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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Charitable Gaming
<b>Virginia Administrative Code (VAC) citation</b>	11 VAC 15-22
<b>Regulation title</b>	Charitable Gaming Rules and Regulations
<b>Action title</b>	Changes to incorporate recent amendments to the Code of Virginia and update related provisions, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations.
<b>Document preparation date</b>	December 8, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The primary focus of the amendments is to reflect numerous relevant changes that have occurred in the Code of Virginia since the current regulations became effective (January 1, 1998). Other substantive changes include establishing a uniform use-of-proceeds requirement and establishing standardized reporting requirements for all permitted organizations. Other changes simplify, clarify and in some instances eliminate unnecessary regulations.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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§ 18.2-340.15, *et seq.*, Code of Virginia provides that the Department is vested with control of all charitable gaming in the Commonwealth and that the Board shall have the power to prescribe regulations and conditions under which such gaming is authorized. Acts 2003, c.884, cl. 5 provides: "That the Charitable Gaming Board shall examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations and provide a report to the Governor and the 2004 session of the General Assembly. The report shall include the Board's plans regarding regulatory action on these issues, and anticipated timetable for such action."

The required report, which was submitted on December 2, 2003, concluded: "The Board concurs that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Rules and Regulations is needed..." The Board reported an anticipated timetable for the process to amend the regulations as approximately 18 months to complete, occurring between June 2004 and January 2006. Based in part on this report, the 2004 General Assembly extended a moratorium in the Code that requires that the Department shall not revoke the charitable gaming permit of any qualified organization based solely on failure to meet the required percentage of gross receipts used for charitable purposes until such time as the Board adopts amended regulations (Chapter 213, 2004 Acts of Assembly).

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

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The 2003 General Assembly (Chapter 884, 2003 Acts of Assembly) created the Department of Charitable Gaming (the Department) and the Charitable Gaming Board (the Board) to replace the former Charitable Gaming Commission (the Commission). The current Charitable Gaming Rules and Regulations were adopted by the former Commission and became effective January 1, 1998. The current regulations include many references to the Commission, which no longer exists, as well as other statutes that have since been amended. The goal of the amended regulations is to simplify and clarify the regulations while also making them consistent with current statutes.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

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The regulations contain 54 references to the former Charitable Gaming Commission that are proposed to now be changed to the Department of Charitable Gaming or Charitable Gaming Board where appropriate and consistent with the statute. Several definitions are proposed to be updated and clarified. A new

section is proposed to provide structure for the Department to deny, suspend or revoke a permit while also providing alternative procedures in lieu of denial, suspension or revocation. The Charitable Gaming fiscal year is proposed to be changed from the current fiscal year of October 1 to September 30 to now be consistent with the calendar year.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

- 1) The primary advantage to the public is that through consistent and effective regulation, the public will be able to participate in bingo, instant bingo and raffles that provide funding for charitable organizations while ensuring the highest level of integrity is maintained. This will protect the public from fraud while increasing the funding for charity. There are no disadvantages to the public in the proposed regulations.
- 2) The primary advantage to the Commonwealth is that by requiring consistent reporting methods from all charities, the Department will be more efficient in audit and control of permitted gaming activities and better able to detect and prosecute fraud, theft and other irregularities. There are no disadvantages to the Commonwealth in the proposed regulations.
- 3) The regulated community should benefit from regulations that are clearer and more concise, and therefore more easily complied with. The regulated community may see some additional record keeping and reporting requirements that are necessary for the privilege to conduct charitable gaming in the Commonwealth.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	NO ADDITIONAL COST
<b>Projected cost of the regulation on localities</b>	NO ADDITIONAL COST
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Qualified Organizations that are tax exempt under Section 501 C of the U.S. Internal Revenue Code.
<b>Agency’s best estimate of the number of such entities that will be affected</b>	650
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	While there may be some additional record keeping and reporting requirements, the cost should be minimal, if any, since the organizations are staffed by volunteers. The Department has recently implemented cost savings strategies, such as on-line reporting and payment processing that will offset any additional costs to the organizations.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

Because of the fact that statutory changes have made the existing regulations obsolete, no other alternatives were considered.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Robert Goolrick VA Elks Assoc.	Suggested several technical changes	All suggestions were adopted in proposed regulations.
Mike Martin	Suggested change in age to work bingo	All suggestions were adopted in proposed regulations.
Anonymous	Suggested all gambling should be illegal	Advised commenter to contact state legislators as this would require a statutory change.
Tim Stuart	Recommended further limitations on electronic devices	Included in the proposed regulation is a reduction in the number of card faces permitted per device from 72 to 54 as was recommended.
Jerry Gorman	Recommended further limitations on electronic devices	Included in the proposed regulation is a reduction in the number of card faces permitted per device from 72 to 54 as was recommended.
Ann Kupesky	Keep minors out of bingo halls	While the proposed regulations do tighten the control on minors, the current statute specifically permits it. Advised commenter to contact state legislators as any further limitation would require a statutory change.
Tom Baldwin	Asked that debit card be used for dispensing funds from gaming account.	Advised commenter that this is allowed under current regulation and there is no plan to change it.
Norma Taylor	Remove winner-take-all from calculation for audit fees.	Advised commenter to contact state legislators as this would require a statutory change.
Richard Corso	Wants regulations to allow playing poker tournaments	Advised commenter to contact state legislators as this would require a statutory change.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

As the proposed regulations further limit the involvement of minors and increase the required involvement of parents if minors are involved in gaming, there may be some minimal strengthening of the institution of the family and family stability.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
15-22-10		Definitions	Clarified and added new definitions consistent with statutes. Adds Board approval to variations on bingo and raffle games "Decision Bingo", "Lucky Seven", "Treasure Chest" and "Wingo".
15-22-20		Use-of-proceeds range from 5% to 12% depending on variety of factors, permit must be suspended or revoked for failure to meet minimum requirement	Standard 10% requirement for all organizations will promote consistency and fairness. Will allow for corrective action prior to suspension or revocation of permit and ability to request waiver from requirement based on certain circumstances.
15-22-30		Permit requirements	Makes the process for renewal and changes to a permit simpler. Initial requirements are essentially unchanged.
	15-22-30:1	Authority established in Code but regulations do not provide guidance	Establishes circumstances, under which a permit may be suspended, revoked or denied; allows for alternatives in lieu of suspension, revocation or denial; and, establishes terms that govern permit suspensions in order to provide better guidance to the Department.
15-22-40		Allows children age 11 to 18 to participate in the operation and management of gambling. Allows children age 11 to 13 to participate in the conduct of bingo with written permission from a parent or legal guardian.	Children under age 18 would be able to be involved in the conduct of bingo but not the management or operation. Requires that children age 11 to 13 can only participate in the conduct of bingo when accompanied by a parent or legal guardian. This change was requested by many charitable organizations. Bingo paper can not be altered from its original form once purchased, thus

		Organizations can alter bingo paper once purchase from a supplier. Organizations are unlimited in the amount of discounts they may provide.	eliminating a possibility of fraud. Organizations were losing money by giving away too many discounts in order to keep up with the competition. Limiting discounts to 1% for all organizations will eliminate this practice and generate more money for charity.
15-22-50		Requires mixing of instant bingo cards before sale. Allows 72 card faces in each electronic device.	Mixing of cards is no longer necessary due to new manufacturing techniques. Organizations can continue to mix them if they wish but it will no longer be required in regulation. Reduces number of card faces to 54 in electronic devices in response to requests from public. Added rules of play for "decision bingo", "treasure chest", "lucky seven" and "wingo". Rules of play are required by law for new games.
15-22-60		Requires separate bank account for gaming funds.	Clarifies language.
15-22-70		Charities can keep records on any system. Organizations can destroy unused gaming supplies.	Charities will be required to use only Department issued or approved forms for reporting in order to make reporting uniform, enhance the audit process, reduce fraud and theft and increase funds for charity. Proposed regulations further clarify record keeping requirements. Unused gaming supplies must either be returned to supplier or turned into the Department for disposal to eliminate fraud.
15-22-80		Current fiscal year for reporting purposes is Oct. 1 to Sept. 30. Current late fee of \$25 per day ends at 30 day.	Changes report requirements so that gaming fiscal year is consistent with the calendar year to eliminate confusion. Late fee will continue to be calculated until late report is received, providing continuing incentive for organizations to get reports in on time.
15-22-90		Provides guidance on use-of-proceeds.	Clarifies language.
15-22-100		Rent can be paid out of organization' general fund. Equipment must be itemized in lease.	Rent must be paid out of charitable gaming account to better track funds. Unnecessary for lease to itemize equipment.
15-22-110		Fact Finding Conferences	Technical adjustments per statutory changes
15-22-120		Reporting Violations	Technical adjustments per statutory changes