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## Exempt Action: Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Agriculture and Consumer Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	11 VAC 20-30 11 VAC 20-20 (forthcoming)
<b>VAC Chapter title(s)</b>	Texas Hold'em Poker Tournament Regulations (11 VAC 20-30) Charitable Gaming Regulations (11 VAC 20-20)
<b>Action title</b>	Promulgation of regulations for Texas Hold'em poker tournaments by the Department of Agriculture and Consumer Services
<b>Date this document prepared</b>	January 11, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.*

The proposed regulatory action seeks to promulgate regulations to prescribe the requirements for those charitable organizations wishing to conduct Texas Hold'em poker tournaments to generate funds for their charitable cause.

Section 18.2-340.19 of the Charitable Gaming Law (Article 1.1:1 of Chapter 8 of Title 18.2 of the Code of Virginia) requires the Department of Agriculture and Consumer Services (VDACS) to adopt 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. Chapters 554 and 609 of the 2022 Acts of Assembly require the Commissioner of Agriculture and Consumer Services (Commissioner) to prescribe regulations that are consistent with the provisions of Chapter 982 of the 2020 Acts of Assembly. The

proposed regulations prescribe the conditions under which Texas Hold'em poker tournaments shall be conducted in the Commonwealth.

To effectively regulate Texas Hold'em poker tournaments, the agency has determined that it will (i) promulgate 11 VAC 20-30, *Texas Hold'em Poker Tournament Regulations*, and (ii) amend 11 VAC 20-20, *Charitable Gaming Regulations*, to include poker-specific provisions where appropriate. As 11 VAC 20-20 is not currently in effect, the agency is unable to include the poker-specific amendments to 11 VAC 20-20 in this regulatory action at this time. As such, the agency will initiate a re-proposed regulatory stage with a public comment period following the conclusion of this proposed stage and the date on which 11 VAC 20-20 becomes effective. During the re-proposed stage, the agency will publish the proposed poker-specific amendments to 11 VAC 20-20 and the proposed text of 11 VAC 20-30, with any amendments the agency determines are appropriate in response to the comments received during the initial proposed stage. This will afford the regulated community and interested stakeholders the opportunity to review and comment on all of the Texas Hold'em poker tournament regulatory provisions before they become effective.

Below is a summary of the proposed 11 VAC 20-30, *Texas Hold'em Poker Tournament Regulations*.

The proposed regulations provide that a charitable organization wishing to conduct Texas Hold'em poker tournaments must obtain a permit from the department and establishes the requirements for a charitable organization to conduct Texas Hold'em poker tournaments, including (i) required documents that must be provided to the department, (ii) prohibited acts, (iii) recordkeeping and bank account requirements, and (iv) contract and lease requirements.

The regulations require that any person administering a Texas Hold'em poker tournament for a charitable organization must register with the department as an operator. The regulation defines "administer" as the "conduct of activities by an operator that are associated with production of a poker tournament." Operators who provide charitable gaming supplies must obtain a charitable gaming supplier permit in accordance with §18.2-340.34 of the Code of Virginia. The regulations also require the registration of a landlord who rents, leases, or otherwise provides a premises to a charitable organization to hold a Texas Hold'em poker tournament.

The regulations establish requirements for Texas Hold'em poker tournaments including the requirement for a fixed entry fee, specific requirements for poker cards and poker chips, a requirement for posting house rules, and prohibited acts. The regulations prohibit wagering currency as part of the Texas Hold'em poker tournament.

The regulation outlines training requirements for all persons working or volunteering at a poker tournament. The regulation prohibits staff of the charitable organization or the operator from participating as a player in the poker tournament.

## 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). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "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."*

Section 18.2-340.19 of the Charitable Gaming Law requires VDACS to adopt 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. Chapters 554 and 609 of the 2022 Acts of Assembly require the Commissioner to promulgate regulations regarding Texas Hold'em poker tournaments that are

consistent with the provisions of Chapter 982 of the 2020 Acts of Assembly. Chapters 554 and 609 of the 2022 Acts of Assembly include an enactment clause that exempt the initial adoption of these regulations from the Administrative Process Act, except that the agency must provide an opportunity for public comment on the regulations prior to adoption.