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**HOUSE BILL NO. 2005**

Offered January 9, 2013

Prefiled January 9, 2013

*A BILL to amend and reenact §§ 36-137, 36-139, 36-141, 36-142, 36-147, 54.1-2113, 55-530.1, and 58.1-344.3 of the Code of Virginia, relating to the Virginia Housing Partnership Revolving Fund.*

Patrons—Lopez, Anderson, BaCote, Brink, Bulova, Carr, Dance, Filler-Corn, Helsel, Herring, Hester, Hope, Howell, A.T., James, Johnson, Keam, Kory, Krupicka, Lewis, McClellan, McQuinn, Minchew, Morrissey, Peace, Plum, Rust, Scott, J.M., Sickles, Spruill, Surovell, Torian, Toscano, Tyler, Ward, Ware, O., Watts, Webert and Yancey

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 36-137, 36-139, 36-141, 36-142, 36-147, 54.1-2113, 55-530.1, and 58.1-344.3 of the Code of Virginia are amended and reenacted as follows:**

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

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

1. Provide a means of citizen access to the Department.
2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities.
3. Monitor the policies and activities of the Department and have the right of access to departmental information.
4. Advise the Governor and the Director on matters relating to housing and community development.
5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.

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

7. Levy by regulation up to two percent of permit fees authorized pursuant to §§ 36-98.3 and 36-105 to support training programs of the Building Code Academy established pursuant to § 36-139. Local building departments shall collect such levy and transmit it quarterly to the Department of Housing and Community Development. Localities that maintain, individual or regional, training academies accredited by the Department of Housing and Community Development shall retain such levy. However, such localities may send employees to training programs of the Building Code Academy upon payment of a fee calculated to cover the cost of such training. Any unspent balance shall be reappropriated each year for the continued operation of the Building Code Academy.

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

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

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

10. Advise the Director of the Department on the program guidelines required to accomplish the policies and procedures of the Virginia Housing Partnership Revolving Trust Fund.

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

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

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

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

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

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

68 **§ 36-139. Powers and duties of Director.**

69 The Director of the Department of Housing and Community Development shall have the following  
70 responsibilities:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

113 17. Advising the Board on matters relating to policies and programs of the Virginia Housing  
114 Partnership Revolving Trust Fund.

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

117 19. Preparing agreements and documents for loans and grants to be made from the Virginia Housing

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

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

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

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

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

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

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

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

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

#### CHAPTER 9.

#### VIRGINIA HOUSING PARTNERSHIP REVOLVING TRUST FUND.

##### § 36-141. Definitions.

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

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

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

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

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

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

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

##### § 36-142. Creation and management of Fund.

A. There shall be set apart as a permanent and perpetual fund is hereby established in the state treasury a special permanent, nonreverting fund, to be known as the "Virginia Housing Partnership Revolving Trust Fund." The Fund shall be established on the books of the Comptroller and consist of

179 sums \$7 million appropriated to the Fund by the General Assembly; sums as may be allocated to the  
180 Commonwealth for this purpose by the United States government, all receipts by the Fund from loans  
181 made by it to housing sponsors and persons and families of low and moderate income, all income from  
182 the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from  
183 any source, public or private. The Fund is created to address the serious shortage in the Commonwealth  
184 of safe and decent residential housing at prices that persons and families of low and moderate income  
185 can afford. Housing developments and housing projects funded through the Fund are intended to provide  
186 additional affordable housing opportunities for low and moderate income Virginians, by preserving  
187 existing housing units, by producing new housing units and by assisting persons with special needs to  
188 obtain adequate housing. The Fund shall also consist of such other sums as may be made available to it  
189 and shall include federal grants solicited and received for the specific purposes of the Fund and all  
190 interest and income from investment of the Fund. Any sums remaining in the Fund, including interest  
191 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.  
192 All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund.

193 B. The Department of Housing and Community Development (the Department) shall:

194 1. Work in collaboration with the HDA to provide loan origination and servicing activities as needed  
195 to carry out the purposes of the Fund. The costs of such services shall be considered an eligible use of  
196 the Fund; and

197 2. Use, through HDA, at least 80 percent of the moneys from the Fund to provide flexible financing  
198 for low-interest loans through eligible organizations. Such loans shall be structured to maximize  
199 leveraging opportunities. All such funds shall be repaid to the credit of the Fund. Loans may be  
200 provided for (i) affordable rental housing to include new construction, rehabilitation, repair, or  
201 acquisition of housing to assist low or moderate income citizens, including land and land improvements;  
202 (ii) down payment and closing cost assistance for homebuyers; and (iii) short-term, medium-term, and  
203 long-term loans to reduce the cost of homeownership and rental housing.

204 The Department may use up to 20 percent of the moneys from the Fund to provide grants through  
205 eligible organizations for targeted efforts to reduce homelessness, including (a) temporary rental  
206 assistance, not to exceed one year; (b) housing stabilization services in permanent supportive housing  
207 for homeless individuals and homeless families; (c) mortgage foreclosure counseling targeted at  
208 localities with the highest incidence of foreclosure activity; and (d) predevelopment assistance for  
209 permanent supportive housing and other long-term housing options for the homeless.

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

219 D. For the purposes of this section, eligible organizations include (i) localities, (ii) local government  
220 housing authorities, (iii) regional and statewide housing assistance organizations that provide assistance  
221 to low and moderate income or low income citizens of Virginia, and (iv) limited liability companies  
222 expressly created for the purpose of owning and operating affordable housing.

223 E. Prior to the expenditure of any funds appropriated for the Fund, the Department, in conjunction  
224 with HDA, shall submit a plan outlining its proposed uses of the Fund to the General Assembly. The  
225 plan shall be provided to the Chairmen of the House Committee on Appropriations and the Senate  
226 Committee on Finance no later than November 1 of each year.

#### 227 § 36-147. Grants.

228 Subject Except as provided by § 36-142 and subject to any restrictions which may apply to the use  
229 of money in the Fund, the Board in its discretion may approve the use of money in the Fund to make  
230 grants or appropriations to (i) support housing sponsors and persons and families of low and moderate  
231 income to, (ii) support low and moderate income housing projects that are located in areas experiencing  
232 extreme shortages of such housing, (iii) support rural affordable housing initiatives, and (iv) provide  
233 assistance for the acquisition, construction, improvement, ownership or occupancy of housing  
234 developments and residential housing for persons and families of low and moderate income. Grants shall  
235 be disbursed from the Fund by the HDA in accordance with the directions of the Director of the  
236 Department of Housing and Community Development.

#### 237 § 54.1-2113. Establishment and maintenance of fund, duty of Director, assessments of regulants.

238 A. Each initial regulant at the time of licensure shall be assessed ~~twenty dollars~~ \$20, which shall be  
239 specifically assigned to the fund. Initial payments may be incorporated in any application fee payment  
240 and transferred to the fund by the Director within ~~thirty~~ 30 days.

B. All assessments, except initial assessments, for the fund shall be deposited, within three work 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 and loan associations 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 institutions 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. The Director shall maintain in his office an accurate record of all transactions involving the fund, which records shall be open for inspection and copying by the public during the normal business hours of the Director.

C. The minimum balance of the fund shall be \$400,000. 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 of interest earnings to the fund to bring the balance of the fund to the amount required by this subsection. Such transfer of interest shall be considered by the Board within ~~thirty~~ 30 days of the notification of the Director.

D. If available interest earnings are insufficient to bring the balance of the fund to the minimum amount required by this section, or if a transfer of available interest earnings to the fund has not occurred, the Board shall assess each regulant within ~~thirty~~ 30 days of notification by the Director, a sum sufficient to bring the balance of the fund to the required minimum amount. The Board may order an assessment of regulants at any time in addition to any required assessment. No regulant shall be assessed a total amount of more than ~~twenty dollars~~ \$20 during any biennial license period or part thereof, the biennial period expiring on June 30 of each even-numbered year. Assessments of regulants 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.

E. At the close of each fiscal year, whenever the balance of the fund exceeds \$2,000,000, the amount in excess of \$2,000,000 shall be transferred to the Virginia Housing ~~Partnership Revolving Trust~~ Fund. Except for 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.

F. If the Board determines that all regulants will be assessed concurrently, notice to the regulants of such assessments shall be by first-class mail, and payment of such assessments shall be made by first-class mail to the Director within ~~forty-five~~ 45 days after the mailing to regulants of such notice.

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

G. If any regulant fails to remit the required payment mailed in accordance with subsection F within ~~forty-five~~ 45 days of the mailing, the Director shall notify the regulant by first-class mail at the latest address of record filed with the Board. If no payment has been received by the Director within ~~thirty~~ 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.

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

#### **§ 55-530.1. Common Interest Community Management Recovery Fund.**

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

B. Each common interest community manager, at the time of initial application for licensure, and each association filing its first annual report after the effective date ~~hereof~~ shall be assessed \$25, which 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 principal balance of the Fund is or will be less than such minimum principal 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 principal 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 principal 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 principal 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 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, 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 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, 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 and one-half to local public

425 bodies pursuant to the Virginia Outdoor Fund Grants Program.

426 3. Voluntary contribution to political party.

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

431 4. United States Olympic Committee voluntary contribution.

432 All moneys contributed shall be paid to the United States Olympic Committee.

433 5. Housing program voluntary contribution.

434 a. All moneys contributed shall be used by the Department of Housing and Community Development  
435 to provide assistance for emergency, transitional, and permanent housing for the homeless; and to  
436 provide assistance to housing for the low-income elderly for the physically or mentally disabled.

437 b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for  
438 Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and  
439 Community Development for the purposes set forth in this subdivision. Funds made available to the  
440 Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the  
441 Virginia Housing Partnership Revolving Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.)  
442 of Title 36 or those of the Virginia Housing Development Authority.

443 6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

444 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for  
445 the enhancement of transportation services for the elderly and disabled.

446 b. All moneys shall be deposited into a special fund known as the Transportation Services for the  
447 Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for  
448 Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and  
449 disabled. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the  
450 moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded  
451 pursuant to this subdivision annually to the Secretary of Health and Human Resources.

452 7. Voluntary contribution to the Community Policing Fund.

453 a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the  
454 purchase of equipment or the support of services, as approved by the Criminal Justice Services Board,  
455 relating to community policing.

456 b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All  
457 moneys deposited in such fund shall be used by the Department of Criminal Justices Services for the  
458 purposes set forth herein.

459 8. Voluntary contribution to promote the arts.

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

463 9. Voluntary contribution to the Historic Resources Fund.

464 All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to  
465 § 10.1-2202.1.

466 10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

467 All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public  
468 Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

469 11. Voluntary contribution to the Center for Governmental Studies.

470 All moneys contributed shall be paid to the Center for Governmental Studies, a public service and  
471 research center of the University of Virginia. All moneys shall be deposited into a special fund known  
472 as the Governmental Studies Fund.

473 12. Voluntary contribution to the Law and Economics Center.

474 All moneys contributed shall be paid to the Law and Economics Center, a public service and  
475 research center of George Mason University. All moneys shall be deposited into a special fund known  
476 as the Law and Economics Fund.

477 13. Voluntary contribution to Children of America Finding Hope.

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

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

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

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

485 a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory  
486 responsibility of promoting and coordinating educational and informational activities as related to the



organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and Public Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant Council for the purposes set forth herein.

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

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

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

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

18. Voluntary contribution to the Tuition Assistance Grant Fund.

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

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

19. Voluntary contribution to the Spay and Neuter Fund.

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

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

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

21. Voluntary contribution for the Office of Commonwealth Preparedness.

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

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

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

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

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

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

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

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

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

25. Voluntary contribution to the Virginia Caregivers Grant Fund.

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

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 Aging and Rehabilitative Services.

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

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

556 29. Voluntary contribution to community foundations.

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

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

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

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

571 31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

572 All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access  
573 Authority to be used for the purposes described in § 15.2-6601.

574 32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

575 All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment  
576 Fund established pursuant to § 32.1-368.

577 33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.

578 All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in  
579 its mission to increase the public's knowledge and appreciation of Virginia's marine environment and  
580 inspire commitment to preserve its existence.

581 34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

582 All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its  
583 mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol  
584 and Capitol Square.

585 35. Voluntary contribution for the Secretary of Veterans Affairs and Homeland Security.

586 All moneys contributed shall be paid to the Office of the Secretary of Veterans Affairs and  
587 Homeland Security for related programs and services.

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

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

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

594 2. Voluntary Chesapeake Bay Restoration Contribution.

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

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

603 3. Voluntary Jamestown-Yorktown Foundation Contribution.

604 All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown  
605 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the  
606 Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before  
607 January 1, 2008.

608 4. State forests voluntary contribution.

609 a. All moneys contributed shall be used for the development and implementation of conservation and

610 education initiatives in the state forests system.

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

614 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

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

618 6. Voluntary contribution to local school divisions.

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

621 b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers  
622 designated for a local public school foundation over refundable amounts shall be deposited into the state  
623 treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for  
624 each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall  
625 pay the appropriate amount to the respective public school foundation.

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

629 7. Voluntary contribution to Home Energy Assistance Fund.

630 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to  
631 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy  
632 needs.

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

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

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

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