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SENATE BILL NO. 1055

Offered January 14, 2009

Prefiled January 13, 2009

A *BILL to amend and reenact §§ 2.2-1514, as it is currently effective and as it may become effective, 36-137, 36-139, 36-141, 36-142, 36-147, 36-150, 54.1-2113, 55-530.1 and 58.1-344.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 36-147.1, relating to Virginia Housing Trust Fund.*

Patrons—Whipple, Howell, Puller and Ticer; Delegates: Amundson, Brink, Ebbin, Eisenberg, Englin, Marsden, Peace, Plum, Sickles, Vanderhye and Watts

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1514, as it is currently effective and as it may become effective, 36-137, 36-139, 36-141, 36-142, 36-147, 36-150, 54.1-2113, 55-530.1 and 58.1-344.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 36-147.1, as follows:

§ 2.2-1514. (Contingent expiration date - see Editor's notes) Designation of general fund for nonrecurring expenditures.

A. As used in this section:

"The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1518, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act. Such term shall not include any expenditures relating to transportation, including but not limited to transportation maintenance.

B. At the end of each fiscal year, the Comptroller shall designate within his annual report pursuant to § 2.2-813 as follows: one-third of the remaining amount of the general fund balance that is not otherwise reserved or designated shall be designated by the Comptroller for nonrecurring expenditures, and two-thirds shall be designated for deposit into the Transportation Trust Fund. No such designation shall be made unless the full amounts required for other reserves or designations including, but not limited to, (i) the Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, but excluding any deposits provided under the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1, (iii) capital outlay reappropriations pursuant to the general appropriation act, (iv) (a) operating expense reappropriations pursuant to the general appropriation act, and (b) reappropriations of unexpended appropriations to certain public institutions of higher education pursuant to § 2.2-5005, (v) pro rata rebate payments to certain public institutions of higher education pursuant to § 2.2-5005, (vi) the unappropriated balance anticipated in the general appropriation act for the end of such fiscal year, and (vii) interest payments on deposits of certain public institutions of higher education pursuant to § 2.2-5005, and (viii) *The Virginia Housing Trust Fund deposit pursuant to §36-142* are set aside. The Comptroller shall set aside amounts required for clauses (iv) (b), (v), and (vii), beginning with the initial fiscal year as determined under § 2.2-5005 and for all fiscal years thereafter.

C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended appropriations from the general fund or recommended amendments to general fund appropriations in the general appropriation act in effect at that time an amount for nonrecurring expenditures and an amount for deposit into the Transportation Trust Fund equal to the amounts designated by the Comptroller for such purposes pursuant to the provisions of subsection B. Such deposit to the Transportation Trust Fund shall not preclude the appropriation of additional amounts from the general fund for transportation purposes.

§ 2.2-1514. (Contingent effective date - see Editor's notes) Designation of general fund for nonrecurring expenditures.

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"The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

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58 the acquisition of equipment, or other expenditures of a one-time nature as specified in the general
59 appropriation act.

60 B. At the end of each fiscal year, the Comptroller shall designate within his annual report pursuant to
61 § 2.2-813 an amount for nonrecurring expenditures, which shall equal the remaining amount of the
62 general fund balance that is not otherwise reserved or designated. No such designation shall be made
63 unless the full amounts required for other reserves or designations including, but not limited to, (i) the
64 Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement
65 Fund deposit pursuant to § 10.1-2128, but excluding any deposits provided under the Virginia Natural
66 Resources Commitment Fund established under § 10.1-2128.1, (iii) capital outlay reappropriations
67 pursuant to the general appropriation act, (iv) (a) operating expense reappropriations pursuant to the
68 general appropriation act, and (b) reappropriations of unexpended appropriations to certain public
69 institutions of higher education pursuant to § 2.2-5005, (v) pro rata rebate payments to certain public
70 institutions of higher education pursuant to § 2.2-5005, (vi) the unappropriated balance anticipated in the
71 general appropriation act for the end of such fiscal year, ~~and~~ (vii) interest payments on deposits of
72 certain public institutions of higher education pursuant to § 2.2-5005, *and (viii) Virginia Housing Trust*
73 *Fund pursuant to §36-142* are set aside. The Comptroller shall set aside amounts required for clauses
74 (iv) (b), (v), and (vii) beginning with the initial fiscal year as determined under § 2.2-5005 and for all
75 fiscal years thereafter.

76 C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended
77 appropriations from the general fund or recommended amendments to general fund appropriations in the
78 general appropriation act in effect at that time an amount for nonrecurring expenditures equal to the
79 amount designated by the Comptroller for such purpose pursuant to the provisions of subsection B of
80 this section.

81 § 36-137. Powers and duties of Board; appointment of Building Code Academy Advisory Committee.

82 The Board shall exercise the following powers and duties, and such others as may be provided by
83 law:

84 1. Provide a means of citizen access to the Department.

85 2. Provide a means of publicizing the policies and programs of the Department in order to educate
86 the public and elicit public support for Department activities.

87 3. Monitor the policies and activities of the Department and have the right of access to departmental
88 information.

89 4. Advise the Governor and the Director on matters relating to housing and community development.

90 5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or
91 amend such rules when necessary.

92 6. Issue a certificate of competence concerning the content, application, and intent of specified
93 subject areas of the building and fire prevention regulations promulgated by the Board to present or
94 prospective personnel of local governments and to any other persons seeking to become qualified to
95 perform inspections pursuant to Chapter 6 (§ 36-97 et seq.) of this title, Chapter 9 (§ 27-94 et seq.) of
96 Title 27, and any regulations adopted thereunder, who have completed training programs or in other
97 ways demonstrated adequate knowledge.

98 7. Levy by regulation up to two percent of building permit fees authorized pursuant to § 36-105 to
99 support training programs of the Building Code Academy established pursuant to § 36-139. Local
100 building departments shall collect such levy and transmit it quarterly to the Department of Housing and
101 Community Development. Localities that maintain, individual or regional, training academies accredited
102 by the Department of Housing and Community Development shall retain such levy. However, such
103 localities may send employees to training programs of the Building Code Academy upon payment of a
104 fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year
105 for the continued operation of the Building Code Academy.

106 The Board shall appoint a Building Code Academy Advisory Committee (the Committee) comprised
107 of representatives of code enforcement personnel and construction industry professions affected by the
108 provisions of the building and fire prevention regulations promulgated by the Board. Members of the
109 Committee shall receive no compensation but shall be entitled to be reimbursed for all reasonable and
110 necessary expenses incurred in the performance of their duties in accordance with § 2.2-2813. The
111 Committee shall advise the Board and the Director on policies, procedures, operations, and other matters
112 pertinent to enhancing the delivery of training services provided by the Building Code Academy.

113 8. Establish general policies, procedures, and programs for the Virginia Housing ~~Partnership~~
114 ~~Revolving Trust~~ Fund established in Chapter 9 (§ 36-141 et seq.) of this title.

115 9. Determine the categories of housing programs, housing sponsors and persons and families of low
116 and moderate income eligible to participate in grant or loan programs of the Virginia Housing
117 ~~Partnership Revolving Trust~~ Fund and designate the proportion of such grants or loans to be made
118 available in each category.

119 10. Advise the Director of the Department on the program guidelines required to accomplish the

120 policies and procedures of the Virginia Housing ~~Partnership~~ *Revolving Trust* Fund.

121 11. Advise the Virginia Housing Development Authority on matters relating to the administration and
122 management of loans and grants from the Virginia Housing Partnership Revolving Fund.

123 12. Establish the amount of the low-income housing credit, the terms and conditions for qualifying
124 for such credit, and the terms and conditions for computing any credit recapture amount for the Virginia
125 income tax return.

126 13. Serve in an advisory capacity to the Center for Housing Research established by § 23-135.7:14.

127 14. Advise the Department in the development of the Consolidated Plan Strategy to guide and
128 coordinate the housing programs of the Department, the Virginia Housing Development Authority, and
129 other state agencies and instrumentalities.

130 15. Advise the Governor and the Department on the expansion of affordable, accessible housing for
131 older Virginians and Virginians with disabilities, including supportive services.

132 16. Establish guidelines for the allocation of private activity bonds to local housing authorities in
133 accordance with the provisions of the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et
134 seq.) of Title 15.2.

135 § 36-139. Powers and duties of Director.

136 The Director of the Department of Housing and Community Development shall have the following
137 responsibilities:

138 1. Collecting from the governmental subdivisions of the Commonwealth information relevant to their
139 planning and development activities, boundary changes, changes of forms and status of government,
140 intergovernmental agreements and arrangements, and such other information as he may deem necessary.

141 2. Making information available to communities, planning district commissions, service districts and
142 governmental subdivisions of the Commonwealth.

143 3. Providing professional and technical assistance to, and cooperating with, any planning agency,
144 planning district commission, service district, and governmental subdivision engaged in the preparation
145 of development plans and programs, service district plans, or consolidation agreements.

146 4. Assisting the Governor in the providing of such state financial aid as may be appropriated by the
147 General Assembly in accordance with § 15.2-4216.

148 5. Administering federal grant assistance programs, including funds from the Appalachian Regional
149 Commission, the Economic Development Administration and other such federal agencies, directed at
150 promoting the development of the Commonwealth's communities and regions.

151 6. Developing state community development policies, goals, plans and programs for the consideration
152 and adoption of the Board with the ultimate authority for adoption to rest with the Governor and the
153 General Assembly.

154 7. Developing a Consolidated Plan to guide the development and implementation of housing
155 programs and community development in the Commonwealth for the purpose of meeting the housing
156 and community development needs of the Commonwealth and, in particular, those of low-income and
157 moderate-income persons, families and communities.

158 8. Determining present and future housing requirements of the Commonwealth on an annual basis
159 and revising the Consolidated Plan, as necessary to coordinate the elements of housing production to
160 ensure the availability of housing where and when needed.

161 9. Assuming administrative coordination of the various state housing programs and cooperating with
162 the various state agencies in their programs as they relate to housing.

163 10. Establishing public information and educational programs relating to housing; devising and
164 administering programs to inform all citizens about housing and housing-related programs that are
165 available on all levels of government; designing and administering educational programs to prepare
166 families for home ownership and counseling them during their first years as homeowners; and promoting
167 educational programs to assist sponsors in the development of low and moderate income housing as well
168 as programs to lessen the problems of rental housing management.

169 11. Administering the provisions of the Industrialized Building Safety Law (§ 36-70 et seq.).

170 12. Administering the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

171 13. Establishing and operating a Building Code Academy for the training of persons in the content,
172 application, and intent of specified subject areas of the building and fire prevention regulations
173 promulgated by the Board of Housing and Community Development.

174 14. Administering, in conjunction with the federal government, and promulgating any necessary
175 regulations regarding energy standards for existing buildings as may be required pursuant to federal law.

176 15. Identifying and disseminating information to local governments about the availability and
177 utilization of federal and state resources.

178 16. Administering, with the cooperation of the Department of Health, state assistance programs for
179 public water supply systems.

180 17. Advising the Board on matters relating to policies and programs of the Virginia Housing

181 ~~Partnership Revolving Trust Fund.~~

182 18. Designing and establishing program guidelines to meet the purposes of the Virginia Housing
183 ~~Partnership Revolving Trust Fund~~ and to carry out the policies and procedures established by the Board.

184 19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing
185 ~~Partnership Revolving Trust Fund~~; soliciting, receiving, reviewing and selecting the applications for
186 which loans and grants are to be made from such fund; directing the Virginia Housing Development
187 Authority as to the closing and disbursing of such loans and grants and as to the servicing and
188 collection of such loans; directing the Virginia Housing Development Authority as to the regulation and
189 monitoring of the ownership, occupancy and operation of the housing developments and residential
190 housing financed or assisted by such loans and grants; and providing direction and guidance to the
191 Virginia Housing Development Authority as to the investment of moneys in such fund.

192 20. Advising the Board on matters relating to policies for the low-income housing credit and
193 administering the approval of low-income housing credits as provided in § 36-55.63.

194 21. Establishing and administering program guidelines for a statewide homeless intervention program.

195 22. Administering 15 percent of the Low Income Home Energy Assistance Program (LIHEAP) Block
196 Grant and any contingency funds awarded and carry over funds, furnishing home weatherization and
197 associated services to low-income households within the Commonwealth in accordance with applicable
198 federal law and regulations.

199 23. Developing a strategy concerning the expansion of affordable, accessible housing for older
200 Virginians and Virginians with disabilities, including supportive services.

201 24. Serving as the Executive Director of the Commission on Local Government as prescribed in
202 § 15.2-2901 and perform all other duties of that position as prescribed by law.

203 25. Developing a strategy, in consultation with the Virginia Housing Development Authority, for the
204 creation and implementation of housing programs and community development for the purpose of
205 meeting the housing needs of persons who have been released from federal, state, and local correctional
206 facilities into communities.

207 26. Administering the Private Activity Bonds program in Chapter 50 (§ 15.2-5000 et seq.) of Title
208 15.2 jointly with the Virginia Small Business Financing Authority and the Virginia Housing
209 Development Authority.

210 27. Carrying out such other duties as may be necessary and convenient to the exercise of powers
211 granted to the Department.

212 ~~VIRGINIA HOUSING PARTNERSHIP REVOLVING FUND.~~

213 § 36-141. Definitions.

214 As used in this chapter, unless the context requires a different meaning:

215 "Board" means the Board of Housing and Community Development.

216 "Fund" means the Virginia Housing ~~Partnership Revolving Trust Fund~~ created by this chapter.

217 "HDA" means the Virginia Housing Development Authority created in Chapter 1.2 (§ 36-55.24 et
218 seq.) of this title.

219 "Housing development" or "housing project" means any work or undertaking, whether new
220 construction or rehabilitation, which is designed and financed pursuant to the provisions of this chapter
221 for the primary purpose of providing affordable sanitary, decent and safe dwelling accommodations for
222 persons and families of low or moderate income in need of housing; such work or undertaking may
223 include any buildings, land, equipment, facilities, or other real or personal properties which are
224 necessary, convenient, or desirable appurtenances, including but not limited to streets, sewers, utilities,
225 parks, site preparation, landscaping, and such offices, and other nonhousing facilities incidental to such
226 development or project such as administrative, community, health, educational and recreational facilities
227 as the Department of Housing and Community Development determines to be necessary. "Low and
228 moderate income" shall be defined in the program guidelines developed by the Department of Housing
229 and Community Development.

230 "Housing sponsor" means individuals, joint ventures, partnerships, limited partnerships, public bodies,
231 trusts, firms, associations, or other legal entities or any combination thereof, corporations, cooperatives
232 and condominiums, approved by the Department of Housing and Community Development as qualified
233 either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing development,
234 whether nonprofit or organized for limited profit subject to the regulatory powers of the Department of
235 Housing and Community Development and other terms and conditions set forth in this chapter.

236 "Residential housing" means a specific work or improvement within this Commonwealth, whether
237 multi-family residential housing or single-family residential housing undertaken primarily to provide
238 dwelling accommodations, including the acquisition, construction, rehabilitation, preservation or
239 improvement of land, buildings and improvements thereto, for residential housing, and such other
240 nonhousing facilities as may be incidental, related, or appurtenant thereto.

241 § 36-142. Establishment and management of Fund.

242 There shall be set apart as a permanent and perpetual fund, to be known as the "Virginia Housing

Partnership Revolving *Trust Fund*," sums appropriated to the Fund by the General Assembly, sums as may be allocated to the Commonwealth for this purpose by the United States government, all receipts by the Fund from loans made by it to housing sponsors and persons and families of low and moderate income, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private. A. *There is hereby established in the state treasury a special permanent, nonreverting fund, to be known as the "Virginia Housing Trust Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly which shall include, unless otherwise provided in the general appropriation act, 10 percent of the annual general fund revenue collections that are in excess of the official estimates in the general appropriation act and 10 percent of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act. The Fund shall also consist of such other sums as may be made available to it from any other source, public or private, and shall include federal grants solicited and received for the specific purposes of the Fund and all interest and income from investment of the Fund. Any sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. The Fund is created to address the serious shortage in the Commonwealth of safe and decent residential housing at prices that persons and families of low and moderate income can afford. Housing developments and housing projects funded through the Fund are intended to provide additional affordable housing opportunities for low and moderate income Virginians, by preserving existing housing units, by producing new housing units and by assisting persons with special needs to obtain adequate housing.*

B. The Fund shall be administered and managed by the HDA as prescribed in this chapter. In order to carry out the administration and management of the Fund, the HDA is granted the power to employ officers, employees, agents, advisers and consultants, including, without limitation, attorneys, financial advisers, public accountants, engineers and other technical advisers and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality. The HDA may disburse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund and a reasonable fee to be reviewed by the Board for its management services, which fee shall not exceed such amount as would be customary and usual for the services rendered.

§ 36-147. Grants.

~~Subject~~ Except as provided by § 36-147.1 and subject to any restrictions which may apply to the use of money in the Fund, the Board in its discretion may approve the use of money in the Fund to make grants or appropriations (i) to housing sponsors and persons and families of low and moderate income to provide assistance for the acquisition, construction, improvement, ownership or occupancy of housing developments and residential housing for persons and families of low and moderate income (ii) to support innovative housing projects and low and moderate income housing projects that are located in areas experiencing extreme shortages of such housing and (iii) to support rural affordable housing initiatives. Grants shall be disbursed from the Fund by the HDA in accordance with the directions of the Director of the Department of Housing and Community Development.

§ 36-147.1. Special provisions for disbursement of certain funds.

A. An amount equivalent to 25 percent of the moneys ~~transferred to~~ deposited in the Fund in any fiscal year pursuant to § 36-142 shall be used by the Department to provide matching funds to localities that have established a local housing fund and where such localities provide ongoing financial support to the local housing fund through the appropriation of local moneys. As used in this section, "local housing fund" means moneys appropriated or otherwise made available from local public sources for the purpose of directly funding affordable housing programs or projects.

B. The Department shall establish criteria for the allocation of the matching funds to eligible localities making application for the matching funds. Such criteria shall provide that federal, state, or private sources of funding shall not be considered for determining the amount of the funding match and establish a mechanism for pro rata allocations for each eligible locality based on the amount of local funds that have been appropriated in the fiscal year for which the matching funds have been requested. The Department shall require any locality receiving matching funds pursuant to this section to provide annual assurances that the funds have been used for the purpose of developing or preserving affordable housing in such locality.

C. The Director shall establish an advisory committee to assist in the development of criteria for the allocation of matching funds under this section.

§ 36-150. Reports.

On or before September 30 of each year, the HDA shall report to the Board on the status of the Fund. On or before December 1 of each year, the Board shall report to the Secretary of Commerce and

304 Trade, the Governor and the Chairmen of the House Appropriations and the Senate Finance Committees
305 on (i) the matters set forth in the report of the HDA, (ii) *allocations made to localities from the Fund*
306 *pursuant to § 36-147.1*, and ~~on~~ (iii) such other matters regarding the Fund as the Board may deem
307 appropriate or as may be requested by any of the foregoing persons to whom such report is to be
308 submitted.

309 § 54.1-2113. Establishment and maintenance of fund, duty of Director, assessments of regulants.

310 A. Each initial regulant at the time of licensure shall be assessed twenty dollars, which shall be
311 specifically assigned to the fund. Initial payments may be incorporated in any application fee payment
312 and transferred to the fund by the Director within thirty days.

313 B. All assessments, except initial assessments, for the fund shall be deposited, within three work days
314 after their receipt by the Director, in one or more federally insured banks, savings and loan associations
315 or savings banks located in the Commonwealth. Funds deposited in banks, savings and loan associations
316 or savings banks, to the extent in excess of insurance afforded by the Federal Deposit Insurance
317 Corporation or other federal insurance agency, shall be secured under the Security for Public Deposits
318 Act (§ 2.2-4400 et seq.). The deposit of these funds in federally insured banks, savings institutions or
319 savings banks located in the Commonwealth shall not be considered investment of such funds for
320 purposes of this section. Funds maintained by the Director may be invested in securities that are legal
321 investments for fiduciaries under the provisions of § 26-40.01. The Director shall maintain in his office
322 an accurate record of all transactions involving the fund, which records shall be open for inspection and
323 copying by the public during the normal business hours of the Director.

324 C. The minimum balance of the fund shall be \$400,000. Whenever the Director determines that the
325 balance of the fund is or will be less than such minimum balance, the Director shall immediately inform
326 the Board. At the same time, the Director may recommend that the Board transfer a fixed amount of
327 interest earnings to the fund to bring the balance of the fund to the amount required by this subsection.
328 Such transfer of interest shall be considered by the Board within thirty days of the notification of the
329 Director.

330 D. If available interest earnings are insufficient to bring the balance of the fund to the minimum
331 amount required by this section, or if a transfer of available interest earnings to the fund has not
332 occurred, the Board shall assess each regulant within thirty days of notification by the Director, a sum
333 sufficient to bring the balance of the fund to the required minimum amount. The Board may order an
334 assessment of regulants at any time in addition to any required assessment. No regulant shall be assessed
335 a total amount of more than twenty dollars during any biennial license period or part thereof, the
336 biennial period expiring on June 30 of each even-numbered year. Assessments of regulants made
337 pursuant to this subsection may be issued by the Board (i) after a determination made by it or (ii) at the
338 time of license renewal.

339 E. At the close of each fiscal year, whenever the balance of the fund exceeds \$2,000,000, the amount
340 in excess of \$2,000,000 shall be transferred to the Virginia Housing ~~Partnership~~ *Revolving Trust* Fund.
341 Except for transfers pursuant to this subsection, there shall be no transfers out of the fund, including
342 transfers to the general fund, regardless of the balance of the fund.

343 F. If the Board determines that all regulants will be assessed concurrently, notice to the regulants of
344 such assessments shall be by first-class mail, and payment of such assessments shall be made by
345 first-class mail to the Director within forty-five days after the mailing to regulants of such notice.

346 If the Board determines that all regulants will be assessed in conjunction with license renewal, notice
347 to the regulants may be included with the license renewal notice issued by the Board. The assessment
348 shall be due with the payment of the license renewal fees. No license shall be renewed or reinstated
349 until any outstanding assessments are paid.

350 G. If any regulant fails to remit the required payment mailed in accordance with subsection F within
351 forty-five days of the mailing, the Director shall notify the regulant by first-class mail at the latest
352 address of record filed with the Board. If no payment has been received by the Director within thirty
353 days after mailing the second notice, the license shall be automatically suspended. The license shall be
354 restored only upon the actual receipt by the Director of the delinquent assessment.

355 H. The costs of administering the act shall be paid out of interest earned on deposits constituting the
356 fund. The remainder of the interest, at the discretion of the Board, may (i) be used for providing
357 research and education on subjects of benefit to real estate regulants or members of the public, (ii) be
358 transferred to the Virginia Housing ~~Partnership~~ *Revolving Trust* Fund, or (iii) accrue to the fund in
359 accordance with subsection C.

360 § 55-530.1. Common Interest Community Management Recovery Fund.

361 A. There is hereby created the Common Interest Community Management Recovery Fund (the Fund)
362 to be used in the discretion of the Board to protect the interests of associations.

363 B. Each common interest community manager, at the time of initial application for licensure, and
364 each association filing its first annual report after the effective date hereof shall be assessed \$25, which
365 shall be specifically assigned to the Fund. Initial payments may be incorporated in any application fee

payment or annual filing fee and transferred to the Fund by the Director within 30 days.

All assessments, except initial assessments, for the Fund shall be deposited within three business days after their receipt by the Director, in one or more federally insured banks, savings and loan associations, or savings banks located in the Commonwealth. Funds deposited in banks, savings institutions, or savings banks, to the extent in excess of insurance afforded by the Federal Deposit Insurance Corporation or other federal insurance agency, shall be secured under the Security for Public Deposits Act (§ 2.2-4400 et seq.). The deposit of these funds in federally insured banks, savings and loan associations, or savings banks located in the Commonwealth shall not be considered investment of such funds for purposes of this section. Funds maintained by the Director may be invested in securities that are legal investments for fiduciaries under the provisions of § 26-40.01.

Interest earned on the deposits constituting the Fund shall be used for administering the Fund. The remainder of this interest, at the discretion of the Board, may be transferred to the Common Interest Community Management Information Fund or accrue to the Fund.

C. On and after July 1, 2011, the minimum balance of the Fund shall be \$150,000. Whenever the Director determines that the balance of the Fund is or will be less than such minimum balance, the Director shall immediately inform the Board. At the same time, the Director may recommend that the Board transfer a fixed amount from the Common Interest Community Management Information Fund to the Fund to bring the balance of the Fund to the amount required by this subsection. Such transfer shall be considered by the Board within 30 days of the notification of the Director.

D. If any such transfer of funds is insufficient to bring the balance of the Fund to the minimum amount required by this section, or if a transfer to the fund has not occurred, the Board shall assess each association and each common interest community manager within 30 days of notification by the Director, a sum sufficient to bring the balance of the Fund to the required minimum amount. The amount of such assessment shall be allocated among the associations and common interest community managers in proportion to the each payor's most recently paid annual assessment, or if an association or common interest community manager has not paid an annual assessment previously, in proportion to the average annual assessment most recently paid by associations or common interest community managers respectively. The Board may order an assessment at any time in addition to any required assessment. Assessments made pursuant to this subsection may be issued by the Board (i) after a determination made by it or (ii) at the time of license renewal.

Notice to common interest community managers and the governing boards of associations of these assessments shall be by first-class mail, and payment of such assessments shall be made by first-class mail addressed to the Director within 45 days after the mailing of such notice.

E. If any common interest community manager fails to remit the required payment within 45 days of the mailing, the Director shall notify the common interest community manager by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within 30 days after mailing the second notice, the license shall be automatically suspended. The license shall be restored only upon the actual receipt by the Director of the delinquent assessment.

F. If any association fails to remit the required payment within 45 days of the mailing, the Director shall notify the association by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within 30 days after mailing the second notice, it shall be deemed a knowing and willful violation of this section by the governing board of the association.

G. At the close of each fiscal year, whenever the balance of the fund exceeds \$5 million, the amount in excess of \$5 million shall be transferred to the Virginia Housing Partnership Revolving Housing Trust Fund, § 36-137. Except for payments of costs as set forth in this chapter and transfers pursuant to this subsection, there shall be no transfers out of the fund, including transfers to the general fund, regardless of the balance of the fund.

H. A claimant may seek recovery from the fund subject to the following conditions:

1. A claimant may file a verified claim in writing to the Director for a recovery from the Fund.

2. Upon proper application to the Director, in those cases in which there are not sufficient funds to pay an award of reasonable fees, costs, and expenses to the receiver or to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager, the Director shall report to the Board the amount of any shortfall to the extent that there are not sufficient funds (i) to pay any award of fees, costs, and expenses pursuant to subsection G of § 54.1-2353 by the court appointing the receiver; or (ii) to restore all funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager, as certified by the court appointing the receiver.

3. If the Board finds there has been compliance with the required conditions, the Board shall issue a directive ordering payment of the amount of such shortfall to the claimant from the fund; provided that in no event shall such payment exceed the balance in the fund. When the fund balance is not sufficient to pay the aggregate amount of such shortfall, the Board shall direct payment shall be applied first in

satisfaction of any award of reasonable fees, costs, and expenses to the receiver and second to restore the funds that were or ought to have been held in a fiduciary capacity by the subject common interest community manager. If the Board has reason to believe that there may be additional claims against the fund, the Board may withhold any payment(s) from the fund for a period of not more than one year. After such one-year period, if the aggregate of claims received exceeds the fund balance, the fund balance shall be prorated by the Board among the claimants and paid in the above payment order from the fund in proportion to the amounts of claims remaining unpaid.

4. The Director shall, subject to the limitations set forth in this subsection, pay to the claimant from the fund such amount as shall be directed by the Board upon the execution and delivery to the Director by such claimant of an assignment to the Board of the claimant's rights on its behalf and on behalf of the associations receiving distributions from the fund against the common interest community manager to the extent that such rights were satisfied from the fund.

5. The claimant shall be notified in writing of the findings of the Board. The Board's findings shall be considered a case decision as defined in § 2.2-4001, and judicial review of these findings shall be in accordance with § 2.2-4025 of the Administrative Process Act (§ 2.2-4000 et seq.).

6. Notwithstanding any other provision of law, the Board shall have the right to appeal a decision of any court that is contrary to any distribution recommended or authorized by it.

7. Upon payment by the Director to a claimant from the fund as provided in this subsection, the Board shall immediately revoke the license of the common interest community manager whose actions resulted in payment from the fund. The common interest community manager whose license was so revoked shall not be eligible to apply for a license as a common interest community manager until he has repaid in full the amount paid from the fund on his account, plus interest at the judgment rate of interest from the date of payment from the fund.

8. Nothing contained in this subsection shall limit the authority of the Board to take disciplinary action against any common interest community manager for any violation of statute or regulation, nor shall the repayment in full by a common interest community manager of the amount paid from the fund on such common interest community manager's account nullify or modify the effect of any disciplinary proceeding against such common interest community manager for any such violation.

§ 58.1-344.3. Voluntary contributions of refunds requirements.

A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary contributions of tax refunds listed in subsections B and C must have received at least \$10,000 in contributions in each of the three previous taxable years for which there is complete data and in which such entity was listed on the individual income tax return.

2. In the event that an entity listed in subsections B and C does not satisfy the requirement in subdivision 1 of this subsection, such entity shall no longer be listed on the individual income tax return.

3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B and C added subsequent to the 2004 Session of the General Assembly shall not appear on the individual income tax return until their addition to the individual income tax return results in a maximum of 25 contributions listed on the return. Such contributions shall be added in the order that they are listed in subsections B and C.

b. Each entity added to the income tax return shall appear on the return for at least three consecutive taxable years before the requirement in subdivision 1 of this subsection is applied to such entity.

4. The Department of Taxation shall report annually by the first day of each General Assembly Regular Session to the chairmen of the House and Senate Finance Committees the amounts collected for each entity listed under subsections B and C for the three most recent taxable years for which there is complete data. Such report shall also identify the entities, if any, that will be removed from the individual income tax return because they have failed the requirements in subdivision 1 of this subsection, the entities that will remain on the individual income tax return, and the entities, if any, that will be added to the individual income tax return.

B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions of not less than \$1:

1. Nongame wildlife voluntary contribution.

a. All moneys contributed shall be used for the conservation and management of endangered species and other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks, crustaceans, and other invertebrates under the jurisdiction of the Board of Game and Inland Fisheries.

b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which shall be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All moneys so deposited in the Nongame Cash Fund shall be used by the Commission of Game and Inland Fisheries for the purposes set forth herein.

2. Open space recreation and conservation voluntary contribution.
 - a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.
 - b. All moneys shall be deposited into a special fund known as the Open Space Recreation and Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation and Recreation for the purposes stated in subdivision 2 a of this subsection and one-half to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.
3. Voluntary contribution to political party.

All moneys contributed shall be paid to the State Central Committee of any party that meets the definition of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution allowable under this subdivision shall be \$25. In the case of a joint return of husband and wife, each spouse may designate that the maximum contribution allowable be paid.
4. United States Olympic Committee voluntary contribution.

All moneys contributed shall be paid to the United States Olympic Committee.
5. Housing program voluntary contribution.
 - a. All moneys contributed shall be used by the Department of Housing and Community Development to provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide assistance to housing for the low-income elderly for the physically or mentally disabled.
 - b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Partnership Revolving Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing Development Authority.
6. Voluntary contributions to the Department for the Aging.
 - a. All moneys contributed shall be used by the Department for the Aging for the enhancement of transportation services for the elderly and disabled.
 - b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for the Aging for the enhancement of transportation services for the elderly and disabled. The Department for the Aging shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this subdivision annually to the Secretary of Health and Human Resources.
7. Voluntary contribution to the Community Policing Fund.
 - a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the purchase of equipment or the support of services, as approved by the Criminal Justice Services Board, relating to community policing.
 - b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys deposited in such fund shall be used by the Department of Criminal Justices Services for the purposes set forth herein.
8. Voluntary contribution to promote the arts.

All moneys contributed shall be used by the Virginia Arts Foundation to assist the Virginia Commission for the Arts in its statutory responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund known as the Virginia Arts Foundation Fund.
9. Voluntary contribution to the Historic Resources Fund.

All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to § 10.1-2202.1.
10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.
11. Voluntary contribution to the Center for Governmental Studies.

All moneys contributed shall be paid to the Center for Governmental Studies, a public service and research center of the University of Virginia. All moneys shall be deposited into a special fund known as the Governmental Studies Fund.
12. Voluntary contribution to the Law and Economics Center.

All moneys contributed shall be paid to the Law and Economics Center, a public service and research center of George Mason University. All moneys shall be deposited into a special fund known as the Law and Economics Fund.
13. Voluntary contribution to Children of America Finding Hope.

550 All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs
551 which are designed to reach children with emotional and physical needs.

552 14. Voluntary contribution to 4-H Educational Centers.

553 All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth
554 for their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The
555 State Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.

556 15. Voluntary contribution to promote organ and tissue donation.

557 a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory
558 responsibility of promoting and coordinating educational and informational activities as related to the
559 organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

560 b. All moneys shall be deposited into a special fund known as the Virginia Transplant Council
561 Education Fund. All moneys deposited in such fund shall be used by the Virginia Transplant Council for
562 the purposes set forth herein.

563 16. Voluntary contributions to the Virginia War Memorial Foundation and the National D-Day
564 Memorial Foundation.

565 All moneys contributed shall be used by the Virginia War Memorial Foundation and the National
566 D-Day Memorial Foundation in their work through each of their respective memorials. The State
567 Treasurer shall divide the moneys into two equal portions and pay one portion to the Virginia War
568 Memorial Foundation and the other portion to the National D-Day Memorial Foundation.

569 17. Voluntary contribution to the Virginia Federation of Humane Societies.

570 All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its
571 mission of saving, caring for, and finding homes for homeless animals.

572 18. Voluntary contribution to the Tuition Assistance Grant Fund.

573 a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing
574 monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate
575 programs in private Virginia colleges.

576 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund.
577 All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for
578 Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act
579 (§ 23-38.11 et seq.).

580 19. Voluntary contribution to the Spay and Neuter Fund.

581 All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the
582 Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or
583 each locality may make the funds available to any private, nonprofit sterilization program for dogs and
584 cats in such locality. The Tax Commissioner shall determine annually the total amounts designated on
585 all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a
586 voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the
587 appropriate amount to each respective locality.

588 20. Voluntary contribution to the Virginia Commission for the Arts.

589 All moneys contributed shall be paid to the Virginia Commission for the Arts.

590 21. Voluntary contribution for the Office of Commonwealth Preparedness.

591 All moneys contributed shall be paid to the Department of Emergency Management for the Office of
592 Commonwealth Preparedness.

593 22. Voluntary contribution for the cancer centers in the Commonwealth.

594 All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have
595 been designated as cancer centers by the National Cancer Institute.

596 23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

597 a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program
598 Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education
599 Scholarship Program.

600 b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as
601 established in § 30-231.4.

602 c. All moneys so deposited in the Fund shall be administered by the State Council of Higher
603 Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of
604 Title 30.

605 24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

606 All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living
607 History and Public Policy Center.

608 25. Voluntary contribution to the Virginia Caregivers Grant Fund.

609 All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to
610 § 63.2-2202.

611 26. Voluntary contribution to public library foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public library foundation.

27. Voluntary contribution to Celebrating Special Children, Inc.

All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a special fund known as the Celebrating Special Children, Inc. Fund.

28. Voluntary contributions to the Department for the Aging.

a. All moneys contributed shall be used by the Department for the Aging for providing Medicare Part D counseling to the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All moneys so deposited shall be used by the Department for the Aging to provide counseling for the elderly and disabled concerning Medicare Part D. The Department for the Aging shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and Human Resources.

29. Voluntary contribution to community foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective community foundation. A "community foundation" shall be defined as any institution that meets the membership requirements for a community foundation established by the Council on Foundations.

30. Voluntary contribution to the Virginia Foundation for Community College Education.

a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community colleges in Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia Foundation for Community College Education in accordance with and for the purposes provided under the Community College Incentive Scholarship Program (§ 23-220.2 et seq.).

C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions or by making payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of such tax refund is less than the amount of the voluntary contribution:

1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.

All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.

2. Voluntary Chesapeake Bay Restoration Contribution.

a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2.

b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be administered by the Office of the Secretary of Natural Resources. All moneys so deposited shall be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2.

3. Voluntary Jamestown-Yorktown Foundation Contribution.

All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before January 1, 2008.

4. State forests voluntary contribution.

a. All moneys contributed shall be used for the development and implementation of conservation and education initiatives in the state forests system.

b. All moneys shall be deposited into a special fund known as the State Forests System Fund, established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State Forester for the purposes set forth herein.

5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured medical catastrophes.

6. Voluntary contribution to local school divisions.

673 a. All moneys contributed shall be used by a specified local public school foundation as created by
674 and for the purposes stated in § 22.1-212.2:2.

675 b. All moneys collected pursuant to subdivision 6 a of this subsection or through voluntary payments
676 by taxpayers designated for a local public school foundation over refundable amounts shall be deposited
677 into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on
678 all returns for each public school foundation and shall report the same to the State Treasurer. The State
679 Treasurer shall pay the appropriate amount to the respective public school foundation.

680 c. In order for a public school foundation to be eligible to receive contributions under this section,
681 school boards must notify the Department during the taxable year in which they want to participate prior
682 to the deadlines and according to procedures established by the Tax Commissioner.

683 7. Voluntary contribution to Home Energy Assistance Fund.

684 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to
685 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy
686 needs.

687 8. Voluntary contribution to the Virginia Military Family Relief Fund.

688 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in
689 providing assistance to military service personnel on active duty and their families for living expenses
690 including, but not limited to, food, housing, utilities, and medical services.

691 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief
692 Fund, established and administered pursuant to § 44-102.2.

693 D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected
694 for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner
695 shall determine annually the total amount designated for each entity in subsections B and C on all
696 individual income tax returns and shall report the same to the State Treasurer, who shall credit that
697 amount to each entity's respective special fund.
698