

**REPORT OF THE
CHARITABLE GAMING COMMISSION**

**Fair Market Rental Value Study
Commercial Bingo Facilities - Leases**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 11

**COMMONWEALTH OF VIRGINIA
RICHMOND
2002**



COMMONWEALTH of VIRGINIA

Charitable Gaming Commission

James S. Gilmore, III
Governor

Jan W. Stem
Chairman

November 7, 2001

BY HAND DELIVERY

The Honorable James S. Gilmore, III
Governor of the Commonwealth of Virginia
State Capitol, Third Floor
Richmond, Virginia 23219

To the Members of the General
Assembly of Virginia
General Assembly Building
819 Capitol Street
Richmond, Virginia 23219

RE: Report of the Charitable Gaming Commission
Fair Market Rental Value Study – Commercial Bingo Facilities
House Bill 2375

To the Honorable James S. Gilmore, III, Governor and the Honorable Members of the General Assembly of Virginia:

Enclosed for submission, please find the Charitable Gaming Commission's *Fair Market Rental Value Study - Commercial Bingo Facilities* – House Bill 2375 as directed by the Governor and General Assembly of Virginia.

Please note that I shall be the designated contact person regarding the enclosed Study and digital version.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Lapekas".

Stanley Lapekas
Executive Secretary

cc: House and Senate Document Processing
Division of Legislative Automated Systems
General Assembly Building, 6th Floor
Capitol Square
Richmond, Virginia 23219

TABLE OF CONTENTS

PREFACE	3
EXECUTIVE SUMMARY	4
FAIR MARKET RENTAL VALUE MODEL FOR BINGO HALLS REGULATED BY THE VIRGINIA CHARITABLE GAMING COMMISSION	9
CURRICULUM VITAE – JAMES H. BOYKIN, PH.D., MAI, CRE – REAL ESTATE ANALYST AND CONSULTANT.....	24
LEASE SAMPLING - SAMPLING OF LEASES REVIEWED IN PREPARATION OF THE REPORT	27
SAMPLE LEASE NO. 1.....	28
SAMPLE LEASE NO. 2.....	33
SAMPLE LEASE NO. 3.....	35
SAMPLE LEASE NO. 4.....	38
SAMPLE LEASE NO. 5.....	47
SAMPLE LEASE NO. 6.....	55
APPENDIX 1 – HOUSE BILL 2375	56
APPENDIX 2 – CHARITABLE GAMING STATUTE	57
APPENDIX 3 – CHARITABLE GAMING RULES AND REGULATIONS	59

Preface

Statement of Authority

This study and associated report was conducted to satisfy the requirements of House Bill 2375 (*See*. Appendix 1 – HB2375 – Charitable gaming; fair market rental value, study, bingo halls.), enacted into law on July 1, 2001, which established a moratorium on disciplinary actions against licensed charitable gaming organization for failure to meet their statutory use of proceeds (*See*. Appendix 2 – Charitable Gaming Statute and Appendix 3 – Charitable Gaming Rules and Regulations, respectively) requirement that requires licensed charitable gaming organizations to donate a percentage of charitable gaming revenue to charitable organizations.

House Bill 2375 requires the Charitable Gaming Commission to examine “Fair Market Rental Value” as follows:

- (I) Whether leases between operators of commercial bingo facilities and qualified organizations conform to the standards set forth in § 18.2-340.33(3).
- (II) The ways in which fair market rental value for both real property and the personal property used therewith for bingo games may be appropriately computed;
- (III) The ways rent for real property and any personal property used in connection with such real property for bingo games are reported or should be reported to the Commission; and
- (IV) The nexus between such rents paid, the reporting of such rents, and the ability of qualified organizations, as defined by § 18.2-340.16, to meet the minimum percentages of gross receipts required to be used for those lawful religious, charitable, community, or educational purposes for which the organizations are specifically charged or organized.

Study Group

Study Group Membership

The data collection study includes, but is not limited to, an evaluation of commercial bingo hall leases of licensed charitable gaming organizations submitted to the Charitable Gaming Commission in connection with the Bingo/Raffle Application process.

The Charitable Gaming Commission retained the services of an independent real estate analyst and consultant to (1) review leases submitted by organizations that game in commercial bingo facilities, (2) to perform research related to his real estate knowledge and expertise, (3) to review data and periodicals associated with and relating to commercial real estate markets in Virginia and nationwide, (3) analyze equipment and services provided by commercial bingo facility landlords, and (4) to prepare a formula for determining fair market rental value of commercial bingo facilities in the Commonwealth of Virginia,

Staff members of the Charitable Gaming Commission compiled the study and associated report based upon information retained in the ordinary course of business and in conjunction with the independent real estate analyst and consultant. The Commission is broken down into

four distinct groups: audit, licensing, enforcement/ inspection, and administrative. Each operational group contributed to this study in the following ways:

Audit – Analyzed and compared data from annual financial reports filed by non-exempt organizations that rent commercial bingo facilities from landlords and their ability to meet their statutory use of proceeds requirement (monies that are required to be donated to charity) versus organizations that do not rent and their ability to meet the statutory use of proceeds requirement .

- Staff assigned: Carolyn Buko – Senior Auditor

Enforcement/Inspection – Discussed make up, location, and general condition of facilities utilized by charitable gaming organizations for facilities evaluated by the independent real estate appraiser and consultant.

- Staff Assigned: Charles Narducci – Special Agent

Licensing – Reviewed representative leases and use of proceeds analysis.

- Staff Assigned: Morris Rooke – Administration/Licensing Manager

Administrative Staff – Compiled supporting documentation relating to facilities, evaluated and reviewed leases submitted by charitable organizations, and worked with an independent real estate analyst and consultant to discuss the purpose and intent of study.

- Staff Assigned: Stanley J. Lapekas – Executive Secretary
John B. Comstock – Chief Deputy
Barbara Drudge – Policy and Planning Specialist

Executive Summary

The Executive Secretary has been directed by the Commission to report to the Governor and General Assembly on or before November 10, 2001 on its findings and recommendations relating to House Bill 2375 (*See*. Appendix 1).

The contents of this report may not reflect the views of the Commissioner's in whole or in part, but is believed to present an accurate view of a very complex and controversial subject matter. Based upon the results of this report, it is highly recommended that consideration be given in adopting one of the two set formulations provided in the "Fair Market Rental Value Mode for Bingo Halls Regulated by the Virginia Charitable Gaming Commission" (the "Report") prepared by James H. Boykin, Ph.D., MAI, CRE, an independent real estate analyst and consultant, to ensure consistent application of rental amounts for real estate and equipment/services paid to commercial landlords by organizations that are permitted to conduct charitable gaming activities, and to allow commercial bingo hall operators an opportunity to make a reasonable profit on the uniqueness of the real estate utilized for the conduct of charitable gaming activities.

The Commission has been asked to evaluate four issues associated with charitable gaming activities relating to licensed charitable gaming organizations who utilize commercial real estate for the conduct of their charitable gaming activities. First, the Commission was asked whether leases between operators of commercial bingo facilities and qualified organizations conform to the standards set forth in § 18.2-340.33(3) (rent shall not be in excess of fair market

rental value). Secondly, to evaluate fair market rental value for real and personal property utilized by licensed charitable gaming organization. Third, the Commission was asked to evaluate methods licensed charitable gaming organizations should utilize in reporting information relating to rents associated with real and personal property. Fourth, to evaluate the relationship between rents paid by licensed charitable gaming organizations and their ability to meet the use of proceeds requirement defined under § 18.2-340.16.

Evaluation of Fair Market Rental Value

In reviewing the statutes and regulations (*See*, Appendix 2 and 3, respectively) of the Charitable Gaming Commission, it is evident that the principle goal of the Commission is to ensure that licensed charitable organizations meet their charitable obligations which they accept as a precondition to licensing, that games be conducted reasonably, and that the playing field for all organizations is equal and all organizations have an opportunity to use charitable gaming defined under the statutes and regulations as a means of raising revenue funds.

Statutory and regulatory law relating to the Charitable Gaming Commission does not specifically define “fair market rental value”, and the Commission, *per se*, does not have the authority to devise standards to protect against abuses in appraising fair market rental value. Currently, there is no way of insuring that the methods used by the landlords in appraising the fair market rental value is a fair price and not an excessive price on the property, based upon the property’s original or constructed purpose.

The enclosed Report defines a formula that will ensure licensed organizations obtain a fair market rental value for real estate and equipment/services while at the same time allowing the commercial bingo hall operator a reasonable profit.

I. Whether leases between operators of commercial bingo facilities and qualified organizations conform to the standards set forth in § 18.2-340.33(3).

The enclosed Report is based on a study of prevailing retail rental rates, capitalization rates and operating expense ratios for retail properties, and rental practices for retail and bingo halls. The Report includes an equitable rental formula for both tenants leasing facilities for the operation of bingo halls and their landlords, and the Report formulas provide landlords with a profit consistent with the nature, location, and risk associated with their properties.

Additionally, the term “Fair Market Rental Value” has been defined in the Report as follows:

Fair Market Rental Value – Defined as rental for a bingo hall that allows a qualified organization to achieve its minimum percentage of use of proceeds [amount required by law that an organization is required to donate to charity] requirement while allowing a landlord a fair return on its leased premises, including services and equipment provided on behalf of the tent.

II. The ways in which fair market rental value for both real property and the personal property used therewith for bingo games may be appropriately computed.

As used in the context of charitable gaming, “fair market value” of real property and services/equipment in actuality means “fair market rental value”. The methods used to determine fair market value of real property are achieved through generally accepted appraisal standards. Likewise, fair market rental value is determined through generally accepted standards. Furthermore, personal property provided to the renters, *i.e.*, blowers, monitors, and electronic number boards, would be subjected to generally accepted appraisal standards.

II. The ways rents for real property and any personal property used in connection with such real property for bingo games are reported or should be reported to the Commission.

Landlords have no statutory or regulatory obligation to report to the Commission the basis for the rental of real or personal property used in conjunction with charitable gaming, nor are they regulated by the Commission. The Commission has determined the many landlords/nonprofit organizations enter into rental agreements wherein the rent is established at the “high end” or maximum profit potential for both parties. When attendance is low, some landlords will adjust the rent downward, but not all. These adjustments are often based on personal property used during the gaming session. This method/philosophy is undertaken to circumvent §18.2-340-33.

§18.2-340-33(3). Prohibited practices. No personal shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or the number of people in **attendance** [*emphasis added*] at such charitable games...

Currently, gaming organizations must submit a copy of their lease, and any applicable primary or subleases, with their Bingo/Raffle Application. They are also required to disclose any and all payments made to the landlord for activities dependent upon an organizations charitable gaming license. In addition, they are required to document rent paid on the annual financial report form. At this time, there is no uniform requirement to segregate rental costs between real and personal property. Landlords are statutorily barred from taking part in any aspect of the game with the exception of providing real property to host and personal property to accommodate the play of bingo.

11 VAC 15-22-30. Permit application and exempt notification process.

G.(5) A copy of the written lease or proposed written lease agreement and all other agreements if the organization rents or intends to rent a facility where bingo is or will be conducted.

Information on the lease shall include name, address, phone number of the landlord, square footage and maximum occupancy of the building, and the rent amount by each category of equipment and property rented.

11 VAC 15-22-70. Recordkeeping.

A. In addition to the records required by § 18.2-340.30 (D) of the Code of Virginia, qualified organizations conducting bingo shall maintain a system of records that documents and identifies:

7. All operating expenses including rent, advertising and security. Copies of invoices for all such expenses shall be maintained.

11 VAC 15-22-100. Requirements regarding renting premises, agreements and landlord participation.

(A) No organization shall rent or use any leased premises to conduct charitable gaming *unless all terms for rental or use* [emphasis added] are set forth in a written agreement and signed by the parties thereto prior to the issuance of a permit to conduct charitable gaming.

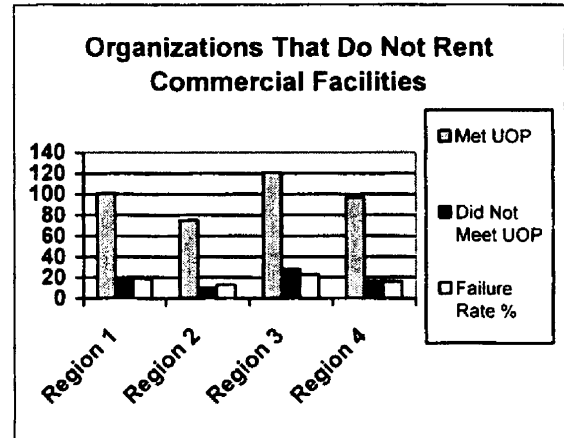
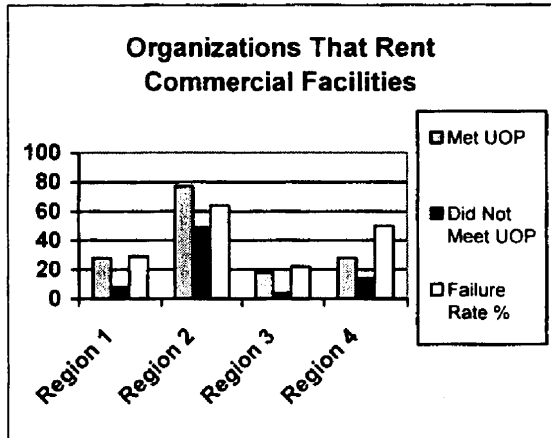
The regulations of the Commission specifically provides that a charitable gaming license is contingent upon an organization providing, upon the initial application and upon renewal, a true copy of the lease agreement, in addition to providing any and all addenda thereto.

In light of the above referenced provisions under the Charitable Gaming Regulations, the Commission reserves the right to impose a penalty on any organization which fails to comply with the provisions of the law or these regulations (11 VAC 15-22-80 (H)), up to and including terminating the license of any organization that fails to provide the required information regarding the terms and conditions of the lease upon which they operate charitable gaming. The burden is clearly on the charitable gaming organization to provide the initial lease upon application, upon renewal, and to provide any and all changes or addenda during the term of the contractual obligation to stay in compliance. (*See.* 11 VAC 15-22-30)

III. The nexus between such rents paid, the reporting of such rents, and the ability of qualified organizations, as defined in § 18.2-340.16, to meet the minimum percentages of the gross receipts required to be used for those lawful religious, charitable, community, or educational purposes for which the organizations are specifically chartered or organized.

The Commission has reviewed the performance of the charitable gaming community in the Commonwealth as related to organizations that currently rent gaming facilities and their ability to meet the "Use of Proceeds" ("UOP") as required by current statute.

The Charitable Gaming Commission has accumulated the following data relative to those organizations who rent versus non-renters and their ability to meet their use of proceeds requirement:



Region 1 – Central Virginia
 Region 2 – Tidewater Virginia
 Region 3 – Northern Virginia
 Region 4 – Southwest Virginia

A significant number of organizations failed to meet UOP requirements due to market saturation, military base gaming (no limits on amount of prizes), poor game management, inexperience, inadequate training, higher-than-profitable-prize payouts, managing expenses (including rent and other landlord charges), volunteer turnover, and failing to establish UOP requirements on a per “gaming session” basis.

From the Commission’s review of the 2000 annual reports filed by licensed charitable organizations, there appears to be a correlation between the amount of rent paid and the ability of an organization to meet the UOP requirement.

Fair Market Rental Value Model for Bingo Halls Regulated by the Virginia Charitable Gaming Commission

**FAIR MARKET RENTAL VALUE MODEL
FOR BINGO HALLS
REGULATED BY THE
VIRGINIA CHARITABLE GAMING COMMISSION**

**Prepared for
the Virginia Charitable Gaming Commission**

**James H. Boykin, Ph.D., MAI, CRE
Real Estate Analyst and Consultant
Midlothian, Virginia**

August 2001

JAMES H. BOYKIN, Ph.D., MAI, CRE
REAL ESTATE ANALYST AND CONSULTANT

MEMBER, APPRAISAL INSTITUTE
THE COUNSELORS OF REAL ESTATE
(AMERICAN SOCIETY OF REAL ESTATE COUNSELORS)
CERTIFIED GENERAL REAL ESTATE APPRAISER
COMMONWEALTH OF VIRGINIA
LICENSE NO. 2

TELEPHONE: (804) 320-7643

August 3, 2001

Mr. John B. Comstock
Chief Deputy
Virginia Charitable Gaming Commission
101 North 14th Street, 17th Floor
Richmond, Virginia 23219-3684

RE: Fair Market Rental Value of Bingo Halls Regulated
By the Virginia Charitable Gaming Commission

Dear Mr. Comstock:

Following our initial meeting with your staff on April 10 and subsequent correspondence and meetings with you and your staff, I have conducted a study of prevailing retail rental rates, capitalization rates and operating expense ratios for retail properties, and rental practices for retail and bingo halls in the Tidewater Region. I now am pleased to forward to you a summary of my efforts that should provide the Charitable Gaming Commission an equitable rental formula for both tenants leasing facilities for the operation of Bingo Halls in the Commonwealth and their landlords.

The purpose of this consulting assignment was to design a formula or model to enhance the prospect of qualified organizations achieving the minimum percentage of charitable gaming gross receipts to be used for lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized. Additionally, this formula is intended to provide landlords with a profit consistent with the nature, location, and risk associated with their properties.

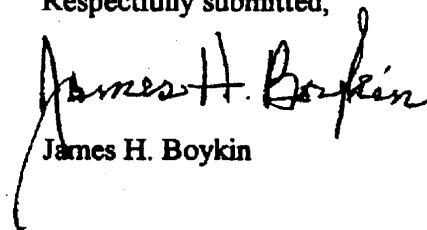
Contained in this report are a definition of Fair Market Rental Value, a statement of the purpose and scope of the report, an explanation of the formula, its terms, and derivation of the values

Mr. John B. Comstock
August 3, 2001
Page 2

contained in the formula. Additionally, the formula has been applied to 25 tenants in nine Bingo Halls throughout the Tidewater Region as a test of its reliability. The report provides an explanation of how the formula is applied, recommends that the landlords and tenants be allowed certain rights of appeal concerning the application of the formula, and includes a Check List for the Virginia Charitable Gaming Commission staff.

I appreciate being given the opportunity to serve the Virginia Charitable Gaming Commission. Please let me know if I may be of further service regarding this or related matters in the future.

Respectfully submitted,



James H. Boykin

JAMES H. BOYKIN, Ph.D., MAI, CRE
REAL ESTATE ANALYST AND CONSULTANT

Purpose of the Report

The purpose of this report is to develop a model that will enhance the ability of qualified organizations in the Tidewater Region to achieve their minimum use of proceeds requirement for lawful religious, charitable, community or educational purposes for which they are specifically organized while allowing their landlords to earn a reasonable profit. Further, this report is intended to create a method that will protect licensees from paying in excess of the fair market rental in their region.

Scope of the Report

In performing this assignment, the analyst met and corresponded several times with the Commission staff, studied correspondence and especially House Document No. 27 Report of the Charitable Gaming Commission (CGC) Fair Market Rental Value Survey which was prepared in 2001. He met and corresponded with CGC's Chief Deputy and staff several times to clarify the purpose of this present report, develop performance data on qualified organizations, discuss landlord-tenant responsibilities, and both the scope and limitations of this report. Revisions subsequent to CGC staff review were made to the report.

The size of the leased premises, Use of Charitable Gaming Proceeds and rent paid, leases, and condition of each property were obtained from CGC staff. Additionally, retail property surveys and occupancy and rental rates for the Tidewater real estate market were compiled. Assessed values for properties leased by qualified organizations were obtained from several municipal assessor's offices. Other sources consulted include Dollars and Cents of Shopping Centers published by Urban Land Institute, Washington, DC; national, regional, and Virginia retail property capitalization rates, gross income multipliers, and operating expense ratios; sales and rentals of several shopping centers; and rental offering rates for Tidewater shopping center stores.

JAMES H. BOYKIN, PH.D. MAI. CRE
REAL ESTATE ANALYST AND CONSULTANT

Fair Market Rental Value Definition

For the purpose of this report "*Fair Market Rental Value*" is defined as *Rental for a Bingo Hall that allows a qualified organization to achieve its minimum percentage of Use of Proceeds requirement while allowing a landlord a fair return on its leased premises, including services and equipment provided on behalf of the tenant.* This definition is more narrowly defined than definitions associated with "open market rent" which generally state that it is "The rental income that a property would most probably command in the open market; indicated by current rents paid and asked for comparable space as of the date of the appraisal." (See page 194 of The Dictionary for Real Estate Appraisal Chicago: the Appraisal Institute, 1984.) A similar definition is found on page 142 of the Appraisal Institute's The Appraisal of Real Estate (eleventh edition, 1996).

In some instances, space adjacent to comparable bingo halls has been vacant for several years or rents for very modest rates. The operations of the bingo hall lessees are regulated by a state commission. Moreover, rental expectations differ for retail operations for which many of these properties were originally designed. In a number of instances, the original designed uses failed and the retail centers closed. The current use (bingo hall) of the shopping centers differs from the designed uses. As originally designed, the retail establishments retained exclusive use of their leased premises during the lease term. Contrastingly, as many as five tenants use the same bingo hall premises during each two-day weekly rental period. Tenants occupy the same space, but in different time periods of perhaps four to eight hours. These premises may command rentals of three or more times that of similar, adjacent retail property.

Fair Market Rent Formula

$$\text{GIM} = \frac{1 - \text{OER}}{R_o}$$

Where GIM is Gross Income Multiplier; OER is Operating Expense Ratio; and R_o is Overall Capitalization Rate.

$\frac{1}{\text{GIM}}$ is the Gross Capitalization Rate which is equivalent to the return on a real estate investment where the property owner passes the operating expenses on to the tenant(s).

AV is Assessed Value which according to section 58.1-3201 of the Code of Virginia: "Real estate assessments, except as otherwise provided, shall be made at 100 percent of fair market value." The Assessed Value for each bingo hall is allocated equally to each of the tenants (which typically is a maximum of four) by dividing the total assessed value by 4.

LA is Leased Area which are the premises leased by the Bingo Hall lessees.

ER&S is Equipment Rental and Services provided by the lessor and charged to the lessee. These expenses include storage, janitorial, sound systems, utilities, parking, smoke elimination systems, fire protection system, on-site signage, chairs, tables, bingo blower, light boards, and security. This amount (\$3.50) is expressed on a square foot basis and is the average amount for the commercial halls in Tidewater. It also is computed by applying a ratio of 0.65 to the Space Rental. This ratio was established by comparing the ratio of Equipment Rental and Services to Space Rental of leased Bingo Halls in Tidewater.

SR (space rental) is the fair market rental for the leased premises; it is equal to the assessed value divided by 4 which quantity is multiplied by a gross capitalization rate.

TFMR is Total Fair Market Rental of a Bingo Hall; it consists of rental of the premises (space rental) plus ER&S defined above.

The following values were derived from an analysis of market data, including the operating performance of leased commercial Bingo Halls in the Tidewater Region:

$$\text{OER} = 25\%$$

$$R_o = 10.50\%$$

$$\text{Therefore, GIM} = \frac{1 - .25}{.1050} = 7.14, \text{ rounded to } 7.0$$

To allow for the specialized nature and risk of the type tenants leasing the Bingo Halls and real estates taxes and repairs, the Gross Capitalization Rate is adjusted by multiplying it by a factor of 2, resulting in a gross earnings rate of 30% for landlords (rounded up).

Formulas:

Each of the following formulas provides a recommended means for computing the total fair market rental for commercial bingo halls in Tidewater. The two rent components, although derived differently, indicate a recommended fair rental for the leases premises and equipment and services.

- (1) $TFMR = SR + (ER\&S)$
 $= [(AV/4)(1/7)(2)] + (SR \times .65)$
- (2) $TFMR = (AV/4)(.30) + LA \times ER\&S$

Using these two formulas, the following indications of total fair market rent were developed. Included for comparison are the 1999 actual total rents, actual rents per square foot, and existing Use of Funds percentages. Detailed computations are shown for the first property and summaries thereafter.

Bingo Hall 1 (3 tenants)

- (1) $TFMR = [(\$554,421^*/4)(.30)] + (SR \times .65)$
 $= \$41,582 + (\$41,582 \times .65)$
 $= \$41,582 + \$27,028$
 $= \$68,610$

*prorated assessed value

- (2) $TFMR = (AV/4)(.30) + (9,992 \times \$3.50)$
 $= \$41,582 + \$34,972$
 $= \$76,554$

<u>Actual Total Rents:</u>	<u>Tot. Rent</u>	<u>Sq. Ft.</u>	<u>UOP</u>
Tenant A	\$161,133	\$16.13	9.0%

Bingo Hall 2 (4 tenants)

- (1) TFMR = \$129,515
- (2) TFMR = \$155,494

Actual Total Rents:

	<u>Tot. Rent</u>	<u>Sq. Ft.</u>	<u>UOP</u>
Tenant A	\$ 36,966	\$1.68	17.7%
Tenant B	\$146,091	\$6.64	15.3
Tenant C	\$149,145	\$6.78	8.1
Tenant D	\$116,973	\$5.32	6.0

Bingo Hall 3 (5 tenants)

- (1) TFMR = \$102,493
- (2) TFMR = \$ 96,242

Actual Total Rents:

Tenant A	\$125,875	\$12.91	3.4%
Tenant B	\$143,901	\$14.76	5.3
Tenant C	\$ 68,025	\$ 6.98	9.6
Tenant D	\$ 65,075	\$ 6.67	8.0
Tenant E	\$125,725	\$12.89	11.9

Bingo Hall 4 (4 tenants)

- (1) TFMR = \$51,522
- (2) TFMR = \$94,226

Actual Total Rents:

Tenant A	\$114,300	\$ 6.35	15.4%
Tenant B	\$104,400	\$ 5.80	14.7
Tenant C	\$ 16,500	\$ 0.92	6.7
Tenant D			—— (first year)

Bingo Hall 5 (2 tenants)

- (1) TFMR = \$ 95,164
- (2) TFMR = \$ 95,263

Actual Total Rents:

	<u>Tot. Rent</u>	<u>Sq. Ft.</u>	<u>UOP</u>
Tenant A	\$ 13,050	\$0.93	6.2%
Tenant B	\$123,020	\$8.79	9.5

Bingo Hall 6 (1 tenant)

- (1) TFMR = \$55,069
- (2) TFMR = \$75,375

Actual Total Rents:

Tenant A	\$75,450	\$6.29	10.1%
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Bingo Hall 7 (3 tenants)

- (1) TFMR = \$71,151*
- (2) TFMR = \$78,346

*based on prorated assessed value

Actual Total Rents:

Tenant A	\$ 37,750	\$ 3.75	13.8%
Tenant B	\$ 66,435	\$ 6.60	2.4
Tenant C	\$112,500	\$11.18	6.8

Bingo Hall 8 (4 tenants)

- (1) TFMR = \$ 70,723
- (2) TFMR = \$123,363

Actual Total Rents:

Tenant A	\$ 39,341	\$ 1.71	18.8%
Tenant B	\$ 19,016	\$ 0.83	16.6

Tenant C	\$100,448	\$ 4.37	16.5
Tenant D	\$ 7,820	\$ 0.34	4.7

Bingo Hall 9 (1 tenant)

(1) TFMR = \$44,669

(2) TFMR = \$67,322

<u>Actual Total Rents:</u>	<u>Tot. Rent</u>	<u>Sq. Ft.</u>	<u>UOP</u>
Tenant A	\$194,350	\$16.90	6.9%

Application of TFMR Formula

It is recommended that the formula developed herein continually be monitored by the CGC staff to determine if it is fulfilling the requisites of the definition of Fair Market Rental Value set forth in this report. Once the base year rentals have been established, it is recommended that they be adjusted annually thereafter by application of the Consumer Price Index published by the Bureau of Labor Statistics at the U.S. Department of Labor, for each particular region. Staff can obtain the assessed value of each leased premise by contacting the real estate assessor's office in the various municipalities. If there is no separate assessment for a premises, a pro rata value may be obtained by dividing the total square footage of the shopping center into its total assessed value. This square foot value then may be applied to the leased premises. The ratio of leased non realty rental and services should be re-computed annually.

Two formulas are presented in this draft report. Of the two, formula 2 produces a higher total rental for 7 of 9 rental bingo hall properties; both methods produce similar results for one property. This formula, $TFMR = (AV/4)(.30) + LA \times ER\&S$, is selected since it is quite fair for landlords and the CGC staff can lower the Total Fair Market Rental whenever the Use of Proceeds has not been achieved by qualified organizations. *It is recommended that CGC approve a TFMR based in large part on the expected UOP achievement of a tenant.* If the UOP cannot be achieved based on the TFMR formula, then a rent could be approved within a pre-selected 20 % range. For example, if a UOP requirement cannot be achieved at a TFMR of \$6.00 per square foot annually, then the rent

could be lowered by a maximum of 20% or to \$4.80. No rent adjustment is required when the UOP requirement is reached even if the actual rent exceeds the Total Fair Market Rent.

A variation of the Equipment Rental and Services expense computation would be to break the total of \$3.50 per square foot into separate unit expenses for such items as rental for chairs and tables. This alternative would be more responsive to each individual lease, but may be too complicated to administer.

Rights of Landlords and Tenants

It is recommended that the Charitable Gaming Commission provide an opportunity whereby tenants can appeal the amount of rental being charged in any given period. Also, landlords should be given the opportunity to challenge the assessed value, capitalization rate, and the ratio of non realty rental and services to realty rental (space rental). In doing so, it will be necessary for the landlord to provide convincing evidence as to why any of these amounts should be modified. In all instances, the deciding factor whether a change in rent should be allowed will be the ability of the tenant(s) achieving their minimum percentage of charitable gaming gross receipts to be used for lawful purposes for which the organization is specifically organized. It is recommended that prior to imposing the TFMR, CGC staff meet with representatives of the qualified organization to determine the cause of its failure to achieve its Use of Proceeds requirement.

Conclusions

The Total Fair Market Rent formula developed in this report is expected to enhance the Bingo Hall tenants' ability to satisfy their Use of Proceeds requirement. However, it should be noted that each property is different with regard to location, condition, attractiveness, and perceived safety. Gross receipts can vary according to the time slot and day of week a lessee conducts its bingo sessions. Other influences on the level of gross receipts generated by a particular qualified organization are the experience and commitment of its volunteers, prizes, and rent concessions. Also, the level of non realty expenses are affected by the extent of services provided by the lessor. Therefore, it is difficult to create a model that will account for all of these different variables.

Nevertheless, it is concluded that the model created in this report is highly equitable for both tenants and landlords, based on accessible public real estate data, straightforward, defensible, and relatively easy to administer and update. CGC's staff is advised to monitor the impact of the TFMR model on total rent levels and Use of Proceeds achievement.

Underlying Assumptions and Limiting Conditions

This report is subject to the following underlying assumptions and limiting conditions:

1. It is assumed that all information known to the client and relative to the assignment has been accurately provided and that there are no undisclosed leases, agreements, or other encumbrances or incentives that would affect the utility and rent levels of the Bingo Halls analyzed herein.
2. The analyst is not required to give testimony or attendance in court or before any other public body by reason of this analysis unless previously arranged.
3. Neither the employment to undertake the analysis nor the compensation is contingent on the conclusions reported.
4. I have no present or prospective interest in any of the properties or qualified organizations that are the subject of this report and I have no personal interest or bias with respect to the parties involved.
5. I have not personally inspected any of the properties involved in this study, but have viewed photographs of each and discussed aspects of each property with a CGC Special Agent who is familiar with the properties.
6. This report is to be used in the whole, not in part. No part of it is to be used by anyone other than the Virginia Charitable Gaming Commission.
7. Information on which this report is based has been obtained from sources customarily used and judged reliable, but cannot be guaranteed by the analyst.

Restrictions Upon Disclosure and Use

Neither all nor any part of the contents of this report (especially any formulas or conclusions, identity of the analyst, or any reference to the Appraisal Institute or to the MAI designation or to the Counselors of Real Estate or to the CRE designation) shall be disseminated to the public through any means of communication without the prior written consent and approval of the analyst.

Check List for Virginia Charitable Gaming Commission Staff

1. Annually confirm the area of each demised premises.¹
2. Annually check the assessed value of land and improvements of each leased premises at the Real Estate Assessor's office in the municipality where each property is located.²
3. Annually adjust the base year rent, or prior year's rent by applying the Consumer Price Index for All Urban Consumers (CPI-U) which is published by the Bureau of Labor Statistics of the U. S. Department of Labor. This index is computed monthly and annually and may be found in the "Consumer Price Index" section at www.bls.gov. A subsequent year's rent may be set by advancing the prior year's rental by the annual increase in the CPI-U. For example, if the prior year's total rental was \$80,000 and the new lease term commences in June 2001, then the new rent would increase 3.2 percent, or rise to \$82,560 annually and \$6,880 monthly.
4. Annually compute the ratio of non realty rental and services to Total Fair Market Rental.³
5. Annually establish an approved Total Fair Market Rental for each leased premises.⁴

Explanation of Above Check List

1. Read leases and application of qualified organizations; resolve any differences.
2. The total assessed value is readily available for free-standing parcels. The total assessed value for leased premises that are part of an in-line shopping center (or other multi-tenanted retail property) can be estimated on a pro rata basis. For example, if the total assessed value for the land and improvements of a 100,000 square foot center is \$5,000,000, or \$50 per square foot, then the pro rata assessed value for the subject 20,000 square foot premises is \$1,000,000. The landlord shall have an opportunity to provide evidence to contest this computation (such material may be made available to the municipal real estate assessor).
3. It currently is set at 65%.
4. The approved Total Fair Market Rental (TFMR) allows a tenant the opportunity to achieve its Use of Proceeds requirement. After applying the TFMR formula, staff shall be given the flexibility of lowering the TFMR by a maximum of 20% of the specified TFMR for that year. If, however, the Use of Proceeds (UOP) requirement is being met, then there is no need to reduce the actual rent to achieve the TFMR standard.

Curriculum Vitae – James H. Boykin, Ph.D., MAI, CRE

Curriculum Vitae

James H. Boykin, Ph.D., MAI, CRE

PROFESSIONAL BIOGRAPHY

UNIVERSITY EDUCATION: Received a B.S. Degree in Business Administration from Virginia Polytechnic Institute and State University.

Received a Masters Degree in Commerce from University College of the University of Richmond.

Earned the Doctor of Philosophy of Business Administration from The American University; concentrating in Real Estate and Land Development Planning.

OTHER EDUCATION: Successfully completed courses and examinations in real estate appraisal given by the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers as well as courses offered by the Mortgage Bankers Association of America and the American Bankers Association.

Engaged in the Federal Housing Administration Appraisal Intern Program for a nine month period at the Detroit, Michigan office.

PROFESSIONAL EXPERIENCE: 1962-63 - Staff Appraiser, Federal Housing Administration in Richmond, Virginia.

1963-67 - Staff Appraiser, Rountrey & Associates, Inc. an appraising and consulting firm in Richmond, Virginia.

1967-68 - Research Associate, Urban Land Institute, Washington, D.C.

1968-71 - Consulting real estate appraiser and land economist, Fairfax, Virginia. Also, Lecturer of Land Planning and Use at Northern Virginia Community College during this period.

1971-present - the Alfred L. Blake Endowed Chair Professor of Real Estate; Director, Real Estate and Urban Land Development Program; Director, Virginia Real Estate Research Center, School of Business, Virginia Commonwealth University. Teaching Real Estate Finance, Real Estate Appraisal, Advanced Real Estate Appraisal, and Real Estate Feasibility Analysis.

REPRESENTATIVE WORK: Housing studies, retail site surveys, and highest and best use analyses. Appraisal of commercial, retail, and industrial property as well as marinas, water front property, islands, residential subdivisions, recreational developments, and special use properties. Have consulted on large scale properties such as potential financial consequences of foreclosure of a university and evaluation of a corporation's real estate assets of nearly \$500 million. Consulting review appraiser for state and local governments.

Frequently quoted by the media, including such national publications as the Wall Street Journal and U.S. News and World Report.

Lecturer in Real Estate Appraising for the Mortgage Bankers Association of America, Institute of Financial Education, and the American Institute of Real Estate Appraisers at the University of Maryland, Tulane University, University of Virginia, University of Colorado, St. John Fisher College, University of North Carolina, Dartmouth College, Central Florida University, University of Tampa, Florida State University, Northwestern University, University of Georgia, University of Massachusetts, California Polytechnic Institute at Pomona. Also lectured in many cities throughout the United States and in Puerto Rico.

Qualified in thirteen courts of law as an expert witness in real estate. Reports made in nine states for clients from throughout the United States.

MEMBERSHIP: Counselors of Real Estate (CRE designation).

Appraisal Institute (MAI and SREA designations). Served as Governing Councilor twice, Regional Vice President, and

JAMES H. BOYKIN, PH.D., MAI, CRE
REAL ESTATE ANALYST AND CONSULTANT

in a number of other local, regional, and national positions.

BOARDS: Virginia Commonwealth University Real Estate Foundation, Board of Directors.

Virginia Real Estate Appraiser Board, Gubernatorial appointment, twice.

American Institute of Corporate Asset Management, Board of Governors.

RF&P Corporation, Board of Directors

Virginia Retirement System, Real Estate Advisory Committee (\$1.1 billion portfolio).

SELECTED BOOKS AND PUBLICATIONS

LAND VALUATION: ADJUSTMENT PROCEDURES AND ASSIGNMENTS, Appraisal Institute, 2001.

TRANSFER METHODS AND VALUATION PROCEDURES FOR CONSERVATION EASEMENTS, International Right of Way Association, 1998.

THE VALUATION OF REAL ESTATE, Lead author, Prentice-Hall, Inc. (Recipient of the American Institute of Real Estate Appraisers' 1987 George L. Schmutz Award), 4th ed., 1993.

FINANCING REAL ESTATE, 2nd ed., Lead author, Regents/Prentice Hall, 1993.

REAL ESTATE ANALYSES, Co-Editor, American Society of Real Estate Counselors, 1990 (translated into Japanese in 1995).

THE REAL ESTATE HANDBOOK, 2nd ed., Co-Editor, Dow Jones-Irwin, Inc., 1989.

FUNDAMENTALS OF REAL ESTATE APPRAISAL, 1st-3rd eds. Consulting Editor, Real Estate Education Company, 1980, 1983 and 1987.

INDUSTRIAL REAL ESTATE, 4th ed., Consulting Editor, Society of Industrial Realtors, 1984.

REAL ESTATE COUNSELING, Editor in Chief, American Society of Real Estate Counselors, 1984.

BASIC INCOME PROPERTY APPRAISAL, Co-Author, Addison-Wesley Publishing Company, 1982.

THE APPRAISAL OF REAL ESTATE, 6th ed., Consulting Editor, American Institute of Real Estate Appraisers, 1973.

"Impropriety of Using Dissimilar-Size Comparable Land Sales," *THE APPRAISAL JOURNAL*, July 1996.

"A Comparative Evaluation of the Direct Capitalization and Discounted Cash Flow Methods in Development-Construction Loan Appraising," *FINANCIAL MANAGEMENT OF PROPERTY AND CONSTRUCTION PROCEEDINGS OF INTERNATIONAL CONFERENCE*, Newcastle, Northern Ireland, May 1995.

"Seeking the Elusive Discount Rate," *THE APPRAISAL JOURNAL*, July 1990.

"Computing Discount Rates: Historical Certainty Versus Future Conjecture," *THE CANADIAN APPRAISER*, Summer 1991.

"Subdivision Analysis: A Land Evaluation System," *THE VALUER*, Australian Institute of Valuers, July 1977.

JAMES H. BOYKIN, PH.D., MAI, CRE
REAL ESTATE ANALYST AND CONSULTANT

LEASE SAMPLING - Sampling of Leases

LEASE SAMPLING

Partial sampling of leases reviewed in conjunction with preparation of the Report.^{1 2 3}

¹ All parties subject to the sampling of the leases included as part of this Report have been redacted. Additionally, any and all references to the jurisdiction and game dates have been redacted as well.

² Leases subject to this sampling do contain provisions in contradiction of Virginia law. A segment of the leases were amended to bring them in compliance with Virginia law after submission to Mr. James Boykin for use and evaluation of the Report, and some were not made as requested.

³ **The charges on the attached leases represent from four to a maximum of eight hours, and are not weekly, bi-weekly or monthly charges for utilization of the commercial facility for charitable organizations to conduct charitable gaming activities. In order to calculate total yearly rental, multiply the number of game(s) per week (two games a week is the maximum allowed by law) by the individual bingo game session rental amounts set out in the attached leases, and multiply that amount times the number of games held per month, and then multiply that total by 12 to obtain the total yearly rental amount.**

***Example:* Lease Sample No. 1 – The sample charitable organization plays one game per week and uses the facility for six hours a week (\$241.67 per hour for rental). The total rent paid by this charitable organization is \$1,450.00 per bingo game, which totals \$75,400.00 per year (\$1,450.00 x 52 weeks). The charitable organization plays only one game per week. In summary, the charitable organization that games under Sample Lease No. 1 pays \$75,400.00 per year for using the facility six hours per week.**

Sample Lease No. 1

LEASE

THIS LEASE AGREEMENT, dated this [redacted] day of [redacted], by and between [redacted] (Lessor), a Virginia corporation, with its principal office at [redacted] and [redacted] (Lessee), a non-profit organization, with its principal office at [redacted]. This Lease remains effective only if Lessee continues to hold a valid permit from the Charitable Gaming Commission of the Commonwealth of Virginia.

WITNESSETH:

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, the following described property, sometimes hereinafter referred to as the Leased Premises, to-wit:

[redacted], a facility consisting of 14,000 sq. ft. with a maximum occupancy of 650, with related equipment, fixtures and furnishings for conducting bingo games and other activities at [redacted].

1. **TERM** - Lessee to have and to hold above described premises for each and every [redacted] M. until [redacted] P.M. for a term of 1 (one) year commencing on [redacted], 2001 and terminating on [redacted], 2002 on the terms and conditions as set forth in more particularity herein. This Lease supercedes and replaces any previous Leases between Lessor and Lessee covering any of the same time period covered by this Lease.
2. **USE AND POSSESSION** - The leased premises is to be used for the purposes of operating a bingo game or for other normal organizational purposes, and it will be used for no other purpose without prior written consent of Lessor. Lessee shall not use the premises for any unlawful purpose or so as to constitute a nuisance. Lessor covenants and agrees to use its best efforts to have the premises available for possession by Lessee on or before the above commencement date. Lessee agrees to accept possession of the leased premises on the above commencement date and for each and every date for which Lessee has leased the said leased premises. In addition to the time specified above, Lessee will be allowed one hour immediately prior to the game time so specified for supplies access, stocking, and set up. There will be no gaming or sales allowed during this one hour period.
Lessee understands that Lessor, in compliance with the laws of the Commonwealth of Virginia, will be selling bingo markers during its sessions.
3. **RENT** - Lessee hereby covenants and agrees to pay to Lessor equal weekly payments to be made on the day of the week for which the leased premises are used by Lessee under the terms and conditions of this Lease. Said weekly payments shall be in the amount of \$990.00.
4. **SECURITY SERVICE** - Lessee shall provide security for the leased premises when being occupied by Lessee, and Lessee agrees to pay for such security services at the rate to be negotiated with service provider. Payments for security services to be paid by Lessee directly to Service Provider.
5. **JANITORIAL SERVICES** - Lessor shall provide janitorial services for the leased premises when being occupied by Lessee, and Lessee agrees to pay to Lessor for such janitorial services the sum of \$100.00 per session at the time the rent reserved in paragraph 3 is paid.
6. **UTILITIES, SMOKE REMOVAL** - Lessor covenants and agrees to furnish the leased premises with electricity, gas, water, sewerage, heat, air conditioning and smoke removal suitable for the intended use of the leased premises by Lessee. Lessee agrees to pay to Lessor for such utilities the sum of \$100.00 per session at the time the rent reserved in paragraph 3 is paid.
7. **FLASHBOARDS, TV MONITORS, BLOWER AND VERIFICATION EQUIPMENT** - Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, five (5) flashboards, nine (9) TV monitors, a blower for determining random bingo numbers and an electronic verification system that is computer programmed.

- Lessee agrees to pay to Lessor for the use of such flashboards, TV monitors, blower and verification system, the sum of \$20.00 per session at the time the rent reserved in paragraph 3 is paid.
8. **TABLES AND CHAIRS** - Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, one hundred fifteen (115) three-foot by eight-foot (3' x 8') tables or two and one half-foot by eight-foot (2.5' x 8') tables at which to seat patrons of Lessee. Lessor further covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, six hundred twenty (620) chairs to seat patrons of Lessee. Lessee agrees to pay to Lessor for the use of such tables and chairs the sum of \$40.00 per session at the time the rent reserved in paragraph 3 is paid.
 9. **OFFICE, LOCKER, STORAGE AREA FOR SUPPLIES** - Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, office space with desk and telephone access; also adequate locker and storage area for bingo supplies. Lessee agrees to pay Lessor for the use of such areas the sum of \$80.00 per session at the time the rent reserved in paragraph 3 is paid. Lessee may purchase such bingo supplies from any manufacturers, distributors or suppliers of Lessee's own choosing.
 10. **SOUND SYSTEM** - Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, a complete sound system, to include amplifier, speakers and microphones. Lessee agrees to pay Lessor for the use of such equipment the sum of \$20.00 per session at the time the rent reserved in Paragraph 3 is paid.
 11. **PARKING** - Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, parking areas to adequately park patrons' and workers' vehicles. Lessee agrees to pay Lessor for the use of such areas the sum of \$100.00 per session at the time the rent reserved in paragraph 3 is paid.
 12. **ADVERTISING** - Lessee agrees to pay for advertising for in the monthly Bingo Bulletin or other local bingo periodical at a rate to be negotiated with Service Provider. Payment to be made for such advertising service directly to Service Provider.
 13. **TOTAL PAYMENT FOR LEASE ITEMS #3, 5, 6, 7, 8, 9, 10 & 11 ABOVE** - The total amount due to Lessor for payment of items listed above is \$1,450.00 per weekly fund-raising session. A check, payable to [REDACTED], is due at the end of each session.
 14. **NOTICES** - For the purpose of notice or demand, the respective parties shall be served by certified or registered mail, postage prepaid, addressed to the Lessee or to the Lessor at their respective principal addresses as set forth above.
 15. **INSURANCE** - Lessee agrees to carry a public liability insurance policy in the amount of \$500,000 OR MORE, and to name Lessor as additional insured. A copy of the insurance binder will be provided to Lessor prior to commencement of Lessee's first fund-raising session at [REDACTED].
 16. **CONCESSIONS** - When Lessee uses the leased premises, Lessee covenants and agrees that Lessor shall have the sole and exclusive right to lease out a food and drink concession for the operation by a secondary Lessee, or its patrons, agents and guests.
 17. **COMPLIANCE WITH LAWS** - Lessee hereby covenants and agrees to comply with all the Rules and Regulations of the [REDACTED] Fire Department and any other officers and Boards of the [REDACTED]ia, and Lessee further covenants and agrees to comply with all ordinances and regulations of the governmental authorities of the Commonwealth of Virginia Charitable Gaming Commission and the United States of America, at Lessee's sole cost and expense, but only insofar as any of such rules, regulations, ordinances and statutes pertain to the manner in which Lessee shall use the said premises; the obligations to comply in every other case, and also all cases where such rules, regulations, ordinances and statutes require repairs, alterations, changes or additions to the leased premises, or any part thereof, are being hereby expressly assumed by Lessor, and Lessor covenants and agrees promptly and duly to comply with all such rules, regulations, ordinances and statutes with which Lessee has not herein expressly agreed to comply.
 18. **ACCEPTANCE** - Lessee, by its first occupancy hereunder, accepts the leased premises in good repair and condition. Lessee shall not make or suffer to be made any alterations, additions or improvements to the leased premises.
 19. **QUIET ENJOYMENT** - Lessor covenants and agrees that Lessee, upon paying said weekly rent and other monies and performing the covenants herein, shall and may peaceably hold and enjoy the leased premises on the day and time for which it is leased for the term aforesaid.

20. NOT APPLICABLE

21. NO ASSIGNMENT BY LESSEE - Lessee covenants and agrees not to encumber or assign this Lease or sublet all or any part of the leased premises, except as provided in Article 26 of this Lease.

22. DAMAGE OR DESTRUCTION

- (A) If the leased premises are totally destroyed by fire or other casualties, both Lessor and Lessee shall have the option of terminating this Lease or any renewal thereof, upon giving written notice at any time within thirty (30) days from the date of such destruction, and if the Lease be so terminated, all rent shall cease as of the date of such destruction and any prepaid rent shall be refunded.
- (B) If the leased premises are partially destroyed by fire or other casualty, then Lessor shall have the option of terminating this Lease or restoring the leased premises to a kind and quality substantially similar to that immediately prior to such destruction or damage. Said restoration shall be commenced in a reasonable period of time, and all rents paid in advance shall be proportionately suspended and adjusted according to the nature and extent of the destruction or damage, pending completion of rebuilding, restoration or repair, except that in the event that the destruction or damage is so extensive as to make it unfeasible for Lessee to conduct a bingo operation on the leased premises, the rent shall abate completely until the leased premises is restored or until Lessee resumes use and occupancy of the leased premises, whichever shall occur first. Lessor shall not be liable for any inconvenience or interruption of Lessee's bingo operations or any other business of Lessee occasioned by fire or other casualty.
- (C) Lessor shall not be liable to carry fire, casualty or extended damage insurance on the property of the Lessee.

23. CONDEMNATION

- (A) If during the term of this Lease or any renewal thereof, the whole of the leased premises, or such portion thereof as shall make the leased premises unusable for the purpose leased, be condemned by public authority for public use, then in either event, the term hereby granted shall cease and come to an end as of the date of the vesting of the title in such public authority, or when possession is given to such public authority, the choice of which date shall be at the option of Lessor. Upon such occurrence the rent shall be apportioned as of such date and any prepaid rent shall be returned to Lessee. Lessee shall not be entitled to share in any of the condemnation award for such taking.
- (B) If a portion of the leased premises is taken or condemned by public authority for public use so as not to make the remaining portion of the leased premises unusable for the purposes leased, this Lease shall not be terminated (unless it is terminated pursuant to paragraph 16 above) but still continue in full force and effect. In such case, the rent shall be equitably and fairly reduced or abated for the remainder of the term in proportion to the amount of the leased premises taken. In no event shall Lessor be liable to Lessee for any business interruption, diminution in use or for the value of any unexpired term of this Lease.

24. RULES OF CONSTRUCTION, TERMINATION BY OPERATION OF LAW, & DEFAULT

- (A) Rules of Construction - The use of the singular herein shall be construed to include the plural, and vice versa. The use of any gender shall include all genders, including the neuter.
- (B) Termination by Operation of Law - Notwithstanding any above provision of this Lease, this Lease shall terminate at Lessor's option if the [REDACTED] or the State of Virginia should prevent Lessee from operating a bingo operation on the leased premises.
- (C) Default - In the event that Lessee shall default in the payment of rent or any other sums payable by Lessee to Lessor, and such default shall continue for a period of five (5) days after written notice thereof, then in addition to any and all other legal rights and remedies, Lessor may declare the entire balance of the rent or other monies owed to be due, may terminate this Lease and retake possession of the premises and relet the same.
Lessee also covenants and agrees to pay reasonable attorney's fees and costs and expenses of the Lessor, including court costs and deposition costs, if the Lessor employs an attorney to collect rent or enforce other rights of Lessor herein in the event of any breach as aforesaid and the same shall be payable regardless of whether collection or enforcement is affected by suit or otherwise.

25. NO WAIVER - Waiver of any covenant or condition of this Lease by Lessor shall not be deemed to or imply or constitute a further waiver of the same covenant or condition of this Lease at any time subsequent to the initial waiver.

26. **RENEWAL/CANCELLATION** - This Lease shall stand renewed for additional terms of one year, unless either party shall, by written notice of at least 90 days prior to the end of the current term, to the other party, terminate the same. Failure of either of the parties to serve such written notice of termination on the other party in accordance with this paragraph shall cause the renewal of this Lease to occur under its present terms and conditions, and all of the terms and conditions of this Lease shall be in full force and effect during such renewal term.

Should Lessee decide to cancel any of the scheduled sessions at the facility, an advance 30 day written notice shall be provided to Lessor and Lessee will arrange for a qualified replacement organization for the time to be missed.

IN WITNESS WHEREOF, Lessor and Lessee have caused this instrument to be executed as of the date first above written, by their respective officers or parties thereunto duly authorized. Time is of the essence in this Lease.

LESSOR:

[REDACTED]

[REDACTED]

[REDACTED]

Phone: (757) [REDACTED]

a Virginia Corporation
Federal I.D. No. [REDACTED]

By: [REDACTED]

[REDACTED]

[REDACTED]

LESSEE:

[REDACTED]

[REDACTED]

[REDACTED]

Phone: (757) [REDACTED]

a Virginia Non-Profit Organization
Federal I.D. [REDACTED]

By: [REDACTED]

[REDACTED]

By: [REDACTED]

Sample Lease No. 2

Commercial Lease Agreement

This lease is made between [redacted] herein referred to as Lessor and [redacted] herein referred to as Lessee. Lessee hereby offers to lease from Lessor the premises situated in the [redacted] State of Virginia, described as [redacted] (the premises stated has 16,000 square feet and a current certificate of occupancy of 800), upon the following TERMS and CONDITIONS:

1. **Term and Rent.** Lessor demises the above premises for a term of one year, commencing [redacted] and terminating on [redacted], or sooner as provide herein at the weekly rental of one Bingo Session commencing on [redacted] and ending [redacted] for One Thousand, Nine Hundred and Fifty Dollars (\$1,950.00), payable no later than the completion of the bingo session for that weeks rental, during the term of this lease. All rental payments shall be made to Lessor, at the address specified above. Rental amount is based on \$1,100.00 for rental of the premises and \$850.00 for all other expenses including utilities (\$185.00), insurance (\$65.00), security (\$100.00), cleanup (\$100.00), rental of tables and chairs (\$300.00), and rental and maintenance of all bingo equipment (\$100.00). This lease may be terminated prior to the above expiration by either party with delivery of a written ninety (90) day notice.

2. **Ordinances and Statutes.** The lessee agrees to use the premises only in the manner permitted by this Agreement and to conduct the Bingo game in accordance with the State and Local laws regulating Bingo and will leave the premises in good order. Lessee agrees to hold [redacted] and all agents harmless from any and all claims arising from the operation of the Bingo games or the necessary cancellation of same.

3. **Assignment and Subletting.** Lessee shall not assign this lease or sublet any portion of the premises without prior written consent of the Lessor. Any such assignment or subletting without consent shall be void and, at the option of the Lessor, may terminate this lease.

4. **Indemnification of Lessor.** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the demised premises or any part thereof, and Lessee agrees to hold Lessor harmless from any claims for damages, no matter how caused.

5. **Lessor's Remedies on Default.** If the Lessee defaults in the payment of rent, or defaults in the performance of any of the other covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within five days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such five days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate, and Lessee shall then quit and surrender the premises to Lessor, but Lessee shall remain liable as hereinafter provided. If this lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any term shall be deemed a waiver.

6. **Heirs, Assigns, Successors.** This lease is binding upon and inures to the benefit of the heirs, assigns, and successors in interest to the parties.

7. **Renewal.** Provided that Lessee is not in default in the performance of this lease, this lease shall automatically renew for an additional term commencing at the expiration of the initial lease term unless written notice is given to the lessor not less than ninety days prior to the expiration of the initial lease term. All of the terms and conditions shall apply during the renewal term except that the weekly rent shall be negotiable.

8. **Entire Agreement.** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

9. **This lease agreement will supersede all other leases.**

Lessor: [redacted]
Date: [redacted]
Lessee: [redacted]
Date: [redacted]

Sample Lease No. 3

HALL LEASE AGREEMENT

AGREEMENT made this [redacted] day of [redacted], 2000 between [redacted] INC. [redacted] and [redacted]

That for and in consideration of mutual covenants and promises as hereinafter set forth, the parties agree that:

1. [redacted] will lease to [redacted], the premises located at [redacted] [redacted] Va, for the purposes of conducting one Bingo session commencing [redacted], 2000 and each [redacted] thereafter for a period of 52 weeks terminating [redacted]TH, 2001.

2. As payment for the use of said premises and adjacent parking facilities, the lessee agrees to pay the sum of \$1250.00 each session.

3. The lessee agrees to use the premises only in the manner permitted by this agreement and to conduct the Bingo game in accordance with the city and State regulations regulating the operation of Bingo games.

4. The lessee agrees to hold [redacted] harmless from any and all claims arising from the operation of the bingo games or the necessary cancellation of the game. [redacted] agrees to purchase necessary liability insurance naming [redacted] and [redacted] as additionally insured.

5. Unless either party gives notice of intention to terminate this lease at least 30 days before the end of the original term or any renewal thereof, then until terminated by such notice, this lease will renew itself for a term of one year at the existing rental rate and will be subject to all covenant, provisions, and conditions contained herein.

6. If any change in Federal, Local Or State law prohibits the lessee from conducting its Bingo game, either party may terminate this Agreement effective immediately.

7. This lease agreement will supersede all previous leases.

8. Interior square footage of 12000.

9. Seating capacity of 600.

LESSEE

By: [redacted]

[redacted]
[redacted])
Date: [redacted]

By: [redacted]
[redacted]

EQUIPMENT AND MISCELLANEOUS CHARGES

Agreement made July [REDACTED], 2000, between [REDACTED] and [REDACTED] {lessee}.

Lessee agrees to pay the following rental charges each session:

- 1. Custodial services.....\$125.00
- 2. Utilities including heat, A/C, Water and Sewer,
Electric, Telephone.....\$125.00
- 3. Storage areas for supplies..... \$ 50.00
- 4. Rental of all equipment to include the following:
 - a. 100 eight foot tables for bingo players
 - b. 600 chairs for bingo players
 - c. mechanical device for selecting bingo numbers
 - d. electronic devices for displaying bingo numbers
 - e. tv camera and tv monitors for displaying bingo numbers
 - f. electronic verification system for winner verification.... \$550.00

TOTAL RENTAL CHARGES FOR EQUIPMENT AND SERVICES IS
\$850.00.

LESSEE

By [REDACTED]

DATE [REDACTED]

[REDACTED]
[REDACTED]
By [REDACTED]
[REDACTED]

Sample Lease No. 4

THIS LEASE AGREEMENT, is made this [redacted] day of [redacted], 2001, by and between [redacted] a Virginia corporation, ("Lessor"), and [redacted], ("Lessee").

WITNESSETH:

That in and for valuable consideration, the receipt of which is hereby acknowledged, the said parties agree as follows:

1. The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor, the property hereinafter referred to as building, improvements and parking lot located at [redacted] Virginia, telephone number [redacted]. The square footage of the building at [redacted] is 23,000 sq. ft. with a maximum occupancy of 1200.

2. Term. Lessee to have and to hold the premises for three hours prior to the Lessee's scheduled Bingo game and ends two hours after conclusion of the Lessee's Bingo game each and every [redacted] from [redacted] p.m. to [redacted] p.m., commencing on [redacted], 2001 and ending [redacted], 2002. See attached Addendum for exact dates.

It being further agreed and understood and notwithstanding anything contained herein to the contract either party may terminate this Lease during the initial term by giving written notice to the other party, not less than sixty (60) days prior to the date of its intention to terminate this Agreement.

3. Use and Possession. The Leased Premises are to be used by Lessee for the purposes of operating a bingo game, raffle, or other normal organizational purposes, and they shall be used for

no other purpose without prior written consent of lessor. Lessee shall not use the premises for any unlawful purpose or so as to constitute a nuisance.

4. Rent. Lessee hereby covenants and agrees to pay to Lessor as rent for the Leased Premises per session payment in the amount of \$1,215.00 to be paid within seven (7) days of the date the Premises is used by lessee under the terms and conditions of this lease.

5. Janitorial Services. Lessor shall provide janitorial services for the Leased Premises when being occupied by Lessee, and the Lessee agrees to pay to the Lessor for such janitorial services the sum of \$270.00 per session.

6. Utilities. Lessor covenants and agrees to furnish the Premises with electricity, water, sanitation services, and other necessary utilities suitable for the intended use of the Premises by the Lessee. In addition, Lessor shall provide adequate restroom facilities and supplies, as well as public telephone accessibility for Lessee's use of the premises. Lessee agrees to pay to Lessor for such utilities the sum of \$245.00 per session.

7. Trash Removal. Lessor shall provide adequate trash removal services for Lessee's use of the premises. Dumpsters shall be provided and emptied each week. Lessee agrees to pay to Lessor for such service the sum of \$135.00 per session.

8. Bingo Equipment. Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, four (4) lighted Flashboards, four (4) television monitors, and a blower for determining random bingo numbers. Lessee agrees to pay to Lessor for the use of such Flashboards, television monitors, and blower the sum of \$170.00 per session.

9. Tables and Chairs. Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, 3 foot by 8 foot (3' x 8') tables in a reasonable amount

sufficient to seat patrons of Lessee, but in no event more than 90 tables. Lessor further covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, at least 800 chairs, sufficient to seat patrons of Lessee. Lessee agrees to pay to lessor for the use of such tables and chairs the amount of \$540.00 per session.

10. Late Fees. In the event Lessee fails to make any payment owed to Lessor hereunder within seven (7) days of inurrence of the expenses, Lessee agrees to pay ten percent (10%) of the sum outstanding as a late fee.

11. Supplies. Lessor covenants and agrees to provide suitable storage area, as determined at the sole discretion of the Lessor, for Lessee's use. Lessor neither warrants nor guarantees the security or safety of the supplies stored and Lessee specifically waives any claim against Lessor for the loss, damage or destruction of any items stored.

It is agreed and understood and Lessor shall not sell, lease or otherwise provide for consideration any bingo supplies and that Lessee shall provide the supplies, including but not limited to, bingo cards, instant bingo cards, markers and other game pieces necessary for the operation of the bingo games. Lessee may purchase such supplies from any manufacturers, distributors or suppliers of Lessee's own choosing.

12. Notices. For the purposes of notice or demand, the respective parties shall be served by certified or registered mail, return receipt requested, postage prepaid, addressed to the Lessee at [REDACTED] or to the Lessor at [REDACTED]

13. Concessions. Should Lessee use the Premises for the purpose of operating a bingo game, Lessee covenants and agrees that Lessor shall have the sole and exclusive right to operate a

food and drink concession for the use of the Lessee, its patrons, agent and guests.

14. Compliance with Laws. The Lessee hereby covenants and agrees to comply with all the Rules and Regulations of the [REDACTED] Fire Department and any other offices and Boards of the [REDACTED] Virginia, and Lessee further covenants and agrees to comply with all ordinances and Regulations of the governmental authorities of the [REDACTED] and all Statutes, Rules and Regulations of the State of Virginia and the United States of America, at Lessee's sole cost and expense, but only insofar as any of such rules, regulations, ordinances and statutes pertain to the manner in which the Lessee shall use the said premises. The obligation to comply with rules, regulations, ordinances and statutes concerning the condition of repairs to the Premises or any part thereof, is hereby expressly assumed by Lessor, and Lessor covenants and agrees promptly and duly to comply with all such rules, regulations, ordinances and statutes with which Lessee has not herein expressly agreed to comply.

15. Acceptance. Lessee, by its first occupancy hereunder, accepts the Premises in its present condition. Lessee shall not make or suffer to be made any alterations, additions or improvements to the Premises, without the prior written approval of Lessor.

16. Quiet Enjoyment. Lessor covenants and agrees that Lessee, upon paying said weekly rent and other monies and performing the covenants herein, shall and may peaceably hold and enjoy the Leased Premises on the day for which it is leased for the term aforesaid.

17. No Assignment of Lease. Lessee covenants and agrees not to encumber or assign this Lease or sublet all or any part of the Premises.

18. Damage or Destruction.

(a) If the Premises are totally destroyed by fire or other casualties, both Lessor and

Lessee shall have the option of terminating this Lease or any renewal thereof, upon giving written notice at any time within thirty days (30) from the date of such destruction, and if the Lease be so terminated, all rent shall cease as of the date of such destruction and any prepaid rent shall be refunded.

(b) If the Premises are partially destroyed by fire or other casualty, then Lessor shall have the option of terminating this Lease or restoring the Premises to a kind and quality substantially similar to that immediately prior to such destruction or damage. Said restoration shall be commenced in a reasonable period of time, and proportionately suspended and adjusted according to the nature and extent of the destruction or damage, pending completion of rebuilding, restoration or repair, except that in the event that the destruction or damage is so extensive as to make it unfeasible for the Lessee to conduct a bingo operation on the Premises, the rent shall abate completely until the Premises are restored or until the Lessee resumes use and occupancy of the Premises, whichever shall occur first. Lessor shall not be liable for any inconvenience or interruption of Lessee's tenancy occasioned by fire or other casualty.

(c) Lessor shall not be liable to carry fire, casualty or extended damage insurance on the person or property of the Lessee.

(d) Lessor shall be liable for any damage or injury to an person or property, including the premises, for fire, flood, winstorm, acts of God, or any injury caused to property of person thereon, and [REDACTED] shall hold tenant harmless. Except, and limited to the following, the tenant agrees to defend, hold harmless, and indemnify [REDACTED] Against any legal liability, including reasonable attorney's fees, in respect to bodily injury, death and property damage arising from the negligence of the volunteers of the tenant during its use of

the property belonging to said [REDACTED]

(e) Lessor verifies that it has general liability insurance for coverage to the extent of \$500,000.00 for personal injury, and \$1,000,000.00 for property damage.

19. Condemnation.

(a) If during the term of this Lease or any renewal thereof, the whole of the Premises, or such portion thereof as shall make the Premises unusable for the purpose leased, be condemned by public authority for public use, then, in either event, the term hereby granted shall cease and come to any end as of the date of the vesting of title in such public authority, or when possession is given to such public authority, the choice of which date shall be at the option of Lessor. Lessee shall not be entitled to share in any of the condemnation award for such taking.

(b) If a portion of the Premises is taken or condemned by public authority for public use so as not to make the remaining portion of the Premises unusable for the purposes leased, this Lease shall not be terminated but still continue in full force and effect. In such case, the rent shall be equitably and fairly reduced or abated for the remainder of the term in proportion to the amount of the Leased Premises taken. In no event shall the Lessor be liable to the Lessee for any business interruption, diminution in use or for the value of any unexpired term of this Lease.

20. Indemnification. The Lessor shall not be liable for any damage or injury to any person or property of Lessee, Lessee's employees, agents, guests, invitees or otherwise by reason of Lessee's occupancy of the Premises or because of fire, flood, windstorm, Acts of God, or otherwise or for any other, but different, reason. The Lessee agrees to indemnify and save harmless the Lessor from and against any and all loss, damage, claim, demand, liability or expense

by reason of damage to person or property which may arise or be claimed to have arisen as a result of the occupancy or use of said Premises by the Lessee or by reason thereof or in connection therewith, or in any way arising on account or any injury or damage caused to any person or property on or in the Premises on the days wherein the Premises are occupied by Lessee, its employees, agents, guests, invitees or otherwise.

21. Termination by Operation of Law. Notwithstanding any above provision of this Lease, this Lease shall terminate if the [REDACTED] or the State of Virginia should prevent Lessee from operating a bingo operation on the Premises, through no fault of the Lessee.

22. Default.

(a) In the event that Lessee shall default in the payment of rent or any other sums payable by Lessee to Lessor and such default shall continue for a period of five days after written notice thereof, then in addition to any and all other legal rights and remedies, the Lessor may declare the entire balance of the rent or other monies owed to be due, may terminate this lease and retake possession of the premises and relet the same.

(b) The Lessee also covenants and agrees to pay reasonable attorney's fees and costs and expenses of the Lessor, including court costs, if the Lessor employs an attorney to collect rent or enforce other rights of the Lessor herein in the event of any breach as aforesaid and the same shall be payable regardless of whether collection or enforcement is effected by suit or otherwise.

23. No Waiver. No waiver or any covenant or condition of this Lease by Lessor shall be deemed to or imply or constitute a further waiver of the same covenant or condition of this Lease.

24. Renewal. This Lease shall automatically renew for additional terms of one (1) year,

unless either party shall provide by written thirty (30) days notice to the other party the intention to terminate same. Failure of either of the parties to serve such written notice of termination on the other party in accordance with this paragraph shall cause renewal of this Lease to occur under its present terms and conditions, and all of the terms and conditions of this Lease shall be in full force and effect during such renewal term.

IN WITNESS WHEREOF, Lessee and Lessor have caused this instrument to be executed as of the date first above written, by their respective officers or parties thereunto duly authorized.

LESSOR:



A Virginia Corporation

BY: 

LESSEE: 

BY: _____

Sample Lease No. 5

LEASE

THIS LEASE AGREEMENT, dated the _____ day of _____, 2001 by and between _____, a Virginia Corporation, with its principal office at _____ whose telephone number is _____ ("Lessor"), and _____, with its principal office at _____ ("Lessee").

WITNESSETH:

The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor, the following described property, sometimes hereinafter referred to as the Leased Premises, to-wit:

The bingo hall with related equipment for conducting games located at _____, Virginia, consisting of 9,750 square feet with a maximum occupancy of 550.

1. **Term.** Lessee to have and to hold above described premises on such days and at such times as shown on Exhibit 1 (attached hereto and incorporated herein), for the following term, commencing on _____, 2001, and terminating on _____ 2002, on the terms and conditions as set forth in more particularity herein.

It being further agreed and understood that notwithstanding anything contained herein to the contrary either party may terminate this Lease during the term by giving written notice to the other party, not less than ninety (90) days prior to date of termination of its intention to terminate this Agreement.

2. **Use and Possession.** The Leased Premises are to be used by Lessee for the purposes of operating a bingo game or other normal organizational purposes, and they shall be used for no other purpose without prior written consent of Lessor. Lessee shall not use the premises for any unlawful purpose or so as to constitute a nuisance. The Lessor covenants and agrees to use its best efforts to have the premises available for possession of the Lessee on or before the above commencement date. Lessee agrees to accept possession of the Leased Premises on the above commencement date and for each and every other date for which Lessee has leased the said Leased Premises.

3. **Rent.** Lessee hereby covenants and agrees to pay to Lessor as rent for the Leased Premises weekly payments to be made on the day of the week for which the Leased

Premises are used by Lessee under the terms and conditions of this Lease. Said weekly payments shall be in the amounts set forth in Exhibit 1, (attached hereto and incorporated herein).

4. **Extended Hours.** Lessee may request and Lessor, at its sole discretion, may approve any extension of the hours provided in Exhibit 1.

5. **Security.** Lessee shall provide security for the Leased Premises when being occupied by Lessee in accordance with Lessor's Security Plan. The Lessee agrees to pay for such security services directly to the provider of the security service in such amount as is determined by agreement between Lessee and the provider of the services.

6. **Janitorial Services.** Lessor shall provide janitorial services for the Leased Premises when being occupied by Lessee, and the Lessee agrees to pay to the Lessor for such janitorial services the amounts set forth in Exhibit 1 (attached hereto and incorporated herein) at the time the rent reserved in paragraph 3 is paid.

7. **Utilities.** Lessor covenants and agrees to furnish the Leased Premises with electricity, lights and heat suitable for the intended use of the Leased Premises by the Lessee. Lessee agrees to pay to Lessor for such utilities the amounts set forth in Exhibit 1 (attached hereto and incorporated herein) at the time the rent reserved in paragraph 3 is paid.

8. **Flashboards and Blowers.** Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, four lighted flashboards and a blower for determining random bingo numbers. Lessee agrees to pay to Lessor for the use of such flashboards and blower the amounts as set forth in Exhibit 1 (attached hereto and incorporated herein) at the time the rent reserved in paragraph 3 is paid.

9. **Tables and Chairs.** Lessor covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, 3 foot by 8 foot (3' x 8") tables in a reasonable amount sufficient to seat patrons of Lessee, but in no event more than 90 tables. Lessor further covenants and agrees to provide Lessee, for use on the premises in conducting bingo games, padded stack chairs in a reasonable amount, sufficient to seat patrons of Lessee, but in no event more than 560 chairs. Lessee agrees to pay to Lessor for the use of such tables and chairs the amounts set forth in Exhibit 1 (attached hereto and incorporated herein) at the time the rent reserved in paragraph 3 is paid.

10. **Supplies.** Lessor covenants and agrees to provide suitable storage, as determined at the sole discretion of the Lessor, for bingo supplies including, but not limited to bingo cards, instant bingo cards, markers or other game pieces. Lessor neither warrants nor guarantees the security or safety of the supplies stored and Lessee specifically waives any claim against Lessor for the loss, damage or destruction of the supplies stored. It is agreed and

understood that Lessor shall not sell, lease or otherwise provide for consideration any such bingo supplies and that Lessee shall provide the supplies, including but not limited to, bingo cards, instant bingo cards, markers and other game pieces necessary for the operation of the bingo games. Lessee may purchase such supplies from any manufacturers, distributors or suppliers of Lessee's own choosing.

11. **Notices.** For the purposes of notice or demand, the respective parties shall be served by certified or registered mail, return receipt requested, postage prepaid, addressed to the Lessee or to the Lessor at their respective principal office addresses as set forth above.

12. **Concessions.** Should Lessee use the Leased Premises for the purpose of operating a bingo game, Lessee covenants and agrees that Lessor shall have the sole and exclusive right to operate a food and drink concession for the use of the Lessee, its patrons, agents and guests.

13. **Compliance with Laws.** The Lessee hereby covenants and agrees to comply with all the Rules and Regulations of the [REDACTED] and any other officers and Boards of [REDACTED], and Lessee further covenants and agrees to comply with all ordinances and Regulations of the governmental authorities of [REDACTED] and all Statutes, Rules and Regulations of the State of Virginia and the United States of America, at Lessee's sole cost and expense, but only insofar as any of such rules, regulations, ordinances and statutes pertain to the manner in which the Lessee shall use the said premises; the obligations to comply in every other case, and also all cases where such rules, regulations, ordinances and statutes require repairs, alterations, changes or additions to the Leased Premises, or any part thereof, being hereby expressly assumed by Lessor, and Lessor covenants and agrees promptly and duly to comply with all such rules, regulations, ordinances and statutes with which Lessee has not herein expressly agreed to comply.

14. **Acceptance.** Lessee, by its first occupancy hereunder, accepts the Leased Premises in good repair and condition. Lessee shall not make or suffer to be made any alterations, additions or improvements to the Leased Premises.

15. **Quiet Enjoyment.** Lessor covenants and agrees that Lessee, upon paying said weekly rent and other monies and performing the covenants herein, shall and may peaceably hold and enjoy the Leased Premises on the day for which it is leased for the term aforesaid.

16. **No Assignment of Lessee.** Lessee covenants and agrees not to encumber or assign this Lease or sublet all or any part of the Leased premises.

17. **Damage or Destruction.**

(a) If the Leased premises are totally destroyed by fire or other casualties, both Lessor and Lessee shall have the option of terminating this Lease or any renewal thereof, upon

giving written notice at any time within thirty days (30) from the date of such destruction, and if the Lease be so terminated, all rent shall cease as of the date of such destruction and any prepaid rent shall be refunded.

(b) If the Leased Premises are partially destroyed by fire or other casualty, then Lessor shall have the option of terminating this Lease or restoring the Leased Premises to a kind and quality substantially similar to that immediately prior to such destruction or damage. Said restoration shall be commenced in a reasonable period of time, and all rents paid in advance shall be proportioned as of the date of damage and destruction and all rent thereafter accruing shall be equitably and proportionately suspended and adjusted according to the nature and extent of the destruction or damage, pending completion of rebuilding, restoration or repair, except that in the event that the destruction or damage is so extensive as to make it unfeasible for the Lessee to conduct a bingo operation on the Leased Premises, the rent shall abate completely until the Leased Premises are restored or until the Lessee resumes use and occupancy of the Leased Premises, whichever shall occur first. Lessor shall not be liable for any inconvenience or interruption of Lessee's bingo operations or any other business of Lessee occasioned by fire or other casualty.

(c) Lessor shall not be liable to carry fire, casualty or extended damage insurance on the person or property of the Lessee.

18. Condemnation.

(a) If during the term of this Lease or any renewal thereof, the whole of the Leased Premises, or such portion thereof as shall make the Leased Premises unusable for the purpose leased, be condemned by public authority for public use, then, in either event, the term hereby granted shall cease and come to an end as of the date of the vesting of title in such public authority, or when possession is given to such public authority, the choice of which date shall be at the option of Lessor. Upon such occurrence the rent shall be apportioned as of such date and any prepaid rent shall be returned to the Lessee. Lessee shall not be entitled to share in any of the condemnation award for such taking.

(b) If a portion of the Leased Premises is taken or condemned by public authority for public use so as not to make the remaining portion of the Leased Premises unusable for the purposes leased, this Lease shall not be terminated, but still continue in full force and effect. In such case, the rent shall be equitable and fairly reduced or abated for the remainder of the term in proportion to the amount of the Leased Premises taken. In no event shall the Lessor be liable to the Lessee for any business interruption, diminution in use or for the value of any unexpired term of this Lease.

19. Indemnification. The Lessor shall not be liable for any damage or injury to any person or property of Lessee, Lessee's employees, agents, guests, invitees or otherwise by reason of Lessee's occupancy of the Leased Premises or because of fire, flood, windstorm, Acts

of God, or otherwise or for any other, but different, reason. The Lessee agrees to indemnify and save harmless the Lessor from and against any and all loss, damage, claim, demand, liability or expense by reason of damage to person or property which may arise or be claimed to have arisen as a result of the occupancy or use of said Leased Premises by the Lessee or by reason thereof or in connection therewith, or in any way arising on account or any injury or damage caused to any person or property on or in the Leased premises on the days wherein the Leased Premises are occupied by Lessee, its employees, agents, guests, invitees or otherwise.

20. **Rules of Construction.** The use of the singular herein shall be construed to include the plural, and vice versa. The use of any gender shall include all genders, including the neuter.

21. **Termination by Operation of Law.** Notwithstanding any above provision of this Lease, this Lease shall terminate if [REDACTED] or the State of Virginia should prevent Lessee from operating a bingo operation on the Leased Premises, through no fault of the Lessee.

22. **Default.**

(a) In the event that Lessee shall default in the payment of rent or any other sums payable for Lessee to Lessor and such default shall continue for a period of five days after written notice thereof, then in addition to any and all other legal rights and remedies, the Lessor may declare the entire balance of the rent or other monies owed to be due, may terminate this lease and retake possession of the premises and relet the same.

(b) The Lessee also covenants and agrees to pay reasonable attorney's fees and costs and expenses of the Lessor, including court costs and deposition costs, if the Lessor employs an attorney to collect rent or enforce other rights of the Lessor herein in the event of any breach as aforesaid and the same shall be payable regardless of whether collection or enforcement is effected by suit or otherwise.

23. **No Waiver.** No waiver or any covenant or condition of this Lease by Lessor shall be deemed to or imply or constitute a further waiver of the same covenant or condition of this Lease.

24. **Renewal.** This Lease shall stand renewed for additional terms of one (1) year, unless either party shall, not less than forth-five (45) nor more than ninety (90) days prior to the end of the term hereof, by written notice to the other party, terminate the same. Failure of either of the parties to serve such written notice of termination on the other party in accordance with this paragraph shall cause the renewal of this Lease to occur under its present terms and conditions, and all of the terms and conditions of this Lease shall be in full force and effect during such renewal term.

IN WITNESS WHEREOF, Lessee and Lessor have caused this instrument to be executed as of the date first above written, by their respective officer or parties thereunto duly authorized.

LESSOR:

[REDACTED]

a Virginia Corporation

BY: _____

[REDACTED]

LESSEE:

[REDACTED]

BY: _____

[REDACTED]

EXHIBIT I



Every other [redacted] commencing
[redacted] 2001.

9:00 a.m. to 2:00 p.m.

Rent	\$ 1,275.00	per session
Janitorial Services	\$ 100.00	per session
Utilities	\$ 120.00	per session
Flashboard and Blowers	\$ 205.00	per session
Tables and Chairs	\$ 300.00	per session

Sample Lease No. 6

[REDACTED]
[REDACTED]
[REDACTED]

Telephone [REDACTED]
22,000 sq. ft.
Occupancy 1245

AGREEMENT

An agreement made this [REDACTED] day of [REDACTED], 200[REDACTED], between [REDACTED] (lessor) and [REDACTED] (lessee) in consideration of the mutual covenants and promises as hereinafter set forth, the parties do agree that:

1. [REDACTED] leases to the lessee the facility known as [REDACTED] [REDACTED], [REDACTED] Virginia, [REDACTED] for use as a bingo center commencing [REDACTED], 200[REDACTED] and every [REDACTED] thereafter for one (1) year terminating [REDACTED] 2002.

2. Individual Rental Fee:

a. Auditorium	500.00	h. Smoke Elimination System	400.00
b. Storage Room	200.00	i. Fire Protection System	200.00
c. Office/Counter Areas	350.00	j. On-Site Signage	50.00
d. Sound System	100.00	k. Chairs	n/c
e. Utilities	200.00	l. Tables	n/c
f. Parking Area	600.00	m. Bingo Blower	n/c
g. Building Mgr.	100.00	n. Light Boards	n/c

Total Individual Rental Fee.....\$2700.00

3. The total package rental fee shall be 2500.00 payable in weekly installments of \$250.00 commencing [REDACTED], 200[REDACTED] and every [REDACTED] thereafter for the full term of the lease.
4. The Lessee agreed to conduct bingo games in accordance with the state and local laws.
5. The Lessee also agrees to pay for maintenance and security personnel.
6. Lessee agrees to hold [REDACTED] harmless from any and all claims arising from the operation of the bingo game or the necessary cancellation of same.
7. [REDACTED] shall have the exclusive right to operate a food and drink concession for the lessee, patrons, etc.
8. Termination of this lease can be affected by thirty (30) days written notice by lessee or lessor.

By: [REDACTED]
LESSEE
By: [REDACTED]

* New Year's Eve: If this holiday should occur on a day under the terms of his lease agreement, then this agreement shall be void on that day only.

APPENDIX 1 – House Bill 2375

VIRGINIA ACTS OF ASSEMBLY – CHAPTER

An Act to amend and reenact § 18.2-340.20 and the second and third enactments of Chapter 1000 of the Acts of Assembly of 2000, relating to the rental of premises for conduct of charitable gaming; regulations.

[H 2375]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-340.20 of the Code of Virginia is amended and reenacted as follows:

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

A. The Commission may deny, suspend or revoke the permit of any organization found not to be in strict compliance with the provisions of this article and the regulations of the Commission. The action of the Commission in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).

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

C. Any person aggrieved by a refusal of the Commission to issue any permit, the suspension or revocation of a permit, or any other action of the Commission, may seek review of such action in accordance with Article 4 (§ 9-6.14:15 et seq.) of the Administrative Process Act.

D. Until July 1, ~~2001~~ 2002, the Charitable Gaming Commission shall not deny, suspend, or revoke the permit of any organization solely because of its failure to meet the required minimum percentage of its gross receipts required to be used for charitable purposes, as prescribed by regulations adopted pursuant to subdivision 1 of § 18.2-340.19, unless requested by the organization, provided that (i) the organization was conducting gaming in a rented facility prior to January 1, 2000, and (ii) the organization is otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth.

2. That the second and third enactments of Chapter 1000 of the 2000 Acts of Assembly are amended and reenacted as follows:

2. That the Virginia Charitable Gaming Commission shall examine (i) *whether leases between operators of commercial bingo facilities and qualified organizations conform to the standards set forth in § 18.2-340.33(3)*, (ii) the ways in which fair market rental value for both real property and the personal property used therewith for bingo games may be appropriately computed; ~~(ii)~~ (iii) the ways rents for real property and any personal property used in connection with such real property for bingo games are reported or should be reported to the Commission; and ~~(iii)~~ (iv) the nexus between such rents paid, the reporting of such rents, and the ability of qualified organizations, as defined in § 18.2-340.16, to meet the minimum percentages of gross receipts required to be used for those lawful religious, charitable, community, or educational purposes for

which the organizations are specifically chartered or organized. The Virginia Charitable Gaming Commission shall report its findings and recommendations to the Governor and General Assembly on or before ~~January~~ *November* 10, 2001.

3. That the provisions of this act shall expire on July 1, ~~2001~~ *2002*.

APPENDIX 2 – Charitable Gaming Statute

CHARITABLE GAMING STATUTE

Effective July 1, 2001

Article 1.1:1.

Charitable Gaming.

§ 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. The Charitable Gaming Commission is vested with control of all charitable gaming in the Commonwealth, with plenary 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.
- B. The conduct of any charitable gaming is a privilege which may be granted or denied by the Charitable Gaming Commission or its duly authorized representatives in its discretion in order to effectuate the purposes set forth in this article.

(1995, c. 837.)

§ 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) Commission-approved electronic devices which display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Commission-approved cards pursuant to subdivision 13 of § 18.2-340.18, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five columns headed respectively by the letters B.I.N.G.O.

"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.

"Commission" means the Charitable Gaming Commission.

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

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

"Instant bingo" means a specific game of chance played by the random selection of one or more individually prepacked cards, made completely of paper or paper products, with winners being determined by the preprinted appearance of concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card which conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Jackpot" means a bingo game, exclusive of a "winner-take-all" bingo game, in which (i) all numbers on the card are covered, each number being selected at random, and with no more than one free space and (ii) the prize amount is greater than \$100.

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

"Organization" means any one of the following:

1. A volunteer fire department or rescue squad or auxiliary unit thereof which 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;
2. An organization operated exclusively for religious, charitable, community or educational purposes;
3. An association of war veterans or auxiliary units thereof organized in the United States;
4. A fraternal association or corporation operating under the lodge system;
5. A local chamber of commerce; or
6. A nonprofit organization that raises funds by conducting raffles which generate annual gross receipts of less than \$75,000, provided such gross receipts from the raffle, less expenses and prizes, are used exclusively for charitable, educational, religious or community purposes.

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

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

For the purpose of this article, *"raffle"* shall include the use of individually prepackaged cards made completely of paper or paper products, with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses, such cards being commonly referred to as "pull tabs" or "seal cards" which conceal one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by electronic or mechanical equipment.

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization and not otherwise allowed under this article or under Commission regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members shall not qualify as a business expense.

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

(1995, c. 837; 1996, c. 919; 1997, cc. 777, 838; 1998, cc. 57, 398; 1999, c. 534.)

§ 18.2-340.17. Charitable Gaming Commission established.

A. There is hereby established, in the Office of the Secretary of Administration, the Charitable Gaming Commission. The Commission shall consist of seven members appointed by the Governor, subject to confirmation by the General Assembly. Each member of the Commission shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office. To the extent practicable, the Commission shall consist of individuals from different geographic regions of the Commonwealth. Upon initial appointment, three members shall be appointed for four-year terms, two for three-year terms, and two for two-year terms. Thereafter, all members shall be appointed for four-year terms. Vacancies shall be filled by the Governor in the same manner as the original appointment for the unexpired portion of the term. Each Commission member shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than four years shall thereafter be eligible for reappointment to two consecutive terms of four years each. The Commission shall elect a chairman from among its members. No member of the General Assembly while serving as a member shall be eligible for appointment to the Commission.

- B. The members of the Commission shall serve at the pleasure of the Governor.
- C. For each day or part thereof spent in the performance of his duties, each member of the Commission shall receive such compensation and reimbursement for his reasonable expenses as provided in § 2.1-20.3.
- D. A quorum shall consist of four members. The decision of a majority of those members present and voting shall constitute a decision of the Commission.
- E. The Commission shall adopt rules and procedures for the conduct of its business. The Commission shall establish and maintain a business office within the Commonwealth at a place to be determined by the Commission. The Commission shall meet at least six times a year, and other meetings may be held at any time or place determined by the Commission or upon call of the chairman or upon a written request to the chairman by any two members. Except for emergency meetings and meetings governed by § 2.1-343.1 requiring a longer notice, all members shall be duly notified of the time and place of any regular or other meeting at least ten days in advance of such meetings.
- F. The Commission shall keep a complete and accurate record of its proceedings. A copy of the record and any other public records not exempt from disclosure under the Freedom of Information Act (§ 2.1-340 et seq.) shall be available for public inspection and copying during regular office hours at its principal office.

(1995, c. 837; 2000, c. 639.)

§ 18.2-340.18. Powers and duties of the Commission.

The Commission 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:

1. The Commission is vested with jurisdiction and supervision over all charitable gaming authorized under the provisions of this article and including all persons that conduct or provide goods, services or premises used in the conduct of charitable gaming. 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 Commission. The Commission may designate such agents and employees as it deems necessary and appropriate to be vested with like power to enforce the provisions of this article and the criminal laws of the Commonwealth as is vested in the chief law-enforcement officer of any county, city or town.
2. The Commission, 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.

3. The Commission may compel the production of any books, documents, records, or memoranda of any organizations or supplier for the purpose of satisfying itself that this article and its regulations are strictly complied with. In addition, the Commission 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 Commission shall promulgate regulations under which charitable gaming shall be conducted in the Commonwealth and all such other regulations that it deems necessary and appropriate to effect the purposes of this article. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).
5. The Commission 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 Commission, it is necessary to do so for the effectual discharge of its duties.
6. The Commission may compel any person holding a permit to file with the Commission such documents, information or data as shall appear to the Commission to be necessary for the performance of its duties.
7. The Commission may enter into arrangements with any governmental agency of this or any other state or any locality in the Commonwealth for the purposes of exchanging information or performing any other act to better ensure the proper conduct of charitable gaming.
8. The Commission may issue interim certification of tax-exempt status and collect a fee therefore in accordance with subsection B of § 18.2-340.24.
9. The Commission shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Commission and any recommendations for legislation applicable to charitable gaming in the Commonwealth.
10. The Commission, its agents and employees may conduct such audits, in addition to those required by § 18.2-340.31, as they deem necessary and desirable.
11. The Commission may limit the number of organizations for which a person may manage, operate or conduct charitable games.
12. The Commission may report any alleged criminal violation of this article to the appropriate attorney for the Commonwealth for appropriate action.
13. The Commission may, by regulation, approve variations to the card formats for bingo games provided such variations result in bingo games which are conducted in a manner consistent with the provisions of this article. Commission-approved variations may include, but are not limited to, bingo games commonly referred to as player selection games and 90-number bingo.

(1995, c. 837; 1997, cc. 777, 838.)

§ 18.2-340.19. Regulations of the Commission.

The Commission shall adopt regulations which:

1. Require, as a condition of receiving a permit, that the applicant use a predetermined percentage of its gross receipts 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 Commission finds appropriate to and consistent with the purpose of charitable gaming.
2. Require the organization to have at least fifty percent of its membership consist of residents of the Commonwealth and 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 Commission to ascertain the percentage of Virginia residents; however, if an organization (i) does not consist of bona fide members and (ii) is exempt under § 501 (c) (3) of the United States Internal Revenue Code, the Commission shall exempt such organizations from the regulations adopted pursuant to this subdivision.

Membership lists furnished to the Commission 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 (§ 2.1-340 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted.
4. Establish requirements for the audit of all reports required in accordance with § 18.2-340.30.
5. Define electronic and mechanical equipment used in the conduct of charitable gaming.
6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation or conduct of bingo and (ii) permit members who participate in the management, operation or conduct of bingo to play bingo.
7. Prescribe the conditions under which a qualified organization located in the Northern Virginia Planning District may sell raffle tickets for a raffle drawing which will be held outside the Commonwealth pursuant to subsection B of § 18.2-340.26.
8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of eleven years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.
9. Prescribe the conditions under which a person below the age of eighteen years may play bingo, provided such person (i) has the consent of his parent or legal guardian or (ii) is accompanied by his parent or legal guardian.

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

(1995, c. 837; 1996, c. 919; 1997, cc. 777, 838; 1998, c. 845; 2001, c. 833.)

§ 18.2-340.20. (Effective until July 1, 2002) Denial, suspension or revocation of permit; hearings and appeals.

- A. The Commission may deny, suspend or revoke the permit of any organization found not to be in strict compliance with the provisions of this article and the regulations of the Commission. The action of the Commission in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§ 9-6.14:1 et seq.).
- B. Except as provided in §§ 18.2-340.30 and 18.2-340.36, no permit to conduct charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for the hearing. At the discretion of the Commission, hearings may be conducted by hearing officers who shall be selected from the list prepared by the Executive Secretary of the Supreme Court. After a hearing on the issues, the Commission may refuse to issue or may suspend or revoke any such permit if it determines that the organization has not complied with the provisions of this article or the regulations of the Commission.
- C. Any person aggrieved by a refusal of the Commission to issue any permit, the suspension or revocation of a permit, or any other action of the Commission, may seek review of such action in accordance with Article 4 (§ 9-6.14:15, et seq.) of the Administrative Process Act.
- D. Until July 1, 2002, the Charitable Gaming Commission shall not deny, suspend, or revoke the permit of any organization solely because of its failure to meet the required minimum percentage of its gross receipts required to be used for charitable purposes, as prescribed by regulations adopted pursuant to subdivision 1 of § 18.2-340.19, unless requested by the organization, provided that (i) the organization was conducting gaming in a rented facility prior to January 1, 2000, and (ii) the organization is otherwise in compliance with the laws and regulations governing charitable gaming in the Commonwealth.

(1995, c. 837; 1996, c. 573; 1997, cc. 777, 838; 2000, c. 1000; 2001, c. 813.)

§ 18.2-340.21. Executive Secretary; staff.

The Commission shall appoint an Executive Secretary and such other employees as it deems essential to perform its duties under this article, who shall possess such authority and perform such duties as the Commission shall prescribe or delegate to them. Such employees shall be compensated as provided by the Commission.

The Executive Secretary, in addition to any other duties prescribed by the Commission, shall keep a true and full record of all proceedings of the Commission and preserve at the Commission's principal office all books, documents and papers of the Commission.

(1995, c. 837.)

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

- A. This article permits qualified organizations to conduct raffles, bingo and instant bingo games. All games not explicitly authorized by this article or Commission regulations adopted in accordance with § 18.2-340.18 are prohibited.
- B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.
- C. Nothing in this article shall prohibit an organization from using the State Lottery Department's Pick-3 number or any number or other designation selected by the State Lottery Department in connection with any lottery, as the basis for determining the winner of a raffle.

(1995, c. 837; 1997, cc. 777, 838.)

§ 18.2-340.23. Organizations exempt from certain permit, financial reporting and audit requirements.

- A. No organization that reasonably expects, based on prior charitable gaming annual results or any other quantifiable method, to realize gross receipts of \$25,000 or less in any twelve-month period shall be required to (i) notify the Commission of its intention to conduct charitable gaming, (ii) file a resolution of its board of directors as required by subsection B, or (iii) comply with Commission regulations. If any organization's actual gross receipts for the twelve-month period exceed \$25,000, the Commission may require the organization to file by a specified date the report required by § 18.2-340.30.
- B. Any volunteer fire department or rescue squad or auxiliary unit thereof which has been recognized in accordance with § 15.1-26.01 by an ordinance or resolution of the political subdivision where the volunteer fire department or rescue squad is located as being part of the safety program of such political subdivision shall be exempt from the requirements of § 18.2-340.25 if, prior to conducting charitable gaming, it notifies the Commission, on a form prescribed by the Commission, that it will conduct charitable gaming. The organization must receive notification of its exempt status from the Commission prior to conducting charitable gaming. Any such organization also shall be exempt from the financial reporting requirements of this article and the payment of audit fees but shall file with the Commission, at such time as may be required by the Commission, a resolution of its board of directors stating that the organization has complied with the provisions of this article. Nothing in this subsection shall be construed as exempting volunteer fire departments and rescue squads from any other provisions of this article or other Commission regulations.
- C. Nothing in this section shall prevent the Commission 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, Commission regulations.

(1995, c. 837; 1997, cc. 777, 838.)

§ 18.2-340.24. Eligibility for permit; exceptions; where valid.

A. To be eligible for a permit to conduct charitable gaming, an organization shall:

1. Have been in existence and met on a regular basis in the county, city or town or in a county, city or town adjacent to the county, city or town wherein the organization proposes to conduct charitable gaming for a period of at least three years immediately prior to applying for a permit.

The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or international fraternal order or of a national or international civic organization which is exempt under § 501 (c) of the United States Internal Revenue Code and which has a lodge or chapter holding a charitable gaming permit issued under the provisions of this article anywhere within the Commonwealth; (ii) to booster clubs which have been operating for less than three years and which have been established solely to raise funds for school-sponsored activities in public schools which are less than three years old; (iii) to recently established volunteer fire and rescue companies or departments, after county, city or town approval; or (iv) to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another, complies with the requirements of subdivision 2 of this section, and was the holder of a valid permit at the time of its relocation.

2. Be operating currently and have always been operated as a nonprofit organization.

B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to exceed \$75,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501 (c) of the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal Revenue Service, the same documentation may be filed with the Commission for an interim certification of tax-exempt status. If such documentation is filed, the Commission may, after reviewing such documentation it deems necessary, issue its determination of tax-exempt status within sixty days of receipt of such documentation. The Commission may charge a reasonable fee, not to exceed \$500. This interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its determination of tax-exempt status, or for eighteen months, whichever is earlier.

C. A permit shall be valid only for the locations designated in the permit.

(1995, c. 837; 1996, c. 919.)

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

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

B. All complete applications for a permit shall be acted upon by the Commission within forty-five days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Commission, 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 Commission 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 Commission.

- 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 Commission and shall be accompanied by payment of the fee for processing the application.

(1995, c. 837; 1997, cc. 777, 838; 1999, c. 361.)

§ 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 located in the Northern Virginia Planning District 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 Commission and (ii) the laws and regulations of the jurisdiction in which the raffle drawing will be held.

(1995, c. 837; 1997, cc. 777, 838; 2001, c. 833.)

§ 18.2-340.26:1. Sale of pull tabs or seal cards limited; proceeds not counted as gross receipts.

- A. Pull tabs or seal cards used as part of a raffle as defined in § 18.2-340.16 may be sold only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the pull tabs or seal cards are sold is open only to members and their guests.
- B. The proceeds from pull tabs or seal cards used as a part of a raffle shall not be included in determining the gross receipts for a qualified organization provided the gaming (i) is limited exclusively to members of the organization and their guests, (ii) is not open to the general public, and (iii) there is no public solicitation or advertisement made regarding such gaming.

(2001, c. 833.)

§ 18.2-340.27. Conduct of bingo games; special permits.

- A. A qualified organization shall accept only cash or, at its option, checks in payment of any charges or assessments for players to participate in bingo games. However, no such

organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

- B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or debit card or other electronic fund transfer in payment of any charges or assessments for players to participate in bingo games.
- C. Bingo games may be held by qualified organizations no more frequently than two calendar days in any calendar week, except in accordance with subsection D.
- D. A special permit may be granted a qualified organization which entitles it to conduct more frequent operations of bingo games during carnivals, fairs and other similar events which are located in the jurisdiction designated in the permit.

(1995, c. 837.)

§ 18.2-340.28. Conduct of instant bingo.

- A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may play instant bingo as a part of such bingo game and only at such location and at such times as designated in the permit for regular bingo games.
- B. Any organization conducting instant bingo shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such instant bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Instant bingo supplies shall be paid for only by check drawn on an account of the organization. During the conduct of instant bingo, the supplier's invoice, or a legible true copy thereof, for the instant bingo supplies being used shall be maintained by the organization on the premises where the instant bingo is being conducted.
- C. No qualified organization shall sell any instant bingo card to any individual under eighteen years of age.

(1995, c. 837; 1997, cc. 777, 838.)

§ 18.2-340.29. Joint operation of bingo games; written reports; special permit required.

- A. Any two qualified organizations may jointly organize and conduct bingo games provided both have fully complied with all other provisions of this article.
- B. Any two qualified organizations jointly conducting such games shall be (i) subject to the same restrictions and prohibitions contained in this article that would apply to a single organization conducting bingo games and (ii) required to furnish to the Commission a written report setting forth the location where such games will be held, the division of manpower, costs, and proceeds for each game to be jointly conducted.

Upon a finding that the division of manpower and costs for each game bears a reasonable relationship to the division of proceeds, the Commission shall issue a special permit for the joint conduct of all approved games.

- C. No bingo game shall be jointly conducted until the special permit issued pursuant to subsection B is obtained by the organizations.

(1995, c. 837.)

§ 18.2-340.30. Reports of gross receipts and disbursements required; form of reports; failure to file.

- A. Each qualified organization shall keep a complete record of 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 Commission, 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 Commission may require. In addition, the Commission, by regulation, may require any qualified organization whose 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 per this section shall be a matter of public record.
- B. All reports required by this section shall be acknowledged in the presence of a notary public and filed on or before the date prescribed by the Commission.
- C. Except as provided in § 18.2-340.23, each qualified organization shall designate an individual who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Commission shall require such reports as it deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 18.2-340.19 or have been disbursed in a manner approved by the Commission.
- D. Each qualified organization shall maintain (i) for three years a written record of the dates on which bingo games are played, the number of people in attendance on each date and the amount of the gross receipts and prizes paid on each day; (ii) a record of the name and address of each individual to whom a regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.
- E. The failure to file reports within thirty days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Commission may grant an extension of time for filing such reports for a period not to exceed forty-five days if requested by an organization, provided the organization requests an extension within fifteen days of the time such reports are due. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, and no new permit shall be required.

(1995, c. 837; 1997, cc. 777, 838; 1999, c. 360.)

§ 18.2-340.31. Audit of reports; exemption; audit and administration fee.

- A. Except as provided in § 18.2-340.23, all reports filed pursuant to § 18.2-340.30 shall be subject to audit by the Commission in accordance with Commission regulations. The Commission may engage the services of independent certified public accountants to perform any audits deemed necessary to fulfill the Commission's responsibilities under this article.
- B. The Commission shall prescribe a reasonable audit and administration fee to be paid by any organization conducting charitable gaming under a permit issued by the Commission unless the organization is exempt from such fee pursuant to § 18.2-340.23. Such fee shall not exceed one and one-half percent of the gross receipts which an organization reports pursuant to § 18.2-340.30. Beginning July 1, 1998, the audit and administration fee charged by the Commission shall not exceed one and one-quarter percent of the gross receipts which an organization reports pursuant to § 18.2-340.30. The audit and administration fee shall accompany each annual report or each three-month report if such report is required by the Commission pursuant to § 18.2-340.30.
- C. The audit and administration fee shall be payable to the Commission. All such fees received by the Commission shall be separately accounted for and shall be used only for the purposes of auditing and regulating charitable gaming.

(1995, c. 837; 1997, cc. 777, 838.)

§ 18.2-340.32. Authority of local governments; proceeds exempt from local taxation.

- A. The governing body of any county, city or town may adopt an ordinance consistent with this article and the regulations of the Commission which (i) prohibits the playing of instant bingo and (ii) establishes reasonable hours during which bingo games may be played within such jurisdiction. If the governing body of any town adopts an ordinance pursuant to the provisions of this section, such town shall not be subject to any ordinance adopted by the county within which such town lies.
- B. No governing body of any county, city or town may impose a gross receipts, entertainment, admission or any other tax based on revenues of qualified organizations derived from the conduct of charitable gaming.

(1995, c. 837; 1997, cc. 777, 838; 1998, c. 679.)

§ 18.2-340.33. Prohibited practices.

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

- 1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper

business expenses, (iii) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (iv) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. For the purposes of clause (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501 (c) (3), (7) or (10) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. No qualified organization shall enter into a contract with, or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the conduct of charitable gaming.

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

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

No lease or rental of any premises devoted to the conduct of charitable gaming shall be conditioned upon the use or purchase of any services, products, or readily portable property from any landlord or other person, unless they are included in the rent being paid for the premises. Nothing herein shall prohibit any landlord from requiring in such lease or rental of any such premises that the organization shall provide certain services, products, or readily portable property related to the lease or rental of such premises.

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

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

5. No person shall participate in the management, operation or conduct of any charitable game unless such person is and, for a period of at least thirty days immediately preceding such participation, has been a bona fide member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii)

employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) 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 thirty dollars per event for providing clerical assistance in the conduct of charitable games only for such organizations;
 - b. Persons under the age of nineteen 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; and
 - 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 Commission regulations.
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. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment, and each service to be provided by the landlord.

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 \$25;

- b. No regular bingo or special bingo game prize shall exceed \$100;
- c. No instant bingo prize for a single card shall exceed \$500; 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 calendar day exceed \$1,000.

The provisions of this subdivision shall not apply to any bingo game 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 there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

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

The provisions of this subdivision shall not apply to (i) a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501 (c) (3) 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) (3) tax-exempt organization or (ii) pull tabs or seal cards when played as permitted in § 18.2-340.26, which prize award for a single card shall not exceed \$500.

- 11. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in 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.
- 12. No person shall participate in the management, operation or conduct of any charitable game if, within the preceding five years, he has been convicted of a felony or crime of moral turpitude. 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 was found by the Commission or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Commission regulation.
- 13. 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.
- 14. A qualified organization shall not purchase any charitable gaming supplies for use in this Commonwealth from any person who is not currently registered with the Commission as a supplier pursuant to § 18.2-340.34.
- 15. 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.

(1995, c. 837; 1996, c. 919; 1997, cc. 777, 838; 1998, cc. 57, 398; 1999, c. 534; 2000, c.1000; 2001, c. 754.)

§ 18.2-340.34. Suppliers of charitable gaming supplies; registration; qualification; suspension, revocation or refusal to renew certificate; maintenance, production, and release of records.

- A. No person shall offer to sell, sell or otherwise provide charitable gaming supplies to any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Commission. An application for registration shall be made on forms prescribed by the Commission and shall be accompanied by a fee in the amount of \$500. 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 \$500 and shall be made on forms prescribed by the Commission.
- B. The Commission shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the registration of suppliers. The Commission may refuse to register any supplier who has, or which has any officer, director, partner, or owner who has (i) 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; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) 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 (iv) 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 Commission may suspend, revoke or refuse to renew the registration certificate of any supplier for any conduct described in subsection B or for any violation of this article or regulation of the Commission. Before taking any such action, the Commission shall give the supplier 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 (§ 9-6.14:1 et seq.).
- D. Each supplier shall document each sale of charitable gaming supplies and other items incidental to the conduct of charitable gaming, such as markers, wands or tape, to a qualified organization on an invoice which clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the quantity of deals sold and the price per deal paid by the qualified organization; (iv) the serial number of the top sheet in each packet of bingo paper, the serial number for each series of uncollated bingo paper, and the cut, color and quantity of bingo paper sold; and (v) any other information with respect to charitable gaming supplies or other items incidental to the conduct of charitable gaming as the Commission may prescribe by regulation. A legible copy of the invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.
- E. Each supplier shall maintain a legible copy of each invoice required by subsection D for a period of three years from the date of sale. Each supplier shall make such documents immediately available for inspection and copying to any agent or employee of the Commission upon request made during normal business hours. This subsection shall not

limit the right of the Commission to require the production of any other documents in the possession of the supplier which relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished to the Commission in accordance with this subsection shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.1-340 et seq.).

(1995, c. 837; 1996, c. 919; 1997, cc. 777, 838; 1999, c. 534.)

§ 18.2-340.35. Assistance from Department of State Police.

The Department of the State Police, upon request of the Commission, shall assist in the conduct of investigations by the Commission.

(1995, c. 837.)

§ 18.2-340.36. Suspension of permit.

- 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 Commission, 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 Commission or its designated hearing officer within ten 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 Commission or a court of competent jurisdiction.

(1995, c. 837.)

§ 18.2-340.37. Criminal penalties.

- A. Any person who violates the provisions of this article or who willfully and knowingly files, or causes to be filed, a false application, report or other document or who willfully and knowingly makes a false statement, or causes a false statement to be made, on any application, report or other document required to be filed with or made to the Commission shall be guilty of a Class 1 misdemeanor.
- B. Each day in violation shall constitute a separate offense.

(1995, c. 837; 1996, c. 919.)

§ 18.2-340.38. Transitional provisions.

- A. In order to implement the statewide regulation of charitable gaming expeditiously, rules and regulations shall be adopted by the Commission but shall not be subject to the Administrative Process Act (§ 9-6.14:1 et seq.) during the first twenty-four-month period following the earliest effective date of any portion of this article. Thereafter, all rules and regulations shall fully comply with the provisions of the Administrative Process Act.
- B. The Commission may issue temporary licenses upon conditions as it deems necessary, subject however to all limitations set forth in this article, for a term which shall not extend beyond one year after the latest effective date of any portion of this article.

(1995, c. 837; 1996, c. 919.)

APPENDIX 3 – Charitable Gaming Rules and Regulations

Chapter 22

CHARITABLE GAMING RULES AND REGULATIONS

Effective Date: January 1, 1998

Part I

DEFINITIONS

11 VAC 15-22-10. Definitions. In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Address of record” means an address provided to the commission on a permit application or exempt notification form or the most recent address on the commission’s files.

“Board of directors” means the board of directors, managing committee or other supervisory body of a qualified organization.

“Building” means a structure enclosed by continuous exterior walls regardless of the configuration of the interior walls.

“Bundled pull-tabs” means certain pull-tabs, commonly referred to as “jar tickets,” “guppies,” etc., which are taped or stapled together and sold as one unit.

“Calendar day” means the period of 24 consecutive hours commencing at 12:01 a.m. and concluding at midnight.

“Calendar week” means the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at midnight the following Saturday.

“Cash” means United States currency or coinage.

“CGC number” means a unique identification number issued by the commission.

“Commission” means the Virginia Charitable Gaming Commission.

“Concealed face bingo card” means a non-reusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as “Tear-open,” “Bonanza Bingo,” “Bullseye” and “Fortune Cards.”

“Daubing” means covering a square containing a number called with indelible ink or otherwise concealing the number on a card or an electronic facsimile of a card.

“Deal” means each separate package or series of packages consisting of one game of instant bingo, pull-tab raffle or seal cards with the same serial number.

“Designator” means an object used in the number selection process, such as a ping pong ball, upon which bingo letters and numbers are imprinted.

“Discount” means any reduction in cost of admission or game packs via use of coupons, free packs or other similar methods.

“Disinterested player” means a player who is unbiased.

“Disposable paper card” means a nonreusable, paper bingo card manufactured with pre-printed numbers.

“Door prize” means any prize awarded by the random drawing or random selection of a name or number taken from any entry or admission ticket.

“Electronic bingo device” means an electronic device which displays facsimiles of bingo cards and allows a player to daub such cards.

“Electronic verification” means the verification of bingo by entering the free space number of the winning bingo card into computer equipment which contains pre-programmed software for this purpose.

“Equipment and video systems” includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, TV monitors, cameras, smoke eaters, P.A. systems, tables and chairs, electronic verifiers and replacement parts for such equipment.

“Fiscal year” or “annual reporting period” means the twelve month period beginning October 1st of any given year and ending September 30th of the following year.

“501(c) organization” means any organization that is tax exempt under 26 USC § 501(c) (3), (4), (8), (10) or (19).

“Flare” means a piece of paper, cardboard or similar material which bears printed information relating to the name of the manufacturer or logo, name of the game, card count, cost per play, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, pull-tab or seal cards.

“Free space number,” “perm number,” “center number,” “card number” or “face number” means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.

“Game program” means a written list of all games to be played and prize amounts to be paid during a session for each game, where prize amounts are fixed or are based on attendance.

“Immediate family” means one’s spouse, mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law, father-in-law or stepchild.

“Interested parties” means the president, an officer or bingo manager of any qualified organization which is exempt or is a permit applicant or holds a permit or exempt authorization to conduct charitable gaming or the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

“Management” means the provision of oversight and supervision.

“Manufacturer” means a person who assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. “Manufacturer” also means a person who modifies, converts, adds or removes parts to or from bingo or other charitable gaming equipment or supplies to further their promotion or sale for the conduct of charitable gaming.

“Operating costs” means charitable gaming fund disbursements for reasonable and proper expenses incurred in the conduct of charitable gaming including, but not limited to, costs of publicizing the time, date and location of charitable gaming; utilities; rent; prizes; professional fees; audit and administration or permit fees; and gaming supplies.

“Operation” or “conduct” means the authority for check writing, approval of expenses of charitable gaming funds, purchase of charitable gaming supplies, negotiation of contracts or leases, or services as a volunteer worker or assistant.

“Owner” means any individual with financial interest of 10% or more in a supplier.

“Packet” means sheets of bingo paper assembled in the order of games to be played. This may or may not include specials, winner-take-alls and jackpots.

“Person” means an individual, corporation, partnership, association, governmental body, municipal corporation or other legal entity.

“Prize” means cash, merchandise, certificate or other item of value awarded to a winning player.

“Progressive seal card game” means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

“Pull-tabs” means individually prepackaged cards made completely of paper or paper products with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses.

“Random selection” or “randomly selected” means a process of selecting number designators to produce random numbers during a bingo game in which each designator or number in the remaining population has an equal chance or probability of being selected.

“Remuneration” means payment in cash or the provision of anything of value for goods provided or services rendered.

“Seal card” means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

“Selection device” means a device that is operated manually or mechanically to randomly select bingo numbers.

“Serial number” means a unique number printed by the manufacturer on each bingo card in a set or each instant bingo or pull-tab card in a deal.

“Series number” means the number of unique card faces contained in a set of disposable bingo paper cards or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

“Session” means a period of time during which one or more bingo games are conducted by a single qualified organization, or when approval for joint operation is obtained, by two or more qualified organizations that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.

“Set” means the bingo cards contained within each series number.

“Special permit” means a permit granted to a qualified organization to allow the organization to conduct more frequent operation of bingo games during carnivals, fairs or other similar public amusement events of limited duration.

“Use of proceeds” means the use of funds derived by an organization from its charitable gaming activities which are disbursed for those lawful religious, charitable, community or educational purposes. This includes expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

Part II PERMITS, EXEMPT NOTIFICATIONS, REGISTRATION CERTIFICATES

11 VAC 15-22-20. Eligibility for permit; when valid; permit requirements.

- A. The conduct of charitable gaming is a privilege which may be granted or denied by the commission. Except as provided in § 18.2-340.23 of the Code of Virginia, every eligible organization and volunteer fire department and rescue squad with anticipated gross gaming receipts of \$25,000 or more annually shall obtain a permit or exempt authorization number from the commission prior to the commencement of authorized charitable gaming activities.
- B. Upon the organization’s request and pursuant to § 18.2-340.24 (B) of the Code of Virginia, the commission shall review a tax exempt request submitted to the IRS for a tax exempt status determination. A non-refundable fee of \$250 shall be charged for this review.
- C. A permit or exempt authorization shall be valid only for activities, locations, days, dates and times as listed on the permit or exempt authorization.

- D. In accordance with § 18.2-340.19 (1) of the Code of Virginia, as a condition of receiving a permit or exempt authorization, the following minimum percentage of charitable gaming gross receipts shall be used 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:

For the fiscal year beginning October 1, 1997:

For organizations with annual gross receipts less than \$150,000	4%
For organizations with annual gross receipts between \$150,000 and \$500,000	6%
For organizations with annual gross receipts over \$500,000	9%

For the fiscal year beginning October 1, 1998, and later fiscal years:

For organizations with annual gross receipts less than \$150,000	5%
For organizations with annual gross receipts between \$150,000 and \$500,000	10%
For organizations with annual gross receipts over \$500,000	12%

Unless an organization has derived no gross receipts in the prior fiscal year, the gross receipts of the most recently completed fiscal year shall be used to determine the applicable percentage for the use of proceeds requirement. An organization with no prior charitable gaming activity shall be subject to a 5.0% minimum use of proceeds requirement.

- E. If an organization fails to meet its minimum use of proceeds requirement, its permit shall be suspended or revoked based on the deficiency in use of proceeds of according to the following schedule:

<u>Deficiency</u>	<u>First Failure</u>	<u>Second Failure</u>
Less than 2.0%	10 days	20 days
2.0-5.0%	20 days	40 days
Over 5.0%	30 days	60 days

If an organization fails to meet the minimum use of proceeds requirement three times, its permit shall be revoked.

- F. Notwithstanding the provisions of subsection E of this section, if an organization is within less than one percentage point of the minimum use of proceeds requirement for a given fiscal year, it may request a one-time approval to make up the deficiency (in dollars) in the following fiscal year. If such approval is granted, the deficiency will be added to the percentage requirement for the following year and the permit shall not be suspended.

Failure to meet the required percentage in the year following such approval shall result in a 30 day suspension.

- G. An organization whose permit is revoked for failure to comply with provisions set forth in subsection D of this section shall be eligible to reapply for a permit at the end of one year from the date of revocation. The Commission, at its discretion, may issue the permit if it is satisfied that the organization has made substantial changes to its management, operations or both.

11 VAC 15-22-30. Permit application and exempt notification process.

- A. Organizations anticipating gross gaming receipts of \$25,000 or more (except volunteer fire departments and rescue squads) shall complete a commission-prescribed application to request issuance or renewal of an annual permit to conduct charitable gaming. The application shall be accompanied by a non-refundable fee payable to the Treasurer of Virginia in the amount of \$200.

The commission may also issue permits for periods of less than one year. Fees for such permits shall be prorated and rounded off to the nearest \$50 per quarter.

- B. Volunteer fire departments and rescue squads anticipating gross receipts of \$25,000 or more shall file a commission-prescribed exempt notification form to request an authorization to conduct charitable gaming.
- C. The commission may initiate action against any organization exempt from permit requirements when it reasonably believes the organization is not in compliance with the provisions of charitable gaming laws or applicable regulations of the commission or both. The commission may decline to issue an exempt notification number to volunteer fire departments and rescue squads failing to meet the requirements of § 18.2-340.23 of the Code of Virginia.
- D. Permit holders requiring a Special Permit shall convey their request in the form of a letter to the commission. There shall be a \$50 fee for special permits.
- E. Permits and exempt authorizations shall be valid for a period of one year from the date of issuance or for the period specified on the permit or authorization.
- F. Permits shall be granted only after a background investigation of an organization or interested parties, or both, to ensure public safety and welfare as required by § 18.2-340.25 of the Code of Virginia. Investigations shall consider the nature, the age and severity and the potential harm to public safety and welfare of any criminal offense(s). The investigation may include, but shall not be limited to, the following:
 - 1. A search of Virginia criminal history records for all officers of the organization and members who serve as game managers. Information and authorization to conduct these records checks shall be provided in the permit application. Applications may be denied if any game manager or officer has been convicted within 10 years preceding the date of application for any:
 - a. Felony involving fraud, theft or financial crimes; or
 - b. Misdemeanor crimes involving moral turpitude.

In addition, any felony conviction involving fraud, theft or financial crimes, regardless of age, may result in denial of application.
 - 2. An inquiry as to whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the previous three years;
 - 3. An inquiry as to whether the organization has entered into any contract with, or has otherwise employed for compensation, any persons for the purpose of organizing or managing, operating or conducting any charitable gaming activity;
 - 4. Inquiries into the finances and activities of an organization and the sources and uses of funds; and
 - 5. Inquiries into the level of community or financial support to the organization and the level of community involvement in the membership and management of the organization.
- G. The permit application shall include:
 - 1. A list of members participating in the conduct of charitable gaming;
 - 2. A copy of the Articles of Incorporation, By-Laws, Charter, Constitution or other appropriate organizing document;
 - 3. A copy of the determination letter issued by the IRS under Section 501(c) of the Internal Revenue Code, if appropriate, or a letter from the national office of an organization indicating the applicant organization is in good standing and is currently covered by a group exemption ruling;
 - 4. A copy of the organization's most recent annual financial statement and balance sheet;
 - 5. A copy of the written lease or proposed written lease agreement and all other agreements if the organization rents or intends to rent a facility where bingo is or will be conducted. Information on the lease shall include

name, address, phone number of the landlord, square footage and maximum occupancy of the building, and the rental amount by each category of equipment or property rented; and

6. An authorization by an officer or other appropriate official of an organization to permit the commission to determine whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the previous three years.
- H. Copies of minutes of meetings of an organization and any contracts with landlords or suppliers to which the organization is, or may be a party, may be requested by the commission prior to rendering a permitting decision.
- I. Copies of amendments to an organization's Articles of Incorporation, By-Laws, Charter, Constitution or other organizing document, as they occur, shall be submitted to the commission.
- J. Organizations applying to renew a permit previously issued by the commission shall submit Articles of Incorporation, By-Laws, Charter, Constitution or other organizing document and IRS determination letter only if there are any amendments or changes to these documents. The most recent financial statements, information on officers and an IRS tax waiver form shall also be filed with a renewal application.
- K. Organizations may request permits to conduct joint bingo games as provided in § 18.2-340.29 of the Code of Virginia and special permits as provided in § 18.2-340.27 of the Code of Virginia:
 1. In the case of a joint game between a volunteer fire department or rescue squad and an organization not exempt from permit requirements, both shall file the exempt notification form and permit application respectively. Benefits extended by regulation or the Code of Virginia to a volunteer fire department or rescue squad shall not extend to a non-exempt organization solely due to operation of a joint game.
 2. The non-refundable permit fee for joint games shall be a total of \$200.
 3. A single permit shall be issued in the names of both organizations conducting a joint game. All restrictions and prohibitions applying to single organizations shall apply to qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 of the Code of Virginia.
 4. No charitable gaming shall be conducted prior to the issuance of a joint permit or joint exemption number.
 5. Applications for joint games shall include an explanation of the division of manpower, costs and proceeds for the joint game.
- L. An organization wishing to permanently change dates, times or locations of its charitable gaming shall request a change in the permit.
- M. No more than six temporary changes in dates or times due to inclement weather, special events or holidays may be made in a permit year without a permanent change in the permit.
- N. Change requests shall be made in writing at least 30 days in advance of the proposed effective date.
- O. A non-refundable fee of \$50, payable to the Treasurer of Virginia, shall be submitted with a request for a permanent permit change. The fee shall not be charged for temporary changes as described in subsection M or to changes in permits due to an addition or removal of a charitable gaming activity.
- P. An organization located in the Northern Virginia Planning District may sell raffle tickets for a drawing to be held in another state in the United States provided:
 1. The raffle is conducted by the organization in conjunction with a meeting outside the Commonwealth of Virginia or with another organization which is licensed to conduct raffles outside the Commonwealth of Virginia;
 2. The raffle is conducted in accordance with the laws of the state where the drawing is to be held; and

2. The portion of the proceeds derived from the sale of raffle tickets in the Commonwealth is reported to the commission.

Part III

CONDUCT OF GAMES, RULES OF PLAY, ELECTRONIC BINGO

11 VAC 15-22-40. Conduct of bingo, instant bingo and raffles.

- A. Organizations subject to this chapter shall post their permit or exempt authorization at all times on the premises where charitable gaming is conducted.
- B. No individual shall provide any information or engage in any conduct that alters or is intended to alter the outcome of any charitable game.
- C. Individuals under 18 years of age may play bingo provided such persons are accompanied by a parent or legal guardian. It shall be the responsibility of the organization to ensure that such individuals are eligible to play. An organization's house rules may limit the play of bingo by minors.
- D. Individuals under the age of eighteen may sell raffle tickets for a qualified organization raising funds for activities in which they are active participants.
- E. No individual under the age of 11 may participate in the management, operation or conduct of bingo games. Individuals 11 through 17 years of age may participate in the conduct or operation of a bingo game provided the organization permitted for charitable gaming obtains and keeps on file written parental consent from the parent or legal guardian and verifies the date of birth of such youth. An organization's house rules may limit the involvement of minors in the operation or conduct of bingo games.
- F. Family members and surviving spouses of deceased bona fide members may participate as volunteer game workers.
- G. All volunteer workers, including non-member spouses, shall have in their possession a picture identification, such as a driver's license, while participating in the management, operation or conduct of a bingo game.
- H. There shall be a game manager or person in charge present any time a bingo game is conducted.
- I. Organizations shall ensure that all charitable gaming equipment is in working order before charitable gaming activities commence.
- J. Any organization selling instant bingo, pull-tab raffles or seal cards shall:
 1. Maintain a supplier's invoice or a legible copy thereof at the location where the gaming is taking place and cards are sold. The original invoice or legible copy shall be stored in the same storage space as the supply of pull-tab, instant bingo or seal cards; and
 2. Pay for instant bingo, pull-tab or seal card supplies only by a check drawn on the charitable gaming account of the organization.
- K. A volunteer working a bingo session may receive complimentary food and non-alcoholic beverages for consumption on premises, provided the retail value of such food and beverages does not exceed \$8.00 for each session.
- L. Individuals employed by an organization to work in the private social quarters open only to members and guests may sell seal cards or pull-tab cards provided they are members who are not directly compensated for the sale of these products.
- M. Individuals who are not members of an organization or are members who do not participate in any charitable gaming activities may be paid reasonable fees for preparation of financial reports.

- N. Except for individuals identified in subsections K and M above and individuals allowed by law to be compensated for providing assistance to organizations for the deaf and blind, no free packs, free electronic bingo devices, discounts or remuneration in any other form shall be provided directly or indirectly to volunteers, members of their family or individuals residing in their household. The reduction of tuition, dues or any fees or payments due as a result of a member or shareholder, or anyone in their household, working bingo games or raffles is prohibited.
- O. Individuals providing security for an organization's charitable gaming activity shall not participate in the charitable gaming activity as a player and shall not be compensated with charitable gaming supplies or with rentals of electronic bingo devices.
- P. No organization shall award any prize money or any merchandise valued in excess of the following amounts:
1. No bingo door prize shall exceed \$25.
 3. No regular bingo or special bingo game prize shall exceed \$100.
 3. No instant bingo prize for a single card shall exceed \$500.
 4. No bingo jackpot of any nature whatsoever shall exceed \$1,000 nor shall the total amount of bingo jackpot prizes awarded in any one calendar day exceed \$1,000.
 5. No pull-tab card shall have a prize exceeding \$500.

The provisions of this subsection shall not apply to any bingo game 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 there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner-take-all" games.

- Q. Multiple bingo sessions shall be permitted in a single premises as long as the sessions are distinct from one another and are not used to advertise or do not result in the awarding of more in prizes than is permitted for a single qualified organization. All leases for organizations to conduct charitable gaming in a single premises shall be for sessions separated by an interval of at least one hour during which no sales shall take place.
- R. Separate sessions at the same location shall require separate admission fees.
- S. All bingo and instant bingo sales must occur within the time specified on the charitable gaming permit. In addition, instant bingo sales may occur as provided in subsection T below provided no such sales take place in the required one hour break between sessions.
- T. Instant bingo cards shall only be sold in conjunction with a regular bingo session. No instant bingo sales shall take place more than two hours before or after a session. If multiple sessions are held at the same location, no sales shall be conducted during the required one hour break between sessions. The commission may take action if it believes that a regular bingo session is not legitimate or is being conducted in a manner such that instant bingo cards are not being sold in conjunction with a normal, regular bingo session.
- U. Only bona fide volunteers of qualified organizations may rent, exchange or otherwise provide electronic bingo devices to players.
- V. A qualified organization shall conduct only bingo games listed on a game program for that session. The program shall list all games and prize amounts. If the prize amounts are determined by attendance or at the end of a game, the game program shall list the attendance required for the prize amount or disclose that prizes shall be determined at the end of a game.
- W. A qualified organization selling instant bingo or pull-tab cards shall post a flare provided by the manufacturer at the location where such cards are sold.
- X. Only qualified organizations shall advertise a bingo game. Providing players with information about bingo games through printed advertising is permitted, provided the name of the qualified organization shall be in a type size

equal to or larger than the name of the premises, hall or the word "bingo". Printed advertisements shall identify the use of proceeds percentage reported in the past quarter or fiscal year.

- Y. Raffles which award prizes based on a percentage of gross receipts shall use prenumbered tickets.
- Z. The following rules shall apply to pull-tab dispensing devices:
 - 1. A dispenser shall only be used at a location owned or leased by a qualified organization which holds a permit to conduct charitable gaming at that location. Only cards purchased by an organization to be used during the organization's charitable gaming activity shall be in the dispenser.
 - 2. Keys to the dispensing area and coin/cash box shall be in the possession and control of the game manager or designee of the organization's board of directors at all times. Keys shall at all times be available at the location where the dispensing device is being used.
 - 3. The game manager or designee shall provide keys to a commission representative for inspection upon request.
 - 4. Only a volunteer game worker of an organization may stock the device, remove cash or pay winners' prizes.

11 VAC 15-22-50. Rules of play.

- A. An organization may adopt "House Rules" regarding conduct of the game, provided such rules are consistent with the provisions of the law and these regulations. "House Rules" shall be conspicuously posted or, at an organization's option, printed on the game program.
- B. All players shall be physically present at the location where the balls for a bingo game are drawn to play the game or to claim a prize. Seal card prizes that can only be determined after a seal is removed or opened must be claimed within 30 days of the close of a deal. All other prizes must be claimed on the game date.
- C. The following rules of play shall govern the sale of instant bingo and pull-tab cards:
 - 1. Cards shall not be sold to the public from the original packing box or container. Cards from the original packing box or container shall be mixed thoroughly before being sold by volunteers, dispensing machines or from other containers.
 - 2. No cards which have been marked, defaced, altered, tampered with or otherwise constructed in a manner which tends to deceive the public or affect the chances of winning or losing shall be placed into play.
 - 3. Winning cards shall have the winning symbol or number defaced or punched immediately after redemption by the organization's authorized representative.
 - 4. An organization may commingle unsold cards with no more than one additional deal. The practice of commingling deals shall be disclosed to the public via house rules or in a similar manner.
 - 5. If a deal is not played to completion and unsold cards remain, the remaining cards shall be sold on the next date the same type of ticket is scheduled to be sold. If no future date is anticipated, the organization shall, after making diligent efforts to sell the entire deal, consider the deal closed or completed. The unsold cards shall be retained in accordance with 11 VAC 15-22-70 .
 - 6. All seal card games purchased shall contain the sign-up sheet, seals and the cards packaged together in each deal.
 - 7. Progressive seal card prizes not claimed within 30 days shall be carried forward to the next progressive game in progress and paid to the next progressive game prize winner.
- D. Volunteers may play bingo at any session they have worked provided such individuals do not return to working a game after having played. Volunteers may not purchase directly or through others instant bingo, pull-tab or seal card products from organizations they assist on the day they have volunteered or from any deal they have helped sell, whichever is later.

E. Electronic Bingo

1. Electronic bingo devices may be used by bingo players in the following manner:
 - a. Players must input into the device each number called.
 - b. Players must notify the game operator or caller of a winning pattern of bingo by a means other than use of the electronic device.
 - c. Players are limited to playing a maximum of 72 (seventy-two) cardfaces per game on each device.
 - d. Electronic bingo devices shall not be reserved for players. Each player shall have an equal opportunity to use the available devices on a first come, first served basis.
 - e. Each player using an electronic bingo device shall possess a printed representation of all faces played or to be played by the device or a receipt with the organization name, date, time, number of cards played and device identification number. Images of cards or faces stored in an electronic device must be exact duplicates of the printed faces if faces are printed.
 - f. Commission's representative(s) may examine and inspect any electronic bingo device and related system. Such examination and inspection shall include immediate access to the device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing.
 - g. All electronic bingo devices must be programmed or enabled for play on the premises where the game will be played.
 - h. All electronic bingo devices shall be rented or otherwise provided to a player only by an organization and no part of the proceeds of the rental of such devices shall be paid to a landlord, his employee, agent or member of his immediate family.
 - i. If a player's call of a bingo is disputed by another player or if a commission representative makes a request, one or more cards stored on an electronic bingo device shall be printed by the organization.
2. Players may exchange a defective electronic bingo device for another device provided a disinterested player verifies that the device is not functioning. A disinterested player shall also verify that no numbers called for the game in progress have been keyed into the replacement device prior to the exchange.

F. The following rules of play shall govern the conduct of raffles:

1. Before a prize drawing, each stub or other detachable section of each ticket sold shall be placed into a receptacle from which the winning tickets shall be drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance to be drawn.
2. All prizes shall be valued at fair market value.

Part IV

BANK ACCOUNTS, RECORDKEEPING,
FINANCIAL REPORTING, AUDITS, FEES

11 VAC 15-22-60. Bank accounts.

- A. Qualified organizations shall maintain a separate bank account for charitable gaming receipts.
- B. Disbursements for expenses other than prizes and reimbursement of meal expenses shall be made by check directly from a charitable gaming account or by check from a general fund account of the organization if charitable gaming funds are transferred to such an account.
- C. Monthly bank statements and reconciliations shall be maintained for three years following the close of a fiscal year (September 30th).
- D. All receipts from each session of bingo games and instant bingo shall be deposited by the second business day following the session at which they were received.
- E. Pull-tab and raffle proceeds shall be deposited at least once every calendar week.

11 VAC 15-22-70. Recordkeeping.

- A. In addition to the records required by § 18.2-340.30 (D) of the Code of Virginia, qualified organizations conducting bingo shall maintain a system of records that documents and identifies:
1. Charitable gaming supplies purchased;
 2. Charitable gaming supplies used;
 3. Discounts provided;
 4. Daily bingo reconciliation and instant bingo reconciliation;
 5. Number of electronic bingo devices rented, unique serial numbers of such devices, number of faces sold by each unit and a summary report for each session to include date, time, location and detailed information on income and expenses;
 6. Unused charitable gaming supplies that were destroyed. Destruction must be witnessed by two officers of the organization who shall sign and date the itemized list if the retail face value of supplies destroyed exceeds \$1,000 in a fiscal year;
 7. All operating expenses including rent, advertising and security. Copies of invoices for all such expenses shall be maintained;
 8. Expected and actual receipts from games played on hard cards and number of games played on hard cards; and
 9. Each winner for all seal cards, pull-tabs and instant bingo prizes of \$250 and over.
- B. Qualified organizations conducting raffles shall have a recordkeeping system to account for cash receipts, cash disbursements and raffle tickets purchased or sold and prizes awarded. All records shall be maintained for three years from the close of the fiscal year. The recordkeeping system shall include:
1. Invoices for the purchase of pull-tab raffle cards which shall reflect the following information:
 - a. Name and address of supplier;
 - b. Name of purchaser;
 - c. Date of purchase;
 - d. Invoice price for each deal;
 - e. Form number and name of card;
 - f. Serial numbers;
 - g. Quantity purchased; and
Sales price of cards.
 2. A record of cash receipts from raffle ticket sales (other than pull-tabs) by tracking the total number of tickets available for sale, the number issued to sellers, the number returned, the number sold and reconciliation of all raffle sales to receipts;
 3. Serial numbers of door prize tickets for raffle sales initiated and concluded at a bingo game or sequentially numbered tickets which shall state the name, address and telephone number of the organization, the prize or prizes to be awarded, the date of the prize drawing or selection, the selling price of the raffle ticket and the charitable gaming permit or exempt authorization number;
 4. Receipts for all raffle prizes valued at \$500 or more on which prize winners must provide printed name, residence address and the amount and description of the prize received; and
 5. Deposit records of the required weekly deposits of pull-tab raffle receipts.
- C. All raffle tickets (except for pull-tab raffles) shall state the name and address of the organization, the prize or prizes to be awarded, the date of the prize drawing, the selling price of the ticket and the charitable gaming permit or

exemption number. All such tickets shall be sequentially numbered. Winning tickets for prizes of \$500 and over and unsold tickets shall be maintained for three years from the close of the fiscal year.

- D. Organizations shall maintain a complete set of records for each deal of pull-tab cards sold and a reconciliation of cash to determine gross receipts and prizes paid. The reconciliation must be performed at the close of each deal unless all pull-tabs are sold for the same price. In this event, a reconciliation shall be performed at least once every week.
- E. Each organization shall prepare and maintain the following records for each session:
 - 1. A session reconciliation form and an instant bingo reconciliation form completed and signed within 48 hours of the end of the session by the bingo manager;
 - 2. An admissions control system that provides a cross-check on the number of players in attendance and admission sales. This may include a ticket control system, cash register or any similar system;
 - 3. A reconciliation to account for cash received from floor workers for the sale of extra bingo sheets for any game; and
 - 4. A record of all discounts exceeding two dollars per person given to customers may be required from organizations whose discounts for the previous fiscal year exceeded 1% of that fiscal year's gross receipts.
- F. Organizations may value winner-take-all sheets sold in game packs at a different price from the sale price of such sheets on the floor provided players are notified as to the value attached to sheets in the packs via the house rules.

11 VAC 15-22-80. Financial reporting, penalties, inspections and audits.

- A. Each charitable gaming permit holder shall file an annual report of receipts and disbursements by December 15 of each year on a form prescribed by the commission. The annual report shall cover the activity for the fiscal year. Volunteer fire departments and rescue squads shall file a commission-prescribed resolution of their board of directors by December 15 each year, in lieu of the financial report.
- B. The annual report shall be accompanied by the audit and administration fee as established by the commission for the fiscal year unless the fee has been remitted with quarterly reports.
- C. An organization desiring an extension to file annual reports for good cause shall pay the projected audit and administration fee by December 15 and request the extension in writing.
- D. Qualified organizations realizing gross receipts in excess of \$50,000 in any calendar quarter shall file, in addition to its annual report, a quarterly report of receipts and disbursements on a form prescribed by the commission as follows:

<u>Quarter Ending</u>	<u>Date Due</u>
December 31	March 1
March 31	June 1
June 30	September 1
September 30	December 1

Quarterly reports shall be accompanied by the appropriate audit and administration fee. An annual financial report may not substitute for a quarterly report.

- E. Organizations failing to file required reports, request an extension or make fee payments when due shall be charged a penalty of \$25 per day from the due date up to a maximum of \$750.
- F. Any other qualified organization in possession of funds derived from charitable gaming (including those who have ceased operations) as of September 30 of any year, regardless of when such funds may have been received or whether it has a valid permit from the commission shall file an annual financial report on or before December 15 of each year until such funds are depleted. If an organization ceases the conduct of charitable gaming, it shall provide the commission with the name of an individual who shall be responsible for filing financial reports. If no

such information is provided, the president of an organization shall be responsible for filing reports until all charitable gaming proceeds are depleted.

- G. If an organization has been identified through inspection, audit or other means as having deficiencies in complying with statutory or regulatory requirements or having ineffective internal controls, the commission may impose restrictions or additional record keeping and financial reporting requirements.
- H. The commission, at its option, may impose a penalty on any organization which fails to comply with provisions of the law or these regulations.
- I. Any records deemed necessary to complete an inspection, audit or investigation may be removed by the commission, its employees or agents from the premises of an organization or any location where charitable gaming is conducted. The commission shall provide a written receipt of such records at the time of removal.

11 VAC 15-22-90. Use of proceeds.

- A. All payments by an organization intended as use of proceeds must be made by check written from the organization's charitable gaming account or the organization's general fund account; and
- B. Use of proceeds payments may be made for scholarship funds or the future acquisition, construction, remodeling or improvement of real property or the acquisition of other equipment or vehicles to be used for religious, charitable, educational or community purposes. In addition, an organization may obtain commission approval to establish a special fund account or an irrevocable trust fund for special circumstances. Transfers to such an account or an irrevocable trust fund may be included as a use of proceeds if the commission-approved payment is authorized by an organization's board of directors.

No payments made to such a special fund account shall be withdrawn for other than the specified purpose unless prior notification is made to the commission.

- C. Expenditures of charitable gaming funds for social or recreational activities or for events, activities or programs which are open primarily to an organization's members and their families shall not qualify as use of proceeds unless substantial benefit to the community is demonstrated.
- D. Payments made to or on behalf of indigent or sick or deceased members or their immediate families shall be allowed as use of proceeds up to 1.0% of an organization's prior year gross receipts provided they are approved by the board of directors and the need is documented. Organizations may obtain prior commission approval to exceed the 1.0% limit in special cases.
- E. Payments made directly for the benefit of an individual member, member of his family or person residing in his household shall not be allowed as a use of proceeds unless authorized by law or elsewhere in this chapter.
- F. Use of proceeds payments by an organization shall not be made for any activity which is not permitted by federal, state or local laws or for any activity which attempts to influence or finance directly or indirectly political parties or committees or the election or re-election of any person who is or has been a candidate for public office.
- G. Organizations shall provide details of use of proceeds with the annual financial report.
- H. The commission or its employees may disallow a use of proceeds payment to be counted against the minimum percentage referred to in 11 VAC 15-22-20 (D).

If any payment claimed as use of proceeds is subsequently disallowed, an organization may be allowed additional time as specified by the commission to meet minimum use of proceeds requirements.

Part V

RENT

11 VAC 15-22-100. Requirements regarding renting premises, agreements and landlord participation.

- A. No organization shall rent or use any leased premises to conduct charitable gaming unless all terms for rental or use are set forth in a written agreement and signed by the parties thereto prior to the issuance of a permit to conduct charitable gaming.
- B. Organizations shall not make payments to a landlord except by check drawn on the organization's general fund or charitable gaming account.
- C. No landlord, his agent or employee, member of his immediate family or person residing in his household shall make directly or indirectly a loan to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of an organization in Virginia which leases its charitable gaming facility from the landlord.
- D. No landlord, his agent or employee, a member of his immediate family or person residing in his household shall make any direct or indirect payment to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming conducted at a facility rented from the landlord in Virginia unless the payment is authorized by the lease agreement and is in accordance with the law.
- E. No landlord, his agent or employee, person residing in the same household or member of his immediate family shall, at charitable games conducted on the landlord's premises:
 1. Participate in the management, operation or conduct of any charitable games;
 2. Sell, lease or otherwise provide any bingo supplies including, but not limited to, bingo cards, pull-tab cards, markers or other game pieces; or
 3. Require as a condition of the lease or contract that a particular manufacturer, distributor or supplier of bingo supplies be used by the organization.

"Bingo supplies" as used in these regulations shall not include glue and tape sold from concession stands or from a location physically separated from the location where bingo supplies are normally sold.
- F. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment and each service to be provided by the landlord.
- G. No member of an organization involved in the management, operation or conduct of charitable gaming shall provide any services to a landlord or be remunerated in any manner by the landlord of the facility where an organization is conducting its charitable gaming.

Part VI

FACT FINDING CONFERENCES AND HEARINGS

11 VAC 15-22-110. Procedural rules for the conduct of fact finding conferences and hearings.

- A. Fact finding conference; notification, appearance, conduct.
 1. Unless automatic revocation or immediate suspension is required by law, no authorization or permit to conduct charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for a fact finding conference, as set forth in § 9-6.14:11 of the Administrative Process Act.
 2. If a basis exists for a refusal to renew a suspension or a revocation of a permit or authorization, the commission shall notify, by certified mail or by hand delivery, the interested parties at the address of record maintained by the commission.

3. Notification shall include the basis for the proposed action and afford interested parties the opportunity to present written and oral information to the commission which may have a bearing on the proposed action at a fact finding conference. If there is no withdrawal, a fact finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the Commission at least 14 days before the scheduled conference.
4. If, after consideration of evidence presented during an informal fact finding conference, a basis for action still exists, the interested parties shall be notified in writing within 60 days of the fact finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact finding conference, a sufficient basis still exists to deny, suspend or revoke a permit or authorization, interested parties shall be notified by certified mail or hand delivery of the proposed action and of the opportunity for a hearing on the proposed action. If an organization desires to request a hearing, it shall notify the commission within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any time prior to (or subsequent to) an informal fact finding conference.
2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.
3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. Hearing location.

Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the organization is located. Hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

D. Hearing decisions.

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons for the recommendations. Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.
2. The commission shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

E. Agency representation.

The executive secretary's designee may represent the commission in an informal conference or at a hearing.

Part VII

REPORTING VIOLATIONS

11 VAC 15-22-120. Reporting violations.

- A. Unless otherwise required by law, the identity of any individual who provides information to the commission or its employees regarding alleged violations shall be held in strict confidence.

- B. Any officer, director or game manager of a qualified organization shall immediately report to the commission any information pertaining to the suspected misappropriation or theft of funds or any other violations of the law.
- C. Failure to report the information required by subsection B may result in the denial, suspension or revocation of a charitable gaming permit or authorization.
- D. Any officer, director or game manager of a qualified organization involved in the management, operation or conduct of charitable gaming shall immediately notify the commission upon conviction of a felony or a crime of moral turpitude.
- E. Failure to report information required by subsection D by any officer, director or game manager of a qualified organization or supplier may result in the denial, suspension or revocation of a permit or authorization.
- F. Any officer, director or game manager of a qualified organization involved in charitable gaming shall immediately report to the commission any change the Internal Revenue Service makes in the tax status of the organization, or if it is a chapter of a national organization covered by a group tax-exempt determination, the tax status of the national organization.
- G. All organizations regulated by the commission shall display prominently a poster advising the public of a phone number where complaints relating to charitable gaming may be made. Such posters shall be provided by the commission to organizations at no charge.

