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HOUSE BILL NO. 1036

Offered January 8, 2014

Prefiled January 8, 2014

A BILL to amend and reenact § 12.1-19 of the Code of Virginia, relating to disclosure of records related to administrative activities of the State Corporation Commission.

Patrons—Joannou, Ramadan, Gilbert, Kilgore and Kory

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 12.1-19 of the Code of Virginia is amended and reenacted as follows:****§ 12.1-19. Duties of clerk; records; copies; personal identifiable information; records related to the administrative activities of the Commission.****A. The clerk of the Commission shall:**

1. Keep a record of all the proceedings, orders, findings, and judgments of the public sessions of the Commission, and the minutes of the proceedings of each day's public session shall be read and approved by the Commission and signed by its chairman, or acting chairman;

2. Subject to the supervision and control of the Commission, have custody of and preserve all of the records, documents, papers, and files of the Commission, or which may be filed before it in any complaint, proceeding, contest, or controversy, and such records, documents, papers, and files shall be open to public examination in the office of the clerk to the same extent as the records and files of the courts of this Commonwealth;

3. When requested, make and certify copies from any record, document, paper, or file in his office, and if required, affix the seal of the Commission (or a facsimile thereof) thereto, and otherwise furnish and certify information from the Commission records by any means the Commission may deem suitable; and, except when made at the instance of the Commission or on behalf of the Commonwealth, a political subdivision of the Commonwealth, or the government of the United States, he shall charge and collect the fees fixed by §§ 12.1-21.1 and 12.1-21.2; and any such copy or information, so certified, shall have the same faith, credit, and legal effect as copies made and certified by the clerks of the courts of this Commonwealth from the records and files thereof;

4. Certify all allowances made by the Commission to be paid out of the public treasury for witness fees, service of process, or other expenses;

5. Issue all notices, writs, processes or orders awarded by the Commission, or authorized by law, or by the rules of the Commission;

6. Receive all fines and penalties imposed by the Commission, all moneys collected on judgments, all registration fees and franchise taxes required by law to be paid by corporations, including delinquencies thereof and all other fees collected by the Commission, and shall keep an accurate account of the same and the disposition of such receipts and shall, at least once in every thirty days during his term of office, render a statement of all such receipts and collections to the Comptroller, and pay the same into the treasury of the Commonwealth, and shall keep all such other accounts of such collections and disbursements, and shall make all such other reports thereof as may be required by law or by the regulations prescribed by the Comptroller; and

7. Generally have the powers, discharge the functions, and perform the duties of a clerk of a court of record in all matters within the jurisdiction of the Commission. The Commission may designate one or more deputies or assistants of the clerk who may discharge any of his official duties during his continuance in office.

B. A person who prepares or submits to the office of the clerk of the Commission a document or any information for filing with the Commission pursuant to Title 8.9A, Title 13.1, or Title 50 is responsible for ensuring that the document or information does not contain any personal identifiable information, unless such information is otherwise publicly available or is required or authorized by law to be included in the document or information provided. For purposes of this subsection, "personal identifiable information" means (i) a social security number or any other numbers appearing on driver's licenses, (ii) information on credit cards, debit cards, bank accounts, or other electronic billing and payment systems, (iii) a date of birth identified with a particular individual, (iv) the maiden name of an individual's parent, or (v) any financial account number. Any person who prepares or submits to the office of the clerk a document for filing that contains personal identifiable information shall be deemed to have authorized the clerk or any member of his staff to remove, delete, or obliterate, without prior notice, such information prior or subsequent to recording or filing the document in the office of the

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59 clerk. Nothing in this subsection shall be deemed to require the clerk to alter any document submitted
60 for filing. The clerk may refuse to accept for filing any document that includes personal identifiable
61 information and return it for modification or explanation. The Commission, its members, the clerk of the
62 Commission, and any member of his staff are immune from liability in any proceeding arising from any
63 acts or omissions in the implementation of this subsection. This subsection shall not be construed to
64 limit, withdraw, or overturn any defense or immunity that exists under statutory or common law.

65 *C. 1. The Commission shall make available for public inspection records related to the*
66 *administrative activities of the Commission.*

67 *2. Disclosure of such records shall not be required, however, if (i) such records are otherwise*
68 *covered by applicable legal privileges, (ii) disclosure of such records could threaten the safety or*
69 *security of the Commission's employees, physical plant or information technology assets or data, or (iii)*
70 *such records are not publicly available from other public entities under the laws of the Commonwealth,*
71 *including §§ 2.2-3705.1 and 2.2-4342.*

72 *3. Records held by the clerk of the Commission related to business entities shall be made public or*
73 *held confidential in accordance with laws and regulations applicable specifically to such records.*

74 *4. As used in this subsection, "administrative activities" means matters related to the Commission's*
75 *operational responsibilities and operational functions, including its revenues, expenditures, financial*
76 *management and budgetary practices, personnel policies and practices, and procurement policies and*
77 *practices. "Administrative activities" shall not include the Commission's formal or informal regulatory or*
78 *legal proceedings or activities, records related to which shall be governed, inter alia, by laws and*
79 *regulations applicable specifically to such regulatory and legal proceedings or activities, or in*
80 *accordance with applicable legal privileges.*