

# Virginia Department of Charitable Gaming



2005 Annual Report to the  
Governor and General Assembly

September 30, 2005

**To the Governor and the Members of the General Assembly:**

Section 18.2-340.18.8 of the *Code of Virginia* requires: “The Department (of Charitable Gaming) shall report annually to the Governor and the General Assembly, which report shall include a financial statement of the operation of the Department and any recommendations for legislation applicable to charitable gaming in the Commonwealth.” The purpose of this report is to meet this requirement for the period of July 1, 2004 to June 30, 2005, Fiscal Year 2005.

**Introduction**

The Department of Charitable Gaming (the Department) has just completed its second year of operation since the 2003 General Assembly passed Senate Bill 1278 (Chapter 884, 2003 Acts of Assembly), which implemented sweeping reforms to the regulation of charitable gaming in the Commonwealth. The Department has continued to make substantial progress in meeting the intent of this legislation. A primary shift of our focus has been to work collegially and cooperatively with charitable organizations, while at the same time fulfilling our statutory and regulatory missions. Charitable gaming continues to be an important and viable source of funding for Virginia’s qualified non-profit organizations.

**Charitable Gaming in Virginia**

Charitable gaming in Virginia produced reported gross sales of over \$326 million for FY 2004, the most recent year for which data is available. This figure does not include the sale of pull tabs in charitable organizations’ social quarters as with the passage of SB 1177 by the 2001 General Assembly that information is no longer reported to the state. However, it is estimated that these sales exceeded \$70 million for FY 2004. Also, organizations that conduct charitable gaming at a level of less than \$25,000 in annual gross sales are exempt from permit and reporting requirements, but these activities are estimated to produce at least an additional \$30 million in gross revenue. All told, charitable gaming in the Commonwealth is an industry producing well over \$400 million in gross sales per year. A five year analysis from FY 2000 through FY 2004 of charitable gaming gross sales reveals that the industry has been fairly stable, experiencing an average annual growth of about 5% during this time.

In FY 2004, nearly \$46 million, or 14.1% of reported gross sales, was provided for lawful religious, charitable, community or educational purposes. The current requirement is that a minimum of 12% of gross sales must be used for charitable purposes. It is important to note, that on average 75% of gross bingo sales are used to pay prizes. Therefore, of the net proceeds after prize payouts, approximately 57% went to charity.

However, an analysis done by the Department for FY 2004 found that nearly 30% of the organizations around the state did not meet the minimum requirements for charitable contributions. The 2004 General Assembly extended a moratorium in the

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*Code of Virginia* (§ 18.2-340-.20.D) directing the Department not to revoke an organization's permit solely for failure to meet the minimal requirement until such time as the Charitable Gaming Board adopts a revised requirement. On September 13, 2005 the Board adopted final regulations, which will be effective in January 2006 that set the state wide minimal requirement for charitable contributions at 10%. The new regulations provide that any organization that fails to meet the minimal requirement shall be afforded an opportunity for corrective action prior to the Department revoking their charitable gaming permit. The new regulations also allow for organizations that are unable to meet this requirement to request a temporary waiver from the Department.

### **Financial Statement of the Department**

For FY 2005, the Department collected **\$3,146,850** in revenues, which were deposited into the general fund. The major source of the Department's revenue (\$2.97 million) is from a one and one-eighth percent audit and administration fee based on gross charitable gaming revenues in the Commonwealth. It should be noted that the fee, which is set by the Department, remains lower than the one and one-quarter percent maximum established in § 18.2-340.31 of the *Code of Virginia*. The other sources of revenue included \$105,200 from permit application fees and \$71,650 from late fees on quarterly and annual financial reports not filed on time.

The Department had a general fund appropriation of **\$2,208,090** for FY 2005. The Department expended \$2,208,055 during FY 2005 leaving a year end balance of \$34. The vast majority (\$1.6 million) of the Department's budget was used for personnel costs. It should be noted that §18.2-340.31.C requires that all fees received by the Department shall be separately accounted for and used only for the purposes of auditing and regulating charitable gaming. However, language in the 2003 Appropriation Act overrode the statute and required that all fees paid after June 30, 2003 be deposited to the general fund. This language was continued in the 2005 Appropriation Act. The difference between revenues and expenditures results in net revenue of **\$938,795** that was deposited to the general fund.

### **Administration**

Since initiating the reforms instituted by SB1278 (2003), the Department has continued to evaluate its organizational structure and make adjustments as necessary. The Department now consists of four operational units; Audit, Enforcement, Licensing, Inspection and Training. Each unit is supervised by a manager who reports directly to the Assistant Director-Operations, who is responsible to oversee all daily operational issues. An Assistant Director-Administration is responsible for all administrative and office functions. To promote maximum efficiency, the Department has developed agreements with other state agencies to assist with administrative functions; Department of Accounts for payroll, Department of Human Resources Management for personnel issues, the Department of General Services for fiscal, procurement and database project management.

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The Department's maximum Position Level was increased from 22 full-time equivalents (FTE) to 31 FTE in the 2005 Appropriations Act. The Department has been very successful in recruiting and filling these new positions. With the additional positions, the Department added three employees in our Enforcement Unit, three in the Audit Unit, and three inspectors in the Inspection and Training Unit.

### **Licensing**

There are currently 553 qualified charitable organizations licensed by the Department to conduct charitable gaming in Virginia. Of these organizations, 93 are permitted to conduct only raffles, 25 only bingo games, while 435 are licensed to conduct bingo, instant bingo and raffles. Each organization is required to renew its permit on an annual basis. The Department also provides the required registration to entities wishing to distribute charitable gaming supplies in the Commonwealth. There are currently 21 registered suppliers authorized to sell charitable gaming supplies. Each supplier must also renew its permit on an annual basis.

The Licensing Unit is also responsible for regulatory actions should a permitted organization be found in violation of charitable gaming statutes and/or regulations. During FY 2005, six Informal Fact Finding Conferences were held to revoke or deny permits. Of these, one resulted in revocation of the permit, four resulted in consent orders to address the issues that lead to the regulatory action, and one was voluntarily withdrawn by the organization. In addition, the Department entered into consent orders with 34 organizations to address statutory and regulatory violations. Through the use of alternative strategies authorized by the Administrative Dispute Resolution Act, the Department was effective in working with organizations in a non-adversarial approach to correct deficiencies.

### **Inspection and Gaming Training**

Onsite inspection of gaming operations is a crucial element of the regulatory process. During FY 2005, the Department completed 491 inspections and met our goal of inspecting each bingo operation at least once per year. We have recently increased our inspection staff by hiring three additional full-time inspectors, giving us five full-time and two part-time inspectors. The Department's new goal is to inspect each bingo game a minimum of four times per year. As part of our effort to make the inspection program more visible to the gaming public and at the same time more customer service oriented to the charitable organizations, inspectors are now required to wear DCG issued shirts to clearly identify them. The inspectors have received additional training and guidance in providing on-sight training and technical assistance to the organizations.

Increasing training opportunities for charitable organizations has been an important strategy for the Department to increase compliance with charitable gaming laws and regulations. During FY 2005, the Department held a total of 97 game management training sessions (as compared to 48 last year), including 12 regional training sessions, 48 sessions for organizations new to gaming or requesting assistance

and 34 sessions specific to organizations' needs as identified in an audit or inspection. To help meet the demand for training the Department created a full-time Training and Inspection Manager position and one inspector has been trained to deliver the training sessions. In order to assist organizations that are just beginning gaming, the Department has required all new permit applicants to complete a training program prior to receiving a permit.

### **Audits**

The Department completed a total of 136 audits of charitable gaming operations during FY 2005. This compares to 90 audits completed by the Department during FY 2004, and 65 completed during FY 2003, 52 completed in FY 2002 and 43 completed in FY 2001 by the former Charitable Gaming Commission. The Department has established a goal to audit every organization at least once each three years. With the addition of three new auditors hired during the past two months, we believe this goal will be reached.

The audits completed during FY 2005 found a total of \$3.6 million in unreported gross gaming sales. These findings support over \$400,000 in additional funds required to be used for charitable purposes and over \$40,000 in additional revenue for the state. In addition, the audits resulted in the implementation of a variety of corrective action plans and consent orders to assist organizations in complying with statutes and regulations and improving control of their charitable assets. Results of audits have also lead to several regulatory actions and criminal investigations.

### **Enforcement**

During FY 2005 the Enforcement Unit opened 101 investigations. Most of the information to open investigations was received on the Department's complaint line, discovered through the Department's audit or inspection process, or reported by members of organizations who were concerned about potential violations. Investigations the Department participated in or completed resulted in five successful prosecutions for a variety of criminal violations throughout the state. Some of the notable cases investigated include:

Wylliesburg – One individual was arrested and charged with 19 felony counts of embezzlement of funds from a volunteer fire departments bingo games. The case is pending disposition in the Charlotte County Circuit Court.

Virginia Beach – One individual was arrested and charged with one felony count of embezzlement of funds from a fraternal organization and one felony count of embezzlement of funds from a charitable organization's bingo game. The cases are pending disposition in the Virginia Beach Circuit Court.

Henry County – One individual was arrested and charged with one count of embezzlement and one count of Grand Larceny for stealing funds generated from a

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charitable organizations bingo games. The case is pending disposition in the Henry County Circuit Court.

Virginia Beach – One individual was convicted of Embezzlement, Forging Public Records and Violating Gaming Rules for stealing funds generated from a charitable organizations bingo funds. The individual received sentences of 20 years suspended for embezzlement and 12 years suspended for Forging Public Records and was ordered to pay restitution of \$62, 451.61.

### **Charitable Gaming Regulations**

SB 1278 (2003) required the Charitable Gaming Board to examine the current regulations and develop a plan regarding regulatory action. This plan was reported to the Governor and the General Assembly in a report dated December 2, 2003. The Board is now in the process of implementing this plan. In the spring of 2004 the Board held a series of nine focus group meetings throughout the Commonwealth to receive public input. At their June 2004 meeting, the Board approved the Notice of Intended Regulatory Action. Between June and December 2004, The Board developed the proposed new regulations and at their December 2004 meeting approved the proposed regulations. The regulations were published for public comment in the spring of 2005. Public comment was reviewed by the Board at their June 2005 meeting. On September 13, 2005, the Board adopted the regulations as final, to be effective January 1, 2006.

### **Recommendations for Legislation**

The Department and the Charitable Gaming Board have been reviewing the charitable gaming statutes, § 18.2-340.15, et seq. for the past two years and have identified several issues. The Board appointed a committee to develop specific statutory recommendations to the General Assembly. The Board formally adopted the committee's recommendations and endorsed a legislative package at their September, 2005 meeting. The legislative package has been prepared and submitted to the Administration for review. It is anticipated that the Board's recommendations will be submitted in a bill to the 2006 General Assembly.