

**REPORT OF**

**THE CHARITABLE GAMING BOARD**

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



**SENATE DOCUMENT NO. 10**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2004**





**COMMONWEALTH of VIRGINIA**  
**Charitable Gaming Board**

**Ruth Modlin Ellett,**  
**Chairman**

December 2, 2003

**Emmitt Carlton,**  
**Vice-Chairman**

**Members**  
**Carroll L. Bridgeforth**  
**Don Fields**

The Honorable Mark R. Warner  
State Capitol, 3<sup>rd</sup> Floor  
Richmond, Virginia 23219

**John C. Goolrick**  
**Tony Landis**

Dear Governor Warner,

**Thomas J. Lehner**  
**Richard I. Miller**  
**Michael Sheffield**

The Charitable Gaming Board is pleased to present to you and the 2004 Session of the General Assembly the attached report, as required by Senate Bill 1278 (Chapter 884, 2003 Acts of Assembly).

During 2002, over \$42.8 million in net proceeds from charitable gaming was donated to a wide variety of charitable causes in Virginia. We look forward to working with all of the qualified charitable organizations to ensure that charitable gaming continues to provide this enormous benefit to Virginia while also ensuring that all gaming is conducted in a manner consistent with state laws and regulations.

On behalf of all the members of the Charitable Gaming Board, we thank you for this opportunity to serve the citizens of the Commonwealth.

Sincerely,

  
Ruth Modlin Ellett

CC: Members, Virginia General Assembly  
The Honorable Sandra D. Bowen, Secretary of Administration



**To the Honorable Mark R. Warner, Governor of Virginia and the Members of the Virginia General Assembly:**

Senate Bill 1278, passed by the 2003 General Assembly (Chapter 884, 2003 Acts of Assembly) created the Charitable Gaming Board and the Department of Charitable Gaming, and abolished the Charitable Gaming Commission. The fifth enactment clause of SB 1278 requires: "The Charitable Gaming Board shall examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations, and provide a report to the Governor and the 2004 Session of the General Assembly. The report shall include the Board's plans regarding regulatory action on these issues, and anticipated timetable for such action." This report is intended to satisfy this requirement.

**Implementation of SB 1278**

The Department of Charitable Gaming (hereinafter referred to as the Department) was established effective July 1, 2003. Also effective the same date, Governor Warner appointed Mr. Clyde E. Cristman of Glen Allen, Virginia as the Director of the new Department. Pursuant to the fourth enactment clause of SB 1278, the Department assumed the office space occupied by former Charitable Gaming Commission on the 17<sup>th</sup> floor of the Monroe Building, 101 N. 14<sup>th</sup> Street in Richmond, Virginia, and took control of all material assets and records of the Commission. All of the employees of the former Commission became employees of the new Department.

On July 29, 2003, Governor Warner announced his appointments to the Charitable Gaming Board (hereinafter referred to as the Board). The following members were appointed:

Carroll L. Bridgeforth of Winchester, a retired business executive;  
Emmitt Carlton of Alexandria, an attorney and Immediate Past President of the Virginia NAACP;  
Ruth Modlin Ellett of Richmond, Principal of Modlin Ellett & Associates;  
Don Fields of Ashland, a retired Lieutenant in the Virginia State Police;  
John C. Goolrick of Fredericksburg, Director of the Fredericksburg office of First District Rep. Jo Ann Davis;  
Richard I. Miller of Norfolk, owner and landlord of commercial bingo halls in Virginia Beach;  
Tony Landis of New Kent, Regional Manager of Lancaster Bingo Company, Inc.;  
Thomas J. Lehner of Alexandria, Executive Vice President of the American Financial Services Association, and;  
Michael Sheffield of Charlottesville, retired Chief of the University of Virginia Police Department.

The Board held its inaugural meeting on September 9, 2003. At this meeting the Board adopted bylaws for the conduct of business as required by SB 1278 and elected Ruth Modlin Ellett as Chairman and Emmitt Carlton as Vice-Chairman. The Board established a schedule for

required quarterly meetings to be held in the months of December of 2003 and March, June, September and December of 2004. The Board also discussed and adopted a plan to address the requirements of the fifth enactment clause of SB 1278.

### **Charitable Gaming and Supplier Rules and Regulations**

The current Charitable Gaming Rules and Regulations (published in the Virginia Administrative Code, §§ 11 VAC 15-22-10 through 11 VAC 15-22-120) and Supplier Rules and Regulations (§§ 11 VAC 15-31-10 through 11 VAC 15-31-60) were adopted by the former Charitable Gaming Commission effective January 1, 1998.

At a minimum, these regulations need to be updated to reflect the statutory changes created by SB 1278. For example, all references to the former Commission need to be changed to comply with the statutory authority given to the Board and the Department. Under the old law, the Commission had total responsibility for adopting regulations, as well as implementing and enforcing the regulations. Under the new law, the Board is responsible for adopting regulations and advising the Department on the conduct of charitable gaming in the Commonwealth. The Department is responsible for the implementation and enforcement of the regulations, as well as applicable state laws.

In addition, the General Assembly passed SB 1177 during the 2001 Session (Chapter 833). This legislation eliminated the requirement for a qualified organization to have a permit for the sale of pull tabs or seal cards on premises owned or leased by an organization if the sale was limited exclusively to members of the organization and their guests, and was not otherwise open to or advertised to the public. Other examples of legislative actions since the current regulations were published include Chapters 754 and 813, 2001 Acts of Assembly, and Chapters 282 and 340, 2002 Acts of Assembly, all of which amend other statutes that govern charitable gaming regulations. However, the regulations have not been amended to reflect these statutory changes and therefore may contain rules that are not enforceable or otherwise need to be updated.

In order to conduct a thorough examination of the current regulations, the Board elected to convene a series of open forums and focus groups to solicit input from the public prior to initiating the required formal process to amend the regulations. The Board held four open forums in October and November of 2003. These meetings were held in conjunction with regional training sessions that the Department offered for charitable gaming organizations. The meetings were held in Bristol, Fredericksburg, Martinsville and Virginia Beach. While a total of 269 people attended the training sessions throughout the state, 40 people representing 33 different organizations came to the open forums to provide input on the regulations. At their December 2003 meeting, the full Board received a summary of the comments received. Based on the response, the Board is planning on conducting a series of focus group meetings in the spring of 2004, which will spotlight more specific components of the regulations.

**Use of Proceeds**

According to § 18.2-340.19, *Code of Virginia*, the regulations adopted by the Board shall require permitted organizations to use a predetermined percentage of gross charitable gaming receipts for religious, charitable, community or educational purposes. This requirement is commonly referred to as “use of proceeds” or UOP. The current regulations require that the following percentage of organizations’ gross gaming receipts be used for charitable purposes to meet the use of proceeds requirement:

- Annual gross receipts less than \$150,000.....5%
- Annual gross receipts between \$150,000 and \$500,000.....10%
- Annual gross receipts over \$500,000.....12%

The regulations further require that if an organization fails to meet the minimal use of proceeds, their charitable gaming permit shall be suspended or revoked, depending on the severity of the deficiency. However, the former Commission did not consistently suspend or revoke any organization’s permit solely for failure to meet UOP requirements, in part because of legislative exemptions provided in §18.2-340.20, *Code of Virginia*. The Department has not yet addressed this issue because 2003 annual reports from organizations providing UOP information will not be available until January 2004.

Based on FY 2002 annual reports, the statewide average UOP was 12.4% for bingo operations that were required to have a permit. However, 29% of the permitted organizations failed to meet their required UOP. Of the organizations that play Bingo in rented facilities, 49% did not make the required UOP while 17% of the organizations playing in non-rented facilities failed to make the required UOP. Of the organizations that were permitted for raffles only, the average UOP was 61% and none of these organizations failed to meet the minimal requirements. Of the organizations conducting charitable gaming that are exempt from the permit requirements (fire departments and rescue squads), 10% reported failing to meet the required UOP.

Much input was also received from the public at all four of the open forums regarding the UOP issue. The Board will schedule at least one of the focus groups in the spring of 2004 to receive more public input on options to be considered in addressing the methods and predetermined percentages used to determine appropriate use of proceeds requirements.

**Plans and Timetable for Regulatory Action**

The Board concurs that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Rules and Regulations is needed, including a review of the method for computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations. The Board will publish a notice of intended regulatory action in the Virginia Register, as required by the Administrative Process Act, no later than June 2004. Prior to this, the Board will continue to solicit input from the public through focus groups, as well as through a link on the Department’s website ([www.dcg.virginia.gov](http://www.dcg.virginia.gov)). Once the notice is published, it is anticipated that the process will take 18 months to complete. The Board has adopted a goal of having new regulations approved and published by January 2006.

