

10100844D

HOUSE BILL NO. 1030

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend and reenact §§ 18.2-334.2, 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22, 18.2-340.23, 18.2-340.25, 18.2-340.26, 18.2-340.30, 18.2-340.33, 18.2-340.34:1, and 18.2-340.36 of the Code of Virginia and to repeal § 18.2-340.31 of the Code of Virginia, relating to charitable gaming; oversight by the Department of Agriculture and Consumer Services.*

Patrons—Pollard; Senator: Stuart

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-334.2, 18.2-340.15, 18.2-340.16, 18.2-340.18, 18.2-340.19, 18.2-340.20, 18.2-340.22, 18.2-340.23, 18.2-340.25, 18.2-340.26, 18.2-340.30, 18.2-340.33, 18.2-340.34:1, and 18.2-340.36 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-334.2. Same; bingo games, raffles and duck races conducted by certain organizations.

Nothing in this article shall apply to any bingo game, instant bingo, raffle, or duck race conducted solely by organizations as defined in § 18.2-340.16 which have received a permit as set forth in § 18.2-340.25; ~~or which are exempt from the permit requirement under § 18.2-340.23.~~

§ 18.2-340.15. State control of charitable gaming.

~~A. Charitable gaming as authorized herein shall be permitted in the Commonwealth as a means of funding qualified organizations but shall be conducted only in strict compliance with the provisions of this article. The Department of Agriculture and Consumer Services is vested with control of all charitable gaming in the Commonwealth. The Charitable Gaming Board shall have the power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted governing (i) the issuance and renewal of permits to conduct charitable gaming, (ii) the registration of bingo managers and callers, and (iii) the licensing of charitable gaming suppliers.~~

~~B. The conduct of any charitable gaming is a privilege that may be granted or denied by the Department of Agriculture and Consumer Services or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this article.~~

§ 18.2-340.16. Definitions.

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

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to seventy-five, (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~~ individual cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

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

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

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

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands or tape.

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

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

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

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

INTRODUCED

HB1030

59 necessity of leasing.

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

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

65 "Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random
66 selection of one or more individually prepacked cards, including ~~Department-approved~~ electronic
67 versions thereof, with winners being determined by the preprinted or predetermined appearance of
68 concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses
69 and may include the use of a seal card which conceals one or more numbers or symbols that have been
70 designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical
71 equipment.

72 "Jackpot" means a bingo game that the organization has designated on its game program as a jackpot
73 game, exclusive of a "winner-take-all" bingo game, in which the prize amount is greater than \$100.

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

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

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

86 "Organization" means any one of the following:

87 1. A volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in
88 accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the
89 volunteer fire department or rescue squad is located as being a part of the safety program of such
90 political subdivision;

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

92 3. An athletic association or booster club or a band booster club established solely to raise funds for
93 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
94 § 22.1-19 or to provide scholarships to students attending such school;

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

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

97 6. A local chamber of commerce; or

98 7. Any other nonprofit organization that raises funds by conducting raffles that generate annual gross
99 receipts of \$40,000 or less, provided such gross receipts from the raffle, less expenses and prizes, are
100 used exclusively for charitable, educational, religious or community purposes.

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

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

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

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

119 § 18.2-340.18. Powers and duties of the Department.

120 The Department shall have all powers and duties necessary to carry out the provisions of this article

and to exercise the control of charitable gaming as set forth in § 18.2-340.15. Such powers and duties shall include but not be limited to the following powers:

1. The Department is vested with jurisdiction and supervision over all charitable gaming authorized under the provisions of this article and including (i) all persons that conduct or provide goods, services or premises used in the conduct of charitable gaming, (ii) *bingo managers and callers*, and (iii) *charitable gaming suppliers*. It may employ such persons as are necessary to ensure that charitable gaming is conducted in conformity with the provisions of this article and the regulations of the Board. The Department shall designate such agents and employees as it deems necessary and appropriate who shall be sworn to enforce the provisions of this article and the criminal laws of the Commonwealth and who shall be law-enforcement officers as defined in § 9.1-101.

2. The Department, and its agents and employees and any law-enforcement officers charged with the enforcement of charitable gaming laws shall have free access to the offices, facilities or any other place of business of any organization, including any premises devoted in whole or in part to the conduct of charitable gaming. These individuals may enter such places or premises for the purpose of carrying out any duty imposed by this article, securing records required to be maintained by an organization, investigating complaints, or conducting audits may investigate any organization for violation of the provisions of this article upon receipt of a complaint made in accordance with § 18.2-340.36.

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

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

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

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

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

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

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

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

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

§ 18.2-340.19. Regulations of the Board.

A. The Board shall adopt regulations which:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts, excluding winner-take-all games, for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. The regulation may provide for a graduated scale of percentages of gross receipts to be used in the foregoing manner based upon factors the Board finds appropriate to and consistent with the purpose of charitable gaming.

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

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

3. Prescribe fees for processing applications for charitable gaming permits and the renewal of such

182 *permits*. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be
183 conducted.

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

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

186 6. Prescribe the conditions under which a qualified organization may (i) provide food and
187 nonalcoholic beverages to its members who participate in the management, operation or conduct of
188 bingo and (ii) permit members who participate in the management, operation or conduct of bingo to
189 play bingo.

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

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

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

197 10.2. Require all qualified organizations that are subject to Board regulations to post in a
198 conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free
199 telephone number for "Gamblers Anonymous" or other organization which provides assistance to
200 compulsive gamblers.

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

206 § 18.2-340.20. Denial, suspension or revocation of permit; hearings and appeals.

207 A. The Department may deny, suspend or revoke the permit of any organization found not to be in
208 strict compliance with the provisions of this article ~~and the regulations of the Board~~. The action of the
209 Department in denying, suspending, or revoking any permit shall be subject to the Administrative
210 Process Act (§ 2.2-4000 et seq.).

211 B. Except as provided in §§ 18.2-340.25, 18.2-340.30 and 18.2-340.36, no permit to conduct
212 charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis
213 for such action and the time and place for the hearing. At the discretion of the Department, hearings
214 may be conducted by hearing officers who shall be selected from the list prepared by the Executive
215 Secretary of the Supreme Court. After a hearing on the issues, the Department may refuse to issue or
216 may suspend or revoke any such permit if it determines that the organization has not complied with the
217 provisions of this article ~~or the regulations of the Board~~.

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

221 § 18.2-340.22. Only raffles, bingo and instant bingo games permitted; prizes not gaming contracts.

222 A. This article permits qualified organizations to conduct raffles, bingo and instant bingo games. All
223 games not explicitly authorized by this article ~~or Board regulations adopted in accordance with~~
224 ~~§ 18.2-340.18~~ are prohibited.

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

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

230 § 18.2-340.23. Organizations exempt from certain fees.

231 A. ~~No~~ Every organization that reasonably expects, based on prior charitable gaming annual results or
232 any other quantifiable method, to realize gross receipts of \$40,000 ~~or less in any 12-month period from~~
233 ~~the conduct of charitable gaming~~ shall be required to (i) notify the Department of its intention to
234 conduct charitable gaming, ~~or (ii) comply with Board regulations and obtain a permit in accordance~~
235 ~~with § 18.2-340.25~~. If any organization's actual gross receipts for the 12-month period exceed \$40,000,
236 the Department may require the organization to file by a specified date the report required by
237 ~~§ 18.2-340.30~~.

238 B. Any volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized
239 in accordance with § 15.2-955 by an ordinance or resolution of the political subdivision where the
240 volunteer fire department or rescue squad is located as being part of the safety program of such political
241 subdivision shall be exempt from the payment of application fees required by § 18.2-340.25 ~~and the~~
242 ~~payment of audit fees required by § 18.2-340.31~~. Nothing in this subsection shall be construed as
243 exempting volunteer fire departments and rescue squads from any other provisions of this article or

other Board regulations *authorized by this article*.

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

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

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

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than two years. The application shall be a matter of public record.

All permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Department. The Department may require any prospective employee, permit holder or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with employee's, licensee's or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, licensee or applicant record or notification that no record exists, shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

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

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

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

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

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

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

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

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

§ 18.2-340.30. Reports of gross receipts and disbursements required.

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

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

C. ~~Except as provided in § 18.2-340.23, each qualified organization shall designate or compensate an outside individual or group who shall be responsible for filing an annual, and, if required, quarterly,~~

305 financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming
306 activities. The Department shall require such reports as it deems necessary until all proceeds of any
307 charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in
308 a manner approved by the Department.

309 D. Each qualified organization shall maintain for three years a complete written record of (i) all
310 charitable gaming sessions using Department prescribed forms or reasonable facsimiles thereof approved
311 by the Department; (ii) the name and address of each individual to whom any prize or jackpot in excess
312 of \$599 from any charitable gaming is awarded, as well as the amount of the award; and (iii) an
313 itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred
314 in operating bingo games.

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

323 § 18.2-340.33. Prohibited practices.

324 In addition to those other practices prohibited by this article, the following acts or practices are
325 prohibited:

326 1. No part of the gross receipts derived by a qualified organization may be used for any purpose
327 other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii)
328 those lawful religious, charitable, community or educational purposes for which the organization is
329 specifically chartered or organized, and (iv) expenses relating to the acquisition, construction,
330 maintenance, or repair of any interest in the real property involved in the operation of the organization
331 and used for lawful religious, charitable, community or educational purposes. For the purposes of clause
332 (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the
333 real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a
334 tax exempt organization under § 501(c) of the Internal Revenue Code and (b) the membership of the
335 qualified organization is identical to such holding entity.

336 2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or
337 otherwise employ for compensation any person for the purpose of organizing, managing, or conducting
338 any charitable games. However, organizations composed of or for deaf or blind persons may use a part
339 of their gross receipts for costs associated with providing clerical assistance in the management and
340 operation but not the conduct of charitable gaming.

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

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

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

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

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

361 The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by
362 qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor
363 of a qualified organization, provided such employees' participation is limited to the management,
364 operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such
365 bona fide member of a qualified organization provided at least one bona fide member is present; or (iv)
366 persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance

with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization.

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 \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

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

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

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

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

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, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization.

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

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 \$50 for a single door prize or \$250 in cumulative door prizes in any one session;

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

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$599; 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 session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games.

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

a. Any bingo game, commonly referred to as "winner-take-all" games, in which all the gross receipts from players for that game, up to \$1,000, are paid as prize money back to the players, provided (i) there are no more than two such games per session of play, (ii) the prize money from such games does not exceed the lesser of the gross receipts directly attributable to the sale of bingo cards or sheets for such games or \$1,000, (iii) the bingo cards or sheets used for such games are sold separately from the bingo cards or sheets used for any other bingo games, and (iv) the organization separately accounts for the proceeds from such sales; or

b. Any bingo game, commonly referred to as "Lucky Seven" games, in which (a) a regular or special prize, not to exceed \$100, is awarded on the basis of seven predetermined numbers selected at random and (b) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the seven predetermined numbers are covered when a certain number of numbers is called, provided (i) there is no more than one such game per session per organization, (ii) the amount of increase of the progressive prize per session is no more than \$100, (iii) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for

any other bingo games, (iv) the organization separately accounts for the proceeds from such sale, and (v) such games are otherwise operated in accordance with ~~the Department's rules of play~~ *the provisions of this article*.

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

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

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

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

14. 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.

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

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

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

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

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

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

The Department may refuse to register any bingo manager or caller who has (a) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (b) been convicted of or pleaded nolo contendere to a crime involving gambling; (c) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (d) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.

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

Process Act (§ 2.2-4000 et seq.).

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

§ 18.2-340.36. Suspension of permit; investigation by Department upon complaint.

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

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

C. *Any complaint against an organization for any violation of this article, in order to be investigated by the Department, shall be made in writing, or otherwise made in accordance with Department procedures, and received by the Department within three years of the act, omission or occurrence giving rise to the violation. Public information obtained from any source by the Director or agency staff may serve as the basis for a written complaint against an organization.*

D. *However, where a regulant has materially and willfully misrepresented, concealed or omitted any information and the information so misrepresented, concealed or omitted is material to the establishment of the violation, the complaint may be made at any time within two years after discovery of the misrepresentation, concealment or omission.*

E. *In cases where criminal charges have been filed involving matters that, if found to be true, would also constitute a violation of this article, an investigation may be initiated by the Department at any time within two years following the date such criminal charges are filed.*

2. That § 18.2-340.31 of the Code of Virginia is repealed.