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Exempt Action: Final Regulation Agency Background Document

Agency name	Charitable Gaming Board
Virginia Administrative Code (VAC) Chapter citation(s)	11 VAC 15-50
VAC Chapter title(s)	Texas Hold'em Poker Tournament Regulations
Action title	New regulations governing the conduct of Texas Hold'em poker tournaments for charitable gaming organizations
Final agency action date	December 31, 2020
Date this document prepared	January 8, 2021

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Section 18.2-340.15 of the Charitable Gaming Law (Article 1.1:1 of Chapter 8 of Title 18.2 of the Code of Virginia (Va. Code § 18.2-340.15 *et seq.*)) authorizes the Charitable Gaming Board (Board) to prescribe regulations and conditions under which charitable gaming shall be conducted in the Commonwealth. Chapter 982 of the 2020 Acts of Assembly amended the Charitable Gaming Law to include Texas Hold'em poker tournaments as a form of charitable gaming in the Commonwealth and to authorize qualified charitable organizations to manage, operate, and conduct Texas Hold'em poker tournaments.

The final regulatory action establishes regulations for Texas Hold'em poker tournaments that prescribe the requirements for a qualified organization to obtain a permit to conduct a Texas Hold'em poker tournament and for an operator to obtain a registration to administer a Texas Hold'em poker tournament on behalf of a qualified organization. Additionally, the regulations establish compliance requirements, such as recordkeeping requirements; requirements regarding use of proceeds and fees to be paid by a qualified organization to an operator; and minimum requirements related to participation in Texas Hold'em poker tournaments, conduct of poker games, use of mechanical and electronic equipment, and penalties for Texas Hold'em poker tournaments.

The Charitable Gaming Board received the following comments on the proposed new regulation:

Commenter	Comment	Agency response
Alex West, Newport News	Mr. West expressed concerns that the Texas Hold'em Poker Tournament Regulations require that charitable organizations follow provisions of Robert's Rules of Poker which prohibit "speaking a foreign language during a deal." Mr. West stated that requiring that only English be spoken during a poker tournament should not be incorporated into the regulation.	The Board added additional language stipulating that, in the event of a conflict between the house rules and Robert's Rules of Poker, the house rules shall prevail, thereby allowing the charitable organization to determine rules related to the use of foreign languages during poker tournaments.
Grant Fields	Mr. Fields expressed concerns that the Texas Hold'em Poker Tournament Regulations do not restrict or prevent side bets. Mr. Fields recommended that the state fully legalize gambling.	The Board took no action, as legalizing gambling in Virginia is not within the Board's authority.
Matt D'Ercole	Mr. D'Ercole expressed concerns that the Texas Hold'em Poker Regulations do not stipulate the obligee for surety bonds. Mr. D'Ercole recommended that the regulations require the	The Board revised the regulations to require that the department be named as the obligee on bonds.

	<p>department to be listed as the obligee on all bonds.</p>	
<p>Virginia Department of Agriculture and Consumer Services (VDACS)</p>	<p>VDACS questioned whether the Board has authority to adjust, outside of the Virginia Administrative Process Act (APA), the amount of operator compensation that may be counted towards a qualified organization's minimum use of proceeds for its lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized. VDACS also expressed concerns that the regulations will allow a conflict of interest to exist between the charitable organization and the Texas Hold'em poker tournament operator. VDACS recommended that the Texas Hold'em poker tournament operator should be completely independent from the charitable organization.</p>	<p>The Board removed the provision of the regulations that granted the Board authority to adjust, outside of the APA, the amount of operator compensation that may be counted towards a qualified organization's minimum use of proceeds.</p> <p>The Board considered VDACS's recommendations regarding conflict of interest but took no action.</p>
<p>Rich Lehman</p>	<p>Mr. Lehman provided multiple revision suggestions including, (i) removing the prohibition on directors, officers, owners, partners, tournament managers, employees, independent contractors, and agents of operators from playing poker at tournaments administered by the operator, (ii) removing the prohibition on family members of charity members playing at that charity's poker tournaments, (iii) adding a provision to allow a</p>	<p>The Board adopted multiple amendments to the proposed regulation to reduce restrictions on tournament operators and charitable organizations.</p> <p>The Board removed the prohibition on operators playing poker at tournaments they administer.</p> <p>The Board removed the prohibition on charity member's family members playing at that charity's poker tournaments.</p>

	<p>charitable organization to purchase a card shuffler from a permitted gaming supplier, (iv) changing the requirement for an invoice to be completed after every tournament to a “daily” sheet that includes the games played during the day, (v) removing the provision requiring the charitable host representative to be physically present during the entire tournament, (vi) removing the provision prohibiting a landlord from serving as an operator at his or her own facility.</p>	<p>The Board struck the provision requiring an operator to purchase any mechanical card shuffler or other mechanical equipment from a permitted charitable gaming supplier. The Board retained the provision requiring a charitable organization to only purchase supplies from a permitted supplier, as this is required by §§ 18.2-340.33 and 18.2-340.34 of the Charitable Gaming Law.</p> <p>The Board replaced the requirement that an operator provide the qualified organization with an invoice after every tournament with a requirement that an operator provide the qualified organization an invoice for each day it administers one or more poker tournaments on behalf of the organization.</p> <p>The Board modified the provision requiring the charitable host representative to be physically present during the entirety of the tournament to now allow the representative to be “available,” physically or remotely, during a tournament.</p> <p>The Board removed the provision prohibiting a landlord from serving as an operator at his or her own facility.</p>
<p>Marty Williams, Virginia Charitable Gaming Council</p>	<p>Mr. Williams asked the Board to amend the regulations to allow electronic poker tables to be used to facilitate poker tournaments.</p>	<p>The Board modified the regulations to allow the use of electronic poker tables if such devices are pre-approved by the Department (VDACS).</p>

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or

board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Chapter 982 of the 2020 Acts of Assembly (Senate Bill 936) mandated that the Charitable Gaming Board establish regulations that prescribe the conditions under which a qualified organization may manage, operate or contract with operators of, or conduct Texas Hold'em poker tournaments.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On December 31, 2020, the Charitable Gaming Board adopted as final the new regulation, 11 VAC 15-50, Texas Hold'em Poker Tournament Regulations.