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HOUSE BILL NO. 1855

Offered January 9, 2013

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A BILL to amend and reenact §§ 2.2-3705.6 and 2.2-3705.7 of the Code of Virginia, relating to the Virginia Freedom of Information Act; exempt records of the Department of Aviation.

 Patron—Knight

 Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.6 and 2.2-3705.7 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public

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59 prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17
60 notwithstanding, the financial interest or bargaining position of the public entity would be adversely
61 affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the
62 responsible public entity; and

63 b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or
64 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or
65 the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records
66 contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
67 seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that
68 are not generally available to the public through regulatory disclosure or otherwise; or (iii) other
69 information submitted by the private entity, where, if the records were made public prior to the
70 execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining
71 position of the public or private entity would be adversely affected. In order for the records specified in
72 clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make
73 a written request to the responsible public entity:

74 1. Invoking such exclusion upon submission of the data or other materials for which protection from
75 disclosure is sought;

76 2. Identifying with specificity the data or other materials for which protection is sought; and

77 3. Stating the reasons why protection is necessary.

78 The responsible public entity shall determine whether the requested exclusion from disclosure is
79 necessary to protect the trade secrets or financial records of the private entity. To protect other records
80 submitted by the private entity from disclosure, the responsible public entity shall determine whether
81 public disclosure prior to the execution of an interim agreement or a comprehensive agreement would
82 adversely affect the financial interest or bargaining position of the public or private entity. The
83 responsible public entity shall make a written determination of the nature and scope of the protection to
84 be afforded by the responsible public entity under this subdivision. Once a written determination is made
85 by the responsible public entity, the records afforded protection under this subdivision shall continue to
86 be protected from disclosure when in the possession of any affected jurisdiction or affected local
87 jurisdiction.

88 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to
89 authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b)
90 information concerning the terms and conditions of any interim or comprehensive agreement, service
91 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity
92 and the private entity; (c) information concerning the terms and conditions of any financing arrangement
93 that involves the use of any public funds; or (d) information concerning the performance of any private
94 entity developing or operating a qualifying transportation facility or a qualifying project.

95 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"
96 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation
97 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined
98 in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and
99 Infrastructure Act of 2002.

100 12. Confidential proprietary information or trade secrets, not publicly available, provided by a private
101 person or entity to the Virginia Resources Authority or to a fund administered in connection with
102 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such
103 information were made public, the financial interest of the private person or entity would be adversely
104 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of
105 confidentiality.

106 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential
107 proprietary records that are not generally available to the public through regulatory disclosure or
108 otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under Chapter 21
109 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of
110 confidentiality from the franchising authority, to the extent the records relate to the bidder's, applicant's,
111 or franchisee's financial capacity or provision of new services, adoption of new technologies or
112 implementation of improvements, where such new services, technologies or improvements have not been
113 implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such
114 records were made public, the competitive advantage or financial interests of the franchisee would be
115 adversely affected.

116 In order for trade secrets or confidential proprietary information to be excluded from the provisions
117 of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon submission of
118 the data or other materials for which protection from disclosure is sought, (ii) identify the data or other
119 materials for which protection is sought, and (iii) state the reason why protection is necessary.

120 No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the

bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Records submitted as a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

18. Confidential proprietary records and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (i) invoke the protections of this subdivision, (ii) identify with specificity the records or portions thereof for which protection is sought, and (iii) state the reasons why protection is necessary.

19. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Minority Business Enterprise as part of an application for (i) certification as a small, women-owned, or minority-owned business in accordance with Chapter 14 (§ 2.2-1400 et seq.) of this title or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

21. Documents and other information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The State Inspector

182 General shall make a written determination of the nature and scope of the protection to be afforded by it
183 under this subdivision.

184 23. Records submitted as a grant application, or accompanying a grant application, to the Virginia
185 Tobacco Indemnification and Community Revitalization Commission to the extent such records contain
186 (i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records
187 of a grant applicant that is not a public body, including balance sheets and financial statements, that are
188 not generally available to the public through regulatory disclosure or otherwise, or (iii) research-related
189 information produced or collected by the applicant in the conduct of or as a result of study or research
190 on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information
191 has not been publicly released, published, copyrighted, or patented, if the disclosure of such information
192 would be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or
193 other records prepared by the Commission or its staff exclusively for the evaluation of grant
194 applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the
195 powers of and in furtherance of the performance of the duties of the Commission pursuant to
196 § 3.2-3103.

197 In order for the records specified in this subdivision to be excluded from the provisions of this
198 chapter, the applicant shall make a written request to the Commission:

199 1. Invoking such exclusion upon submission of the data or other materials for which protection from
200 disclosure is sought;

201 2. Identifying with specificity the data, records or other materials for which protection is sought; and

202 3. Stating the reasons why protection is necessary.

203 The Commission shall determine whether the requested exclusion from disclosure is necessary to
204 protect the trade secrets, financial records or research-related information of the applicant. The
205 Commission shall make a written determination of the nature and scope of the protection to be afforded
206 by it under this subdivision.

207 24. a. Records of the Commercial Space Flight Authority relating to rate structures or charges for the
208 use of projects of, the sale of products of, or services rendered by the Authority if public disclosure
209 would adversely affect the financial interest or bargaining position of the Authority or a private entity
210 providing records to the Authority; or

211 b. Records provided by a private entity to the Commercial Space Flight Authority, to the extent that
212 such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act
213 (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial
214 statements, that are not generally available to the public through regulatory disclosure or otherwise; or
215 (iii) other information submitted by the private entity, where, if the records were made public, the
216 financial interest or bargaining position of the Authority or private entity would be adversely affected.

217 In order for the records specified in clauses (i), (ii), and (iii) of subdivision 24 b to be excluded from
218 the provisions of this chapter, the private entity shall make a written request to the Authority:

219 1. Invoking such exclusion upon submission of the data or other materials for which protection from
220 disclosure is sought;

221 2. Identifying with specificity the data or other materials for which protection is sought; and

222 3. Stating the reasons why protection is necessary.

223 The Authority shall determine whether the requested exclusion from disclosure is necessary to protect
224 the trade secrets or financial records of the private entity. To protect other records submitted by the
225 private entity from disclosure, the Authority shall determine whether public disclosure would adversely
226 affect the financial interest or bargaining position of the Authority or private entity. The Authority shall
227 make a written determination of the nature and scope of the protection to be afforded by it under this
228 subdivision.

229 25. Documents and other information of a proprietary nature furnished by an agricultural landowner
230 or operator to the Department of Conservation and Recreation, the Department of Environmental
231 Quality, the Department of Agriculture and Consumer Services or any political subdivision, agency, or
232 board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when
233 required as part of a state or federal regulatory enforcement action.

234 26. *Documents and other information of a proprietary nature furnished by a licensed public-use*
235 *airport to the Department of Aviation for funding from programs administered by the Department of*
236 *Aviation or the Virginia Aviation Board, where if the records were made public, the financial interest of*
237 *the public-use airport would be adversely affected.*

238 In order for the records specified in this subdivision to be excluded from the provisions of this
239 chapter, the public-use airport shall make a written request to the Department of Aviation:

240 1. Invoking such exclusion upon submission of the data or other materials for which protection from
241 disclosure is sought;

242 2. Identifying with specificity the data or other materials for which protection is sought; and

243 3. Stating the reasons why protection is necessary.

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exemptions.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

3. Library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

10. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

11. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall

305 be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game
306 to which it pertains.

307 12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local
308 retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of
309 Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to
310 § 23-38.77, relating to the acquisition, holding or disposition of a security or other ownership interest in
311 an entity, where such security or ownership interest is not traded on a governmentally regulated
312 securities exchange, to the extent that: (i) such records contain confidential analyses prepared for the
313 Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia
314 College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a
315 promise of confidentiality, of the future value of such ownership interest or the future financial
316 performance of the entity; and (ii) disclosure of such confidential analyses would have an adverse effect
317 on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector
318 and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this
319 subdivision shall be construed to prevent the disclosure of records relating to the identity of any
320 investment held, the amount invested, or the present value of such investment.

321 13. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department
322 of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the
323 Department not release such information.

324 14. Financial, medical, rehabilitative and other personal information concerning applicants for or
325 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority
326 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

327 15. Records of the Virginia Commonwealth University Health System Authority pertaining to any of
328 the following: an individual's qualifications for or continued membership on its medical or teaching
329 staffs; proprietary information gathered by or in the possession of the Authority from third parties
330 pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
331 awarding contracts for construction or the purchase of goods or services; data, records or information of
332 a proprietary nature produced or collected by or for the Authority or members of its medical or teaching
333 staffs; financial statements not publicly available that may be filed with the Authority from third parties;
334 the identity, accounts or account status of any customer of the Authority; consulting or other reports
335 paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the
336 determination of marketing and operational strategies where disclosure of such strategies would be
337 harmful to the competitive position of the Authority; and data, records or information of a proprietary
338 nature produced or collected by or for employees of the Authority, other than the Authority's financial
339 or administrative records, in the conduct of or as a result of study or research on medical, scientific,
340 technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a
341 governmental body or a private concern, when such data, records or information have not been publicly
342 released, published, copyrighted or patented.

343 16. Records of the Department of Environmental Quality, the State Water Control Board, State Air
344 Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal
345 environmental enforcement actions that are considered confidential under federal law and (ii)
346 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records
347 shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the
348 director of the agency. This subdivision shall not be construed to prohibit the disclosure of records
349 related to inspection reports, notices of violation, and documents detailing the nature of any
350 environmental contamination that may have occurred or similar documents.

351 17. As it pertains to any person, records related to the operation of toll facilities that identify an
352 individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle
353 enforcement system information; video or photographic images; Social Security or other identification
354 numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone
355 numbers; or records of the date or time of toll facility use.

356 18. Records of the State Lottery Department pertaining to (i) the social security number, tax
357 identification number, state sales tax number, home address and telephone number, personal and lottery
358 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
359 operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name,
360 hometown, and amount won shall be disclosed.

361 19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person
362 regulated by the Board, where such person has tested negative or has not been the subject of a
363 disciplinary action by the Board for a positive test result.

364 20. Records, investigative notes, correspondence, and information pertaining to the planning,
365 scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of
366 Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents,

employees or persons employed to perform an audit or examination of holder records.

21. Records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

22. Records of state or local park and recreation departments and local and regional park authorities to the extent such records contain information identifying a person under the age of 18 years, where the parent or legal guardian of such person has requested in writing that such information not be disclosed. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For records of such persons who are emancipated, the right of access may be asserted by the subject thereof.

23. Records submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management, to the extent that they reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

24. Records of the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, to the extent that disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to authorize the withholding of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

26. Records of the Department of Corrections made confidential by § 53.1-233.

27. Records maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the record.

29. Records maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

428 30. Names, physical addresses, telephone numbers, and email addresses contained in correspondence
429 between an individual and a member of the governing body, school board, or other public body of the
430 locality in which the individual is a resident, unless the correspondence relates to the transaction of
431 public business. However, no record that is otherwise open to inspection under this chapter shall be
432 deemed exempt by virtue of the fact that it has been attached to or incorporated within any such
433 correspondence.

434 *31. Records provided to the Department of Aviation by other entities of the Commonwealth in*
435 *connection with the operation of aircraft, where the records would not be subject to disclosure by the*
436 *entity providing the records. The entity providing the records to the Department of Aviation shall*
437 *identify the specific portion of the records to be protected and the applicable provision of this chapter*
438 *that exempts the record or portions thereof from mandatory disclosure.*