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Exempt Action: Final Regulation Agency Background Document

Agency name	Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	11 VAC 15-40
VAC Chapter title(s)	Charitable Gaming Regulations
Action title	Repeal of Charitable Gaming Board's Charitable Gaming Regulations
Final agency action date	December 27, 2022
Date this document prepared	January 3, 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.

This action will repeal the Charitable Gaming Board's *Charitable Gaming Regulations*, 11 VAC 15-40, in accordance with the provisions of Chapters 554 and 609 of the 2022 Acts of Assembly.

Chapters 554 and 609 of the 2022 Acts of Assembly provide, in part, that the regulations of the Charitable Gaming Board shall be administered by the Department of Agriculture and Consumer Services and shall remain in full force and effect until the Commissioner of Agriculture and Consumer Services promulgates regulations. The Department of Agriculture and Consumer Services is currently conducting a separate regulatory action to promulgate *Charitable Gaming Regulations*, 11 VAC 20-20, which will consist of the regulatory requirements in 11 VAC 15-40 and new provisions regarding electronic gaming. The repeal of 11 VAC 15-40 and the promulgation of 11 VAC 20-20 will have the same effective date.

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."

Chapters 554 and 609 of the 2022 Acts of Assembly (i) eliminated the provisions of the Code of Virginia that authorized the Charitable Gaming Board (Board) to promulgate regulations, (ii) reclassified the Board as an advisory board within the meaning of Va. Code § 2.2-2100, and (iii) authorized the Commissioner of Agriculture and Consumer Services to promulgate regulations to carry out the provisions of the Charitable Gaming Law (Article 1.1:1 of Chapter 8 of Title 18.2 of the Code). Chapters 554 and 609 of the 2022 Acts of Assembly further provide that the regulations of the Charitable Gaming Board shall be administered by the Department of Agriculture and Consumer Services and shall remain in full force and effect until the Commissioner of Agriculture and Consumer Services promulgates regulations in accordance with Chapters 554 and 609.

The agency has no discretion in this custodial action to repeal the Board's *Charitable Gaming Regulations*, 11 VAC 15-40, and this regulatory action is necessary to conform to the provisions of Chapters 554 and 609 of the 2022 Acts of Assembly. As such, the repeal of this regulation is exempt from requirements of Article 2 of Chapter 40 of Title 2.2 of the Code pursuant to Section 2.2-4006(A)(4)(a) of the Code.

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.

The Commissioner of Agriculture and Consumer Services repealed the *Charitable Gaming Regulations*, 11 VAC 15-40, on December 27, 2022.