for Virginia qualified under § 501(c)(3)  
 164 of the Internal Revenue Code;

165 2. An organization established on or before November 10, 1922, that is qualified under § 501(c)(4) of the  
 166 Internal Revenue Code, is the only federally chartered Marine Corps-related veterans organization in the  
 167 country, and is operated for the purpose of promoting the interest and preserving the traditions of the United  
 168 States Marine Corps;

169 3. An organization established on or before December 31, 1963, as a result of its members being  
 170 prohibited from joining similar existing organizations because of laws such as the Public Assemblages Act of  
 171 1926, which required the racial segregation of all public events in the Commonwealth, that is qualified under  
 172 § 501(c)(7) of the Internal Revenue Code;

173 4. An organization established on or before December 31, 1977, that is qualified under § 501(c)(7) of the  
 174 Internal Revenue Code and is incorporated, in part, to raise funds for donation to organizations whose  
 175 missions include promoting early detection of and public education about and supporting research and  
 176 treatment options for heart disease and various cancers;

177 5. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue  
 178 Code;

179 6. A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal Revenue  
 180 Code; or

181 7. A post or organization of past or present members of the Armed Forces of the United States, or an  
 182 auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under §  
 183 501(c)(19) of the Internal Revenue Code.

184        "Social quarters" means, in addition to any specifications prescribed by the Department, an area at a social  
185 organization's primary location that (i) such organization designates to be used predominantly by its members  
186 for social and recreational activities, (ii) is accessible exclusively to members of the social organization and  
187 their guests, and (iii) is not advertised or open to the general public. It shall not disqualify the area from being  
188 considered social quarters if guests occasionally accompany members into the area, so long as such guests do  
189 not spend their own funds to participate in charitable gaming or electronic gaming activities conducted in the  
190 area. In determining if an area is social quarters for purposes of § 18.2-340.26:3, the Department may rely on  
191 publications of the Internal Revenue Service regarding the allowable participation of guests in an  
192 organization's social and recreational activities for purposes of § 501 of the Internal Revenue Code.

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

195        "Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards facedown  
196 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  
197 hand to win the value wagered during the game, and (iv) the ranking of hands and the rules of the game are  
198 governed by the official rules of the Poker Tournament Directors Association.

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

206        **§ 18.2-340.28:2. Conduct of Texas Hold'em poker tournaments by qualified organizations; limitation of operator fee; conditions.**

207        A. Any organization qualified to conduct bingo games on or after July 1, 2019, may conduct Texas  
208 Hold'em poker tournaments; however, no such organization may conduct individual Texas Hold'em poker  
209 games. The Commissioner shall promulgate regulations establishing circumstances under which  
210 organizations qualified to conduct bingo games prior to July 1, 2019, may conduct Texas Hold'em poker  
211 tournaments.

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

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

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

221        E. No qualified organization shall allow any individual younger than 18 21 years of age to participate in  
222 Texas Hold'em poker tournaments.

223        F. *No qualified organization may conduct Texas Hold'em poker tournaments (i) at a location outside of  
224 the county, city, or town in which its principal office, as registered with the State Corporation Commission, is  
225 located or in an adjoining county, city, or town or (ii) at an establishment that has been granted a license  
226 pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the qualified organization.*

227        G. *For purposes of this subsection:*

228        "Add-ons" means an optional purchase of additional poker chips, usually available once per tournament  
229 at the end of the rebuy period or during a specific break, allowing players to boost their stack regardless of  
230 their current chip count.

231        "Rebuy" means an optional purchase during a specific period and under certain conditions of additional  
232 poker chips equivalent to the same amount of chips as provided with the original tournament entry fee.

233        Unlimited rebuys shall only be permitted within the first two hours of tournament play or until the first  
234 break, whichever occurs first. A rebuy shall only be allowed if a player has lost all of his poker chips or when  
235 a player's total amount of poker chips is less than his starting stack. Rebuys shall be equivalent to the amount  
236 of poker chips provided with the original tournament entry fee.

237        One add-on shall be permitted at the end of the rebuy period before play resumes at the end of the first  
238 break. Only players that still have poker chips in play after the first break shall be eligible to purchase an  
239 add-on. Players shall be limited to the purchase of one add-on per player per tournament.