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HOUSE BILL NO. 471

Offered January 10, 2018

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A *BILL to amend and reenact §§ 13.1-619, 13.1-634, 13.1-1011, 13.1-1015, 58.1-609.3, and 58.1-3703 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 12.1-19.2 and 60.2-212.3, relating to state and local tax and regulatory exemptions for new small businesses.*

Patron—Reid

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-619, 13.1-634, 13.1-1011, 13.1-1015, 58.1-609.3, and 58.1-3703 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 12.1-19.2 and 60.2-212.3 as follows:

§ 12.1-19.2. Service of process; eligible businesses.

A. As used in this section, "eligible business" means a domestic stock corporation organized pursuant to Chapter 9 (§ 13.1-601 et seq.) of Title 13.1 or a domestic limited liability company formed pursuant to Chapter 12 (§ 13.1-1000 et seq.) that (i) has its principal place of business in the Commonwealth, (ii) has not been in existence for more than five years, and (iii) has fewer than six employees or has paid less than \$5,000 for the purchase or lease of business personal property, including machinery and tools and merchants' capital, since its inception.

B. Whenever an eligible business has set forth, in its articles of incorporation pursuant to § 13.1-619 if it is a corporation or articles of organization pursuant to § 13.1-1011 if it is a limited liability company, the post office address of the clerk of the Commission as the eligible business's initial registered office, service on the corporation or limited liability company shall be made by leaving two copies of the process for the eligible business, together with the fee or fees specified in subsection F, in the office of the clerk of the Commission, provided that the eligible business has provided to the clerk of the Commission the email address of the eligible business. If the eligible business has not provided an email address to the clerk, the clerk shall refuse delivery of the process or return the process if delivery was accepted erroneously. The party seeking service shall recite the statute or other authority pursuant to which process is being served.

C. The clerk or any of the clerk's staff shall forthwith send an email message to the eligible business at the email address provided pursuant to subsection B advising of the delivery of process on the clerk. The email message shall inform the eligible business that a representative of the eligible business may accept the service of process by appearing in person at the office of clerk and obtaining process from the clerk of the Commission or any of the clerk's staff, within 10 business days following the date the email message is sent. The email message shall also inform the eligible business that failure to accept the process from the clerk of the Commission within such period shall have the same effect as a defendant's refusal to accept service of process in a civil action. The clerk of the Commission may extend the 10-business-day period by not more than 10 additional days if a representative of the eligible business responds to the email within the initial 10-business-day period and provides good cause establishing that such an extension is reasonable. The clerk shall keep a record thereof, including any record of the eligible business' response to the email message and the date, if any, that a representative of the eligible business accepted the process from the clerk.

D. The clerk shall file a certificate of compliance with the requirements of this section with the other papers in the proceeding giving rise to the service.

E. Whenever the party or bureau or division of the Commission seeking service has knowledge of the email address of an eligible business that differs from that on record with the Commission, such party may provide the latest known email address of the eligible business.

F. The clerk of the Commission shall charge and collect at the time of any delivery of process on the clerk pursuant to this section \$30 for each eligible business named in the process, which amount may be recovered as taxable costs by the party to the proceeding giving rise to such process if such party prevails in the proceeding.

§ 13.1-619. Articles of incorporation.

A. The articles of incorporation shall set forth:

1. A corporate name for the corporation that satisfies the requirements of § 13.1-630;
2. The number of shares the corporation is authorized to issue;
3. If more than one class or series of shares is authorized, the number of authorized shares of each

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59 class or series and a distinguishing designation for each class or series; and

60 4. The address of the corporation's initial registered office (including both (i) the post-office address
61 with street and number, if any, and (ii) the name of the city or county in which it is located), and, *if the*
62 *corporation is not an eligible business as defined in § 12.1-19.2*, the name of its initial registered agent
63 at that office, and that the agent is either ~~(i)~~ (a) an individual who is a resident of Virginia and either a
64 director of the corporation or a member of the Virginia State Bar or ~~(ii)~~ (b) a domestic or foreign stock
65 or nonstock corporation, limited liability company, or registered limited liability partnership authorized
66 to transact business in the Commonwealth. *However, if the articles of incorporation provide that the*
67 *corporation is organized as an eligible business, the articles of incorporation may set forth the address*
68 *of the clerk of the Commission in lieu of an address of the corporation's initial registered office. The*
69 *articles of incorporation of a corporation organized as an eligible business shall not be required to set*
70 *forth an initial registered agent. The designation by an eligible business of the address of the clerk of*
71 *the Commission in lieu of an address of the corporation's initial registered office shall be valid only for*
72 *the period that the corporation is an eligible business. Upon ceasing to be an eligible business, the*
73 *corporation shall designate a registered office and registered agent by filing a statement of change*
74 *pursuant to § 13.1-635, the provisions of § 12.1-19.2 shall no longer be applicable, and the address of*
75 *the clerk of the Commission shall be discontinued.*

76 B. The articles of incorporation may set forth:

77 1. The names and addresses of the individuals who are to serve as the initial directors;

78 2. Any provision defining or denying the preemptive right of shareholders to acquire unissued shares
79 of the corporation;

80 3. Provisions not inconsistent with law:

81 a. Stating the purpose or purposes for which the corporation is organized;

82 b. Regarding the management of the business and regulation of the affairs of the corporation;

83 c. Defining, limiting, and regulating the powers of the corporation, its directors, and shareholders;

84 d. Establishing a par value for authorized shares or classes or series of shares; and

85 4. Any provision that under this chapter is required or permitted to be set forth in the bylaws.

86 C. The articles of incorporation need not set forth any of the corporate powers enumerated in this
87 chapter.

88 D. Provisions of the articles of incorporation may be made dependent upon facts objectively
89 ascertainable outside the articles of incorporation in accordance with subsection L of § 13.1-604.

90 **§ 13.1-634. Registered office and registered agent.**

91 A. Each corporation shall continuously maintain in this Commonwealth:

92 1. *A Unless provided otherwise in § 13.1-619*, a registered office that may be the same as any of its
93 places of business; and

94 2. A registered agent, who shall be:

95 a. An individual who is a resident of this Commonwealth and either an officer or director of the
96 corporation or a member of the Virginia State Bar, and whose business office is identical with the
97 registered office; or

98 b. A domestic or foreign stock or nonstock corporation, limited liability company or registered
99 limited liability partnership authorized to transact business in this Commonwealth, the business office of
100 which is identical with the registered office; provided such a registered agent (i) shall not be its own
101 registered agent and (ii) shall designate by instrument in writing, acknowledged before a notary public,
102 one or more natural persons at the office of the registered agent upon whom any process, notice or
103 demand may be served and shall continuously maintain at least one such person at that office. Whenever
104 any such person accepts service, a photographic copy of such instrument shall be attached to the return.

105 B. The sole duty of the registered agent is to forward to the corporation at its last known address any
106 process, notice, or demand that is served on the registered agent *or accepted by the registered agent as*
107 *provided in § 12.1-19.2.*

108 **§ 13.1-1011. Articles of organization.**

109 A. The articles of organization shall set forth:

110 1. A name for the limited liability company that satisfies the requirements of § 13.1-1012;

111 2. The post office address, including the street and number, if any, of the limited liability company's
112 initial registered office, the name of the city or county in which it is located, *and, if the limited liability*
113 *company is not an eligible business as defined in § 12.1-19.2*, the name of its initial registered agent at
114 that office, and that the agent is either (i) an individual who is a resident of Virginia and one of the
115 following: a member or manager of the limited liability company, a member or manager of a limited
116 liability company that is a member or manager of the limited liability company, an officer or director of
117 a corporation that is a member or manager of the limited liability company, a general partner of a
118 general or limited partnership that is a member or manager of the limited liability company, a trustee of a
119 trust that is a member or manager of the limited liability company, or a member of the Virginia State
120 Bar or (ii) a domestic or foreign stock or nonstock corporation, limited liability company or registered

limited liability partnership authorized to transact business in the Commonwealth. *However, if the articles of organization provide that the limited liability company is organized as an eligible business as defined in § 12.1-19.2, the articles of organization may set forth the address of the clerk of the Commission in lieu of an address of the limited liability company's initial registered office; and*

3. The post office address, including the street and number, if any, of the principal office of the limited liability company, which may be the same as the registered office, but need not be within the Commonwealth. *However, if the articles of organization provide that the limited liability company is organized as an eligible business as defined in § 12.1-19.2, the articles of organization shall set forth a post office address other than that of the clerk of the Commission as the principal office of the limited liability company.*

B. The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement of a limited liability company.

C. The articles of organization need not set forth any of the powers enumerated in this chapter.

D. If the Commission finds that the articles of organization comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of organization.

E. *The designation by an eligible business of the address of the clerk of the Commission in lieu of an address of the limited liability company's initial registered office shall be valid only for the period that the limited liability company is an eligible business. Upon ceasing to be an eligible business, the limited liability company shall designate a registered office and registered agent by filing a statement of change pursuant to § 13.1-1016, the provisions of § 12.1-19.2 shall no longer be applicable, and the address of the clerk of the Commission shall be discontinued.*

§ 13.1-1015. Registered office and registered agent.

A. Each domestic limited liability company and each foreign limited liability company registered pursuant to Article 10 (§ 13.1-1051 et seq.) of this chapter shall continuously maintain in the Commonwealth:

1. *A Unless provided otherwise in § 13.1-1011, a registered office that may be the same as any of its places of business; and*

2. A registered agent who shall be either:

a. An individual who is a resident of the Commonwealth and is (i) a member or manager of the limited liability company, (ii) a member or manager of a limited liability company that is a member or manager of the limited liability company, (iii) an officer or director of a corporation that is a member or manager of the limited liability company, (iv) a general partner of a general or limited partnership that is a member or manager of the limited liability company, (v) a trustee of a trust that is a member or manager of the limited liability company, or (vi) a member of the Virginia State Bar, and whose business office is identical with the registered office;

b. A domestic or foreign stock or nonstock corporation, limited liability company, or registered limited liability partnership authorized to transact business in the Commonwealth, the business office of which is identical with the registered office; provided such a registered agent (i) shall not be its own registered agent and (ii) shall designate by instrument in writing, acknowledged before a notary public, one or more natural persons at the office of the registered agent upon whom any process, notice, or demand may be served and shall continuously maintain at least one such person at that office. Whenever any such person accepts service, a photographic copy of such instrument shall be attached to the return; or

c. A Virginia resident who is an officer of the limited liability company, provided that such a registered agent or a natural person designated by the registered agent shall be available during regular business hours at the registered office to accept service of any process, notice, or demand. Whenever any such person accepts service, a photographic copy of such instrument shall be attached to the return. As used in this subdivision, "officer of the limited liability company" means any employee of the limited liability company, other than a member or manager of the limited liability company, who has been designated by the limited liability company by instrument in writing as a person upon whom any process, notice, or demand may be served.

B. The sole duty of the registered agent is to forward to the limited liability company or foreign limited liability company at its last known address any process, notice, or demand that is served on the registered agent *or accepted by a representative of an eligible business as provided in § 12.1-19.2.*

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

182 2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of
183 tangible personal property for resale where such industrial materials either enter into the production of or
184 become a component part of the finished product; (ii) industrial materials that are coated upon or
185 impregnated into the product at any stage of its being processed, manufactured, refined, or converted for
186 resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or
187 supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or
188 resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging
189 tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to
190 produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail
191 or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or
192 replacements thereof, shall be exempt if the preponderance of their use is directly in processing,
193 manufacturing, refining, mining or converting products for sale or resale. The provisions of this
194 subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In
195 addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment,
196 or any other tangible personal property used by a public service corporation in the generation of electric
197 power, except for raw materials that are inputs to production of electricity, including fuel, or for
198 machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption
199 for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire
200 June 30, 2027.

201 3. Tangible personal property sold or leased to a public service corporation engaged in business as a
202 common carrier of property or passengers by railway, for use or consumption by such common carrier
203 directly in the rendition of its public service.

204 4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in
205 interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying
206 the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states
207 of the United States or its territories or possessions, or in foreign commerce between ports in the
208 Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or
209 tangible personal property used directly in the building, conversion or repair of the ships or vessels
210 covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant
211 vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used
212 exclusively or principally in interstate or foreign commerce.

213 5. Tangible personal property purchased for use or consumption directly and exclusively in basic
214 research or research and development in the experimental or laboratory sense.

215 6. Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible personal property
216 sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier
217 providing scheduled air service on a continuing basis to one or more Virginia airports at least one day
218 per week, for use or consumption by such airline directly in the rendition of its common carrier service.

219 7. Meals furnished by restaurants or food service operators to employees as a part of wages.

220 8. Tangible personal property including machinery and tools, repair parts or replacements thereof,
221 and supplies and materials used directly in maintaining and preparing textile products for rental or
222 leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile
223 products.

224 9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any
225 equipment that has not been certified to the Department of Taxation by a state certifying authority
226 pursuant to such section.

227 10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption
228 directly in the rendition of their services.

229 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of
230 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or
231 photocopying of products for sale or resale.

232 12. From July 1, 1994, and ending July 1, 2022, raw materials, fuel, power, energy, supplies,
233 machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling,
234 extraction, or processing of natural gas or oil and the reclamation of the well area. For the purposes of
235 this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as
236 defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," and "processing" shall
237 include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a
238 usable condition consistent with commercial practices, and the gathering and transportation of raw
239 natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and
240 equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their
241 use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or
242 in well area reclamation activities required by state or federal law.

243 13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital

or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least \$75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. Beginning July 1, 2010, and ending June 30, 2035, computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center that (i) is located in a Virginia locality, (ii) results in a new capital investment on or after January 1, 2009, of at least \$150 million, and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to 25 new jobs if the data center is located in a locality that has an unemployment rate for the preceding year of at least 150 percent of the average statewide unemployment rate for such year as determined by the Virginia Economic Development Partnership or is located in an enterprise zone. This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall

305 apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement,
306 or replace computer equipment or enabling software purchased or leased in the initial investment. The
307 exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title
308 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building
309 improvements or other fixtures.

310 19. If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to
311 subdivision 1 or 2 of § 4.1-208, (i) machinery, tools, and equipment, or repair parts therefor or
312 replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing,
313 or conversion into beer where such materials either enter into the production of or become a component
314 part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums,
315 or bags for future use, for packaging the beer for shipment or sale.

316 20. *Tangible personal property purchased and used by a business that (i) has its principal place of*
317 *business in the Commonwealth, (ii) has not been in existence for more than five years, and (iii) has*
318 *fewer than six employees or has paid less than \$5,000 for the purchase or lease of business personal*
319 *property, including machinery and tools and merchants' capital, since its inception.*

320 **§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of**
321 **authority.**

322 A. The governing body of any county, city or town may charge a fee for issuing a license in an
323 amount not to exceed \$100 for any locality with a population greater than 50,000, \$50 for any locality
324 with a population of 25,000 but no more than 50,000 and \$30 for any locality with a population smaller
325 than 25,000. For purposes of this section, population may be based on the most current final population
326 estimates of the Weldon Cooper Center for Public Service of the University of Virginia. Such governing
327 body may levy and provide for the assessment and collection of county, city or town license taxes on
328 businesses, trades, professions, occupations and callings and upon the persons, firms and corporations
329 engaged therein within the county, city or town subject to the limitations in (i) subsection C and (ii)
330 subsection A of § 58.1-3706, provided such tax shall not be assessed and collected on any amount of
331 gross receipts of each business upon which a license fee is charged. Any county, city or town with a
332 population greater than 50,000 shall reduce the fee to an amount not to exceed \$50 by January 1, 2000.
333 The ordinance imposing such license fees and levying such license taxes shall include the provisions of
334 § 58.1-3703.1.

335 B. Any county, city or town by ordinance may exempt in whole or in part from the license tax (i)
336 the design, development or other creation of computer software for lease, sale or license and (ii) private
337 businesses and industries entering into agreements for the establishment, installation, renovation,
338 remodeling, or construction of satellite classrooms for grades kindergarten through three on a site owned
339 by the business or industry and leased to the school board at no costs pursuant to § 22.1-26.1.

340 C. No county, city, or town shall impose a license fee or levy any license tax:

341 1. On any public service corporation or any motor carrier, common carrier, or other carrier of
342 passengers or property formerly certified by the Interstate Commerce Commission or presently registered
343 for insurance purposes with the Surface Transportation Board of the United States Department of
344 Transportation, Federal Highway Administration, except as provided in § 58.1-3731 or as permitted by
345 other provisions of law;

346 2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the
347 planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and
348 sheds of such county, city or town, provided such products are grown or produced by the person
349 offering them for sale;

350 3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other
351 publication issued daily or regularly at average intervals not exceeding three months, provided the
352 publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating
353 or conducting any radio or television broadcasting station or service;

354 4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at
355 wholesale at the place of manufacture. For purposes of this subdivision, this shall include a manufacturer
356 that is also a defense production business selling manufacturing, rebuilding, repair, and maintenance
357 services at the place of manufacture (i) to the United States or (ii) for which consent of the United
358 States is required;

359 5. On a person engaged in the business of severing minerals from the earth for the privilege of
360 selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712
361 and 58.1-3713;

362 6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for
363 resale unless such wholesaler has a definite place of business or store in such county, city or town. This
364 subdivision shall not be construed as prohibiting any county, city or town from imposing a local license
365 tax on a peddler at wholesale pursuant to § 58.1-3718;

366 7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of

such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, campgrounds, bed and breakfast establishments, lodging houses, rooming houses, and boardinghouses; however, any county, city or town imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the provisions of this subdivision;

8. [Repealed.]

9. On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group;

10. On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title or on any agent of such company;

12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this title;

13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for which the taxicab driver operates;

14. On any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in § 51.5-98;

15. [Expired.]

16. [Repealed.]

17. On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;

18. a. On or measured by receipts of a nonprofit organization described in Internal Revenue Code § 501(c)(3) or 501(c)(19) except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "nonprofit organization" means an organization that is described in Internal Revenue Code § 501(c)(3) or 501(c)(19), and to which contributions are deductible by the contributor under Internal Revenue Code § 170, except that educational institutions exempt from federal income tax under Internal Revenue Code § 501(c)(3) shall be limited to schools, colleges, and other similar institutions of learning.

b. On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration that are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal income tax under Internal Revenue Code § 501 other than the nonprofit organizations described in subdivision a;

19. On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality in which the real estate is located provided the locality is otherwise authorized to tax such businesses and rental of real estate;

20. On total assessments paid by condominium unit owners for common expenses. "Common expenses" and "unit owner" have the same meanings as in § 55-79.41; or

21. On or measured by receipts of a qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in § 58.1-3606.1 and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

22. *On any business that (i) has its principal place of business in the Commonwealth, (ii) has not been in existence for more than five years, and (iii) has fewer than six employees or has paid less than*

428 \$5,000 for the purchase or lease of business personal property, including machinery and tools and
429 merchants' capital, since its inception.

430 D. Any county, city or town may establish by ordinance a business license incentive program for
431 "qualifying businesses." For purposes of this subsection, a "qualifying business" is a business that locates
432 for the first time in the locality adopting such ordinance. A business shall not be deemed to locate in
433 such locality for the first time based on merger, acquisition, similar business combination, name change,
434 or a change in business form. Any incentive established pursuant to this subsection may extend for a
435 period not to exceed two years from the date the business locates in such locality. The business license
436 incentive program may include (i) an exemption, in whole or in part, of license taxes for any qualifying
437 business; (ii) a refund or rebate, in whole or in part, of license taxes paid by a qualifying business; or
438 (iii) other relief from license taxes for a qualifying business not prohibited by state or federal law.

439 E. For taxable years beginning on or after January 1, 2012, any locality may exempt, by ordinance,
440 license fees or license taxes on any business that does not have an after-tax profit for the taxable year
441 and offers the income tax return of the business as proof to the local commissioner of the revenue.
442 Eligibility for this exemption shall be determined annually and it shall be the obligation of the business
443 owner to submit the applicable income tax return to the local commissioner of the revenue.

444 **§ 60.2-212.3. Exclusion for eligible businesses.**

445 A. As used in this section, "eligible business" means a business entity that (i) has its principal place
446 of business in the Commonwealth, (ii) has not been in existence for more than five years, and (iii) has
447 fewer than six employees or has paid less than \$5,000 for the purchase or lease of business personal
448 property, including machinery and tools and merchants' capital, since its inception.

449 B. An individual who performs services for an eligible business shall not be considered by the
450 Commission to be an employee covered by this title for any services performed on or after July 1, 2018.

451 C. An eligible business shall not be considered by the Commission to be an employer covered by this
452 title with respect to any services performed for the eligible business on or after July 1, 2018.

453 D. The performance of services by an individual for an eligible business shall not be considered by
454 the Commission to constitute employment covered by this title with respect to any services performed for
455 the eligible business on or after July 1, 2018.

456 E. Taxes paid or benefits collected prior to July 1, 2018, that would be affected by the provisions of
457 this section shall not be subject to refund.