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SENATE BILL NO. 603

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact §§ 6.2-1526, 6.2-1527, 11-8, 13.1-435, 20-88.59, 20-89.1, 20-91, 20-97, 20-106, 20-146.31, 32.1-69.1, 32.1-127, 32.1-134.01, 32.1-257, 32.1-258.1, 32.1-271, 37.2-714, 38.2-302, 38.2-2204, 38.2-2212, 55-20, 55-20.2, 55-35, 55-36, 55-38, 55-39, 55-41, 55-42.1, 55-43, 55-46, 55-106.1, 55-131, 58.1-322.02, 58.1-324, 58.1-326, 58.1-339.8, 58.1-341, 58.1-344.3, 58.1-344.4, 58.1-490, 58.1-499, 58.1-520, as it is currently effective and as it may become effective, 58.1-810, 58.1-3210, 58.1-3211.1, 58.1-3219.5, 58.1-3219.6, 58.1-3343, 58.1-3506.1, 58.1-3506.2, 59.1-332, 63.2-510, 63.2-1519, 64.2-200, 64.2-905, 64.2-2401, 65.2-512, and 65.2-515 of the Code of Virginia and to repeal §§ 20-45.2 and 20-45.3 of the Code of Virginia, relating to same-sex marriage; gender-neutral terms.

Patrons—Ebbin; Delegates: Carr, Levine and Sickles

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1526, 6.2-1527, 11-8, 13.1-435, 20-88.59, 20-89.1, 20-91, 20-97, 20-106, 20-146.31, 32.1-69.1, 32.1-127, 32.1-134.01, 32.1-257, 32.1-258.1, 32.1-271, 37.2-714, 38.2-302, 38.2-2204, 38.2-2212, 55-20, 55-20.2, 55-35, 55-36, 55-38, 55-39, 55-41, 55-42.1, 55-43, 55-46, 55-106.1, 55-131, 58.1-322.02, 58.1-324, 58.1-326, 58.1-339.8, 58.1-341, 58.1-344.3, 58.1-344.4, 58.1-490, 58.1-520, as it is currently effective and as it may become effective, 58.1-810, 58.1-3210, 58.1-3211.1, 58.1-3219.5, 58.1-3219.6, 58.1-3343, 58.1-3506.1, 58.1-3506.2, 59.1-332, 63.2-510, 63.2-1519, 64.2-200, 64.2-905, 64.2-2401, 65.2-512, and 65.2-515 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-1526. Wage assignments.

A. A valid assignment or order for the payment of future salary, wages, commissions, or other compensation for services may be given as security for a loan made by any licensee, notwithstanding the provisions of any other law to the contrary.

B. No assignment of, or order for payment of, any salary, wages, commissions, or other compensation for services, earned or to be earned, given to secure any loan made by any licensee shall be valid unless:

1. The amount of the loan is paid to the borrower simultaneously with its execution; and

2. The assignment or order is in writing, signed in person by the borrower, and not by an attorney, or if the borrower is married unless it is signed in person by both husband and wife spouses, and not by an attorney. Written assent of a spouse shall not be required when husband and wife the spouses have been living separate and apart for a period of at least five months prior to the giving of the assignment or order. The provisions of this section are in addition to, and not in derogation of, the general statutes pertaining to the subject.

C. Under the assignment or order, an amount equal to not more than 10 percent of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time of each payment to the borrower of the salary, wages, commission, or other compensation for services, from the time that a copy of the assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon the loan and a printed copy of this section, is served upon the employer.

§ 6.2-1527. Liens on household furniture.

No chattel mortgage or other lien on household furniture then in the possession and use of the borrower given to secure any loan made by a licensee shall be valid unless it is in writing, signed in person by the borrower, and not by an attorney, or if the borrower is married unless it is signed in person by both husband and wife spouses, and not by an attorney. Written assent of a spouse shall not be required when a husband and wife the spouses have been living separate and apart for a period of at least five months prior to the giving of the mortgage or lien.

§ 11-8. Instruments executed by minors or surviving spouses to obtain benefits under certain federal legislation.

Any person under the age of eighteen 18 or widow surviving spouse who has not remarried who is eligible for a guaranty of credit under the provisions of Title III of an Act of Congress of the United States approved June 22, 1944, entitled the "Servicemen's Readjustment Act of 1944," as now or hereafter amended, or other like federal law, shall be upon complying with the terms of this section, qualified to contract for and purchase any real or personal property with respect to which the guaranteed

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59 loan is to be made, to execute the note or other evidence of the loan indebtedness and to secure the debt
60 by the execution of a deed of trust or chattel mortgage, or other instrument, upon the real or personal
61 property acquired as aforesaid in connection with the proposed loan or theretofore acquired by such
62 person, whether by purchase or otherwise, and such person shall, in all respects, be bound by such
63 contracts or other instruments entered into as though he ~~or she~~ were of full age.

64 When any such person is under the age of ~~eighteen~~ 18 years no contract, note, deed of trust,
65 mortgage or other instrument required to obtain benefits under such federal legislation shall be executed
66 by such person unless the circuit or corporation court of the city or county, or judge thereof in vacation,
67 in which the property is located or to be used, after a petition signed by any such person shall have
68 been filed with it or him, approve the same. Such petition shall set forth the facts pertaining to the
69 proposed transaction and shall state why the judge or court should approve and authorize the execution
70 of the necessary instruments.

71 The petition shall be heard by the court without a jury and its decision thereon shall be final. A
72 guardian ad litem shall be appointed who shall make an investigation and report in writing whether in
73 his opinion the best interest of the petitioner would be served by permitting the petitioner to enter into
74 such transaction and the report shall be filed with the papers in the case. No such petition shall be
75 approved by the court unless such approval is recommended by the report of the guardian ad litem and
76 unless it is also recommended by the testimony of at least two disinterested and qualified witnesses
77 appointed by the court, or the judge thereof in vacation. The order of approval shall recite the
78 recommendation of the guardian ad litem and the witnesses and also their names and addresses. And the
79 judge of the court hearing the case shall fix a reasonable fee for the attorneys and guardians ad litem.

80 The court, if of opinion that entry into such transaction would benefit the petitioner, shall approve
81 the prayer of the petition and the petitioner, if he enter into such transaction and execute any instrument
82 required therein, shall be bound thereby as if of full age whether all or part of the obligation secured be
83 so guaranteed.

84 All rights which have accrued or obligations which have arisen under this section prior to January
85 30, 1947, are hereby declared valid and binding.

86 If the court approve the prayer of the petition such approval shall operate to vest title and confer the
87 power to encumber or convey title to real or personal property acquired pursuant to such approval.

88 Any infant spouse of an infant veteran permitted by the court to make loans under this section may
89 unite in any conveyance to effectuate such a loan as if he ~~or she~~ was a spouse of an adult signing as
90 provided under the provisions of § 55-42, relating to the removal of disability of infancy in certain
91 cases.

92 **§ 13.1-435. Corporate securities registered in joint names with right of survivorship.**

93 Whenever a security issued by a corporation organized under the laws of this Commonwealth shall
94 be registered in the names of two or more persons as joint tenants with right of survivorship or in the
95 names of a ~~man and a woman~~ *persons married to each other* as tenants by the entireties with right of
96 survivorship and one of such persons dies, such corporation and any transfer agent of such corporation
97 shall, upon receipt of evidence of death, be entitled to treat the survivor or survivors as the owner or
98 owners of such security for all purposes and to cause such security to be registered in the name of such
99 survivor or survivors regardless of any claim of right through the decedent or by his personal
100 representative, unless such registration shall be enjoined prior to its effectuation by a court of competent
101 jurisdiction.

102 **§ 20-88.59. Special rules of evidence and procedure.**

103 A. The physical presence of a nonresident party who is an individual in a tribunal of the
104 Commonwealth is not required for the establishment, enforcement, or modification of a support order or
105 the rendition of a judgment determining parentage of a child.

106 B. An affidavit, a document substantially complying with federally mandated forms, or a document
107 incorporated by reference in any of them that would not be excluded under the hearsay rule if given in
108 person is admissible in evidence if given under penalty of perjury by a party or witness residing outside
109 the Commonwealth.

110 C. A copy of the record of child support payments certified as a true copy of the original by the
111 custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts
112 asserted in it and is admissible to show whether payments were made.

113 D. Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of
114 the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in
115 evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and
116 customary.

117 E. Documentary evidence transmitted from outside the Commonwealth to a tribunal of the
118 Commonwealth by telephone, telecopier, or other electronic means that does not provide an original
119 record may not be excluded from evidence upon an objection based on the means of transmission.

120 F. In a proceeding under this chapter, a tribunal of the Commonwealth shall permit a party or

121 witness residing outside the Commonwealth to be deposed or to testify under penalty of perjury by
 122 telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A
 123 tribunal of the Commonwealth shall cooperate with other tribunals in designating an appropriate location
 124 for the deposition or testimony.

125 G. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony
 126 may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

127 H. A privilege against disclosure of communication between spouses does not apply in a proceeding
 128 under this chapter.

129 I. The defense of immunity based on the relationship of ~~husband and wife~~ *between spouses* or of
 130 parent and child does not apply in a proceeding under this chapter.

131 J. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish
 132 parentage of the child.

133 **§ 20-89.1. Suit to annul marriage.**

134 A. When a marriage is alleged to be void or voidable for any of the causes mentioned in § 20-13,
 135 20-38.1, or 20-45.1 or by virtue of fraud or duress, either party may institute a suit for annulling the
 136 same; and upon proof of the nullity of the marriage, it shall be decreed void by a decree of annulment.

137 B. In the case of natural or incurable impotency of body existing at the time of entering into the
 138 marriage contract, or when, prior to the marriage, either party, without the knowledge of the other, had
 139 been convicted of a felony, or when, at the time of the marriage, ~~the wife~~ *either spouse*, without the
 140 knowledge of the ~~husband~~ *other spouse*, was with child by ~~some~~ *a* person other than the ~~husband~~, ~~or~~
 141 ~~where the husband~~, without knowledge of the ~~wife~~, ~~other spouse~~ or had ~~fathered~~ *conceived* a child born
 142 to a ~~woman~~ *person* other than the ~~wife~~ *other spouse* within 10 months after the date of the
 143 solemnization of the marriage, or where, prior to the marriage, either party had been, without the
 144 knowledge of the other, a prostitute, a decree of annulment may be entered upon proof, on complaint of
 145 the party aggrieved.

146 C. No annulment for a marriage alleged to be void or voidable under subsection B of § 20-45.1 or
 147 subsection B of this section or by virtue of fraud or duress shall be decreed if it appears that the party
 148 applying for such annulment has cohabited with the other after knowledge of the facts giving rise to
 149 what otherwise would have been grounds for annulment, and in no event shall any such decree be
 150 entered if the parties had been married for a period of two years prior to the institution of such suit for
 151 annulment.

152 D. A party who, at the time of such marriage as is mentioned in § 20-48, was capable of consenting
 153 with a party not so capable shall not be permitted to institute a suit for the purpose of annulling such
 154 marriage.

155 **§ 20-91. Grounds for divorce from bond of matrimony; contents of decree.**

156 A. A divorce from the bond of matrimony may be decreed:

157 (1) For adultery; or for sodomy or buggery committed outside the marriage;

158 (2) [Repealed.]

159 (3) Where either of the parties subsequent to the marriage has been convicted of a felony, sentenced
 160 to confinement for more than one year and confined for such felony subsequent to such conviction, and
 161 cohabitation has not been resumed after knowledge of such confinement (in which case no pardon
 162 granted to the party so sentenced shall restore such party to his ~~or her~~ conjugal rights);

163 (4), (5) [Repealed.]

164 (6) Where either party has been guilty of cruelty, caused reasonable apprehension of bodily hurt, or
 165 willfully deserted or abandoned the other, such divorce may be decreed to the innocent party after a
 166 period of one year from the date of such act; or

167 (7), (8) [Repealed.]

168 (9) (a) On the application of either party if and when ~~the husband and wife~~ *they* have lived separate
 169 and apart without any cohabitation and without interruption for one year. In any case where the parties
 170 have entered into a separation agreement and there are no minor children either born of the parties, born
 171 of either party and adopted by the other or adopted by both parties, a divorce may be decreed on
 172 application if and when ~~the husband and wife~~ *they* have lived separately and apart without cohabitation
 173 and without interruption for six months. A plea of res adjudicata or of recrimination with respect to any
 174 other provision of this section shall not be a bar to either party obtaining a divorce on this ground; nor
 175 shall it be a bar that either party has been adjudged insane, either before or after such separation has
 176 commenced, but at the expiration of one year or six months, whichever is applicable, from the
 177 commencement of such separation, the grounds for divorce shall be deemed to be complete, and the
 178 committee of the insane defendant, if there be one, shall be made a party to the cause, or if there be no
 179 committee, then the court shall appoint a guardian ad litem to represent the insane defendant.

180 (b) This subdivision (9) shall apply whether the separation commenced prior to its enactment or shall
 181 commence thereafter. Where otherwise valid, any decree of divorce hereinbefore entered by any court

182 having equity jurisdiction pursuant to this subdivision (9), not appealed to the Supreme Court of
 183 Virginia, is hereby declared valid according to the terms of said decree notwithstanding the insanity of a
 184 party thereto.

185 (c) A decree of divorce granted pursuant to this subdivision (9) shall in no way lessen any obligation
 186 any party may otherwise have to support the spouse unless such party shall prove that there exists in the
 187 favor of such party some other ground of divorce under this section or § 20-95.

188 B. A decree of divorce shall include each party's social security number, or other control number
 189 issued by the Department of Motor Vehicles pursuant to § 46.2-342.

190 **§ 20-97. Domicile and residential requirements for suits for annulment, affirmance, or divorce.**

191 No suit for annulling a marriage or for divorce shall be maintainable, unless one of the parties was at
 192 the time of the filing of the suit and had been for at least six months preceding the filing of the suit an
 193 actual bona fide resident and domiciliary of this Commonwealth, nor shall any suit for affirming a
 194 marriage be maintainable, unless one of the parties be domiciled in, and is and has been an actual bona
 195 fide resident of, this Commonwealth at the time of filing such suit.

196 For the purposes of this section only:

197 1. If a member of the armed forces of the United States has been stationed or resided in this
 198 Commonwealth and has lived for a period of six months or more in this Commonwealth next preceding
 199 the filing of the suit, then such person shall be presumed to be domiciled in and to have been a bona
 200 fide resident of this Commonwealth during such period of time.

201 2. Being stationed or residing in the Commonwealth includes, but is not limited to, a member of the
 202 armed forces being stationed or residing upon a ship having its home port in this Commonwealth or at
 203 an air, naval, or military base located within this Commonwealth over which the United States enjoys
 204 exclusive federal jurisdiction.

205 3. Any member of the armed forces of the United States or any civilian employee of the United
 206 States, including any foreign service officer, who (i) at the time the suit is filed is, or immediately
 207 preceding such suit was, stationed in any territory or foreign country and (ii) was domiciled in the
 208 Commonwealth for the six-month period immediately preceding his being stationed in such territory or
 209 country shall be deemed to have been domiciled in and to have been a bona fide resident of the
 210 Commonwealth during the six months preceding the filing of a suit for annulment or divorce.

211 4. Upon separation of the husband and wife a married couple, the wife either spouse may establish
 212 her his own and separate domicile, though the separation may have been caused under such
 213 circumstances as would entitle the wife such spouse to a divorce or annulment.

214 **§ 20-106. Testimony may be required to be given orally; evidence by affidavit.**

215 A. In any suit for divorce, the trial court may require the whole or any part of the testimony to be
 216 given orally in open court, and if either party desires it, such testimony and the rulings of the court on
 217 the exceptions thereto, if any, shall be reduced to writing, and the judge shall certify that such evidence
 218 was given before him and such rulings made. When so certified the same shall stand on the same
 219 footing as a deposition regularly taken in the cause, provided, however, that no such oral evidence shall
 220 be given or heard unless and until after such notice to the adverse party as is required by law to be
 221 given of the taking of depositions, or when there has been no service of process within this
 222 Commonwealth upon, or appearance by the defendant against whom such testimony is sought to be
 223 introduced. However, a party may proceed to take evidence in support of a divorce by deposition or
 224 affidavit without leave of court only in support of a divorce on the grounds set forth in subdivision A
 225 (9) of § 20-91, where (i) the parties have resolved all issues by a written settlement agreement, (ii) there
 226 are no issues other than the grounds of the divorce itself to be adjudicated, or (iii) the adverse party has
 227 been personally served with the complaint and has failed to file a responsive pleading or to make an
 228 appearance as required by law.

229 B. The affidavit of a party submitted as evidence shall be based on the personal knowledge of the
 230 affiant, contain only facts that would be admissible in court, give factual support to the grounds for
 231 divorce stated in the complaint or counterclaim, and establish that the affiant is competent to testify to
 232 the contents of the affidavit. If either party is incarcerated, neither party shall submit evidence by
 233 affidavit without leave of court or the consent in writing of the guardian ad litem for the incarcerated
 234 party, or of the incarcerated party if a guardian ad litem is not required pursuant to § 8.01-9. The
 235 affidavit shall:

236 1. Give factual support to the grounds for divorce stated in the complaint or counterclaim, including
 237 that the parties are over the age of 18 and not suffering from any condition that renders either party
 238 legally incompetent;

239 2. Verify whether either party is incarcerated;

240 3. Verify the military status of the opposing party and advise whether the opposing party has filed an
 241 answer or a waiver of his rights under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et
 242 seq.);

243 4. Affirm that at least one party to the suit was at the time of the filing of the suit, and had been for

244 a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and
 245 domiciliary of the Commonwealth;

246 5. Affirm that the parties have lived separate and apart, continuously, without interruption and
 247 without cohabitation, and with the intent to remain separate and apart permanently, for the statutory
 248 period required by subdivision A (9) of § 20-91;

249 6. Affirm the affiant's desire to be awarded a divorce pursuant to subdivision A (9) of § 20-91;

250 7. State whether there were children born or adopted of the marriage and affirm that ~~the wife~~ *neither*
 251 *party* is ~~not~~ known to be pregnant from the marriage; and

252 8. Be accompanied by the affidavit of at least one corroborating witness, which shall:

253 a. Verify that the affiant is over the age of 18 and not suffering from any condition that renders him
 254 legally incompetent;

255 b. Verify whether either party is incarcerated;

256 c. Give factual support to the grounds for divorce stated in the complaint or counterclaim;

257 d. Verify that at least one of the parties to the suit was at the time of the filing of the suit, and had
 258 been for a period in excess of six months immediately preceding the filing of the suit, a bona fide
 259 resident and domiciliary of the Commonwealth;

260 e. Verify whether there were children born or adopted of the marriage and verify that ~~the wife~~
 261 *neither party* is ~~not~~ known to be pregnant from the marriage; and

262 f. Verify the affiant's personal knowledge that the parties have not cohabitated since the date of
 263 separation alleged in the complaint or counterclaim and that it has been either party's intention since that
 264 date to remain separate and apart permanently.

265 C. If a party moves for a divorce pursuant to § 20-121.02, any affidavit may be submitted in support
 266 of the grounds for divorce set forth in subdivision A (9) of § 20-91.

267 D. A verified complaint shall not be deemed an affidavit for purposes of this section.

268 E. Either party may submit the depositions or affidavits required by this section in support of the
 269 grounds for divorce requested by either party pursuant to the terms of this section.

270 **§ 20-146.31. Hearing and order.**

271 A. Unless the court issues a temporary emergency order pursuant to § 20-146.15, upon a finding that
 272 a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner
 273 may take immediate physical custody of the child unless the respondent establishes that:

274 1. The child custody determination has not been registered under § 20-146.26 and that:

275 a. The issuing court did not have jurisdiction under Article 2 (§ 20-146.12 et seq.) of this chapter;

276 b. The child custody determination for which enforcement is sought has been vacated, stayed, or
 277 modified by a court of a state having jurisdiction to do so under Article 2 (§ 20-146.12 et seq.) of this
 278 chapter; or

279 c. The respondent was entitled to notice, but notice was not given in accordance with the standards
 280 of § 20-146.7, in the proceedings before the court that issued the order for which enforcement is sought;
 281 or

282 2. The child custody determination for which enforcement is sought was registered under
 283 § 20-146.26, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so
 284 under Article 2 (§ 20-146.12 et seq.) of this chapter.

285 B. The court shall award the fees, costs, and expenses authorized under § 20-146.33 and may grant
 286 additional relief, including a request for the assistance of law-enforcement officials, and set a further
 287 hearing to determine whether additional relief is appropriate.

288 C. If a party called to testify refuses to answer on the ground that the testimony may be
 289 self-incriminating, the court may draw an adverse inference from the refusal.

290 D. A privilege against disclosure of communications between spouses and a defense of immunity
 291 based on the relationship of ~~husband and wife~~ *between spouses* or *of parent and child* may not be
 292 invoked in a proceeding under this article.

293 **§ 32.1-69.1. Virginia Congenital Anomalies Reporting and Education System.**

294 A. In order to collect data to evaluate the possible causes of stillbirths and birth defects, improve the
 295 diagnosis and treatment of birth defects and establish a mechanism for informing the parents of children
 296 identified as having birth defects and their physicians about the health resources available to aid such
 297 children, the Commissioner shall establish and maintain a Virginia Congenital Anomalies Reporting and
 298 Education System using data from birth and death certificates and fetal death reports filed with the State
 299 Registrar of Vital Records and data obtained from hospital medical records. The chief administrative
 300 officer of every hospital, as defined in § 32.1-123, shall make or cause to be made a report to the
 301 Commissioner of any stillbirth and any person under two years of age diagnosed as having a congenital
 302 anomaly. The Commissioner may appoint an advisory committee to assist in the design and
 303 implementation of this reporting and education system with representation from relevant groups
 304 including, but not limited to, physicians, geneticists, personnel of appropriate state agencies, persons

305 with disabilities and the parents of children with disabilities.

306 B. The Commissioner shall provide for a secure system, which may include online data entry that
307 protects the confidentiality of data and information for which reporting is required, to implement the
308 Virginia Congenital Anomalies Reporting and Education System.

309 At a minimum, data collected shall include, but need not be limited to, the following: (i) the infant's
310 first and last name, date of birth, gender, state of residence, birth hospital, physician's name, date of
311 admission, date of discharge or transfer, and diagnosis; (ii) the first and last names of the infant's ~~mother~~
312 ~~and father~~ parents; (iii) the first and last name of the primary contact person for the infant; and (iv) data
313 pertaining to stillbirths and birth defects reported by hospitals and derived from birth and death
314 certificates and fetal death reports filed with the State Registrar of Vital Records and such other sources
315 as may be authorized by the Commissioner.

316 The Commissioner, as he deems necessary to facilitate the follow-up of infants whose data and
317 health record information have been entered into the system, may authorize the integration or linking of
318 the Virginia Congenital Anomalies Reporting and Education System with other Department of Health
319 population-based surveillance systems.

320 In addition, to minimize duplication and ensure accuracy during data entry, the Commissioner may
321 authorize hospitals required to report stillbirth and birth defect data to the system to view such existing
322 data and information as may be designated by the Commissioner.

323 With the assistance of the advisory committee, the Board shall promulgate such regulations as may
324 be necessary to implement this reporting and education system.

325 C. As used in this section, "stillbirth" means an unintended, intrauterine fetal death occurring after a
326 gestational period of 20 weeks.

327 **§ 32.1-127. Regulations.**

328 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in
329 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as
330 established and recognized by medical and health care professionals and by specialists in matters of
331 public health and safety, including health and safety standards established under provisions of Title
332 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

333 B. Such regulations:

334 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing
335 homes and certified nursing facilities to ensure the environmental protection and the life safety of its
336 patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes
337 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and
338 certified nursing facilities, except those professionals licensed or certified by the Department of Health
339 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing
340 services to patients in their places of residence; and (v) policies related to infection prevention, disaster
341 preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For
342 purposes of this paragraph, facilities in which five or more first trimester abortions per month are
343 performed shall be classified as a category of "hospital";

344 2. Shall provide that at least one physician who is licensed to practice medicine in this
345 Commonwealth shall be on call at all times, though not necessarily physically present on the premises,
346 at each hospital which operates or holds itself out as operating an emergency service;

347 3. May classify hospitals and nursing homes by type of specialty or service and may provide for
348 licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

349 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with
350 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly
351 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization
352 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement
353 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of
354 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for
355 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in
356 Virginia certified by the Eye Bank Association of America or the American Association of Tissue
357 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least
358 one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage,
359 and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential
360 donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital
361 collaborates with the designated organ procurement organization to inform the family of each potential
362 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making
363 contact with the family shall have completed a course in the methodology for approaching potential
364 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ
365 procurement organization and designed in conjunction with the tissue and eye bank community and (b)
366 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the

367 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
 368 organization in educating the staff responsible for contacting the organ procurement organization's
 369 personnel on donation issues, the proper review of death records to improve identification of potential
 370 donors, and the proper procedures for maintaining potential donors while necessary testing and
 371 placement of potential donated organs, tissues, and eyes takes place. This process shall be followed,
 372 without exception, unless the family of the relevant decedent or patient has expressed opposition to
 373 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition,
 374 and no donor card or other relevant document, such as an advance directive, can be found;

375 5. Shall require that each hospital that provides obstetrical services establish a protocol for admission
 376 or transfer of any pregnant woman who presents herself while in labor;

377 6. Shall also require that each licensed hospital develop and implement a protocol requiring written
 378 discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall
 379 require that the discharge plan be discussed with the patient and that appropriate referrals for the mother
 380 and the infant be made and documented. Appropriate referrals may include, but need not be limited to,
 381 treatment services, comprehensive early intervention services for infants and toddlers with disabilities
 382 and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C.
 383 § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to
 384 the extent possible, the ~~father~~ *other parent* of the infant and any members of the patient's extended
 385 family who may participate in the follow-up care for the mother and the infant. Immediately upon
 386 identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall
 387 notify, subject to federal law restrictions, the community services board of the jurisdiction in which the
 388 woman resides to appoint a discharge plan manager. The community services board shall implement and
 389 manage the discharge plan;

390 7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant
 391 for admission the home's or facility's admissions policies, including any preferences given;

392 8. Shall require that each licensed hospital establish a protocol relating to the rights and
 393 responsibilities of patients which shall include a process reasonably designed to inform patients of such
 394 rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to
 395 patients on admission, shall be consistent with applicable federal law and regulations of the Centers for
 396 Medicare and Medicaid Services;

397 9. Shall establish standards and maintain a process for designation of levels or categories of care in
 398 neonatal services according to an applicable national or state-developed evaluation system. Such
 399 standards may be differentiated for various levels or categories of care and may include, but need not be
 400 limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

401 10. Shall require that each nursing home and certified nursing facility train all employees who are
 402 mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting
 403 procedures and the consequences for failing to make a required report;

404 11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or
 405 hospital policies and procedures, to accept emergency telephone and other verbal orders for medication
 406 or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute
 407 to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable
 408 period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and
 409 regulations or hospital policies and procedures, by the person giving the order, or, when such person is
 410 not available within the period of time specified, co-signed by another physician or other person
 411 authorized to give the order;

412 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer
 413 of the vaccination, that each certified nursing facility and nursing home provide or arrange for the
 414 administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal
 415 vaccination, in accordance with the most recent recommendations of the Advisory Committee on
 416 Immunization Practices of the Centers for Disease Control and Prevention;

417 13. Shall require that each nursing home and certified nursing facility register with the Department of
 418 State Police to receive notice of the registration or reregistration of any sex offender within the same or
 419 a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

420 14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission,
 421 whether a potential patient is a registered sex offender, if the home or facility anticipates the potential
 422 patient will have a length of stay greater than three days or in fact stays longer than three days;

423 15. Shall require that each licensed hospital include in its visitation policy a provision allowing each
 424 adult patient to receive visits from any individual from whom the patient desires to receive visits,
 425 subject to other restrictions contained in the visitation policy including, but not limited to, those related
 426 to the patient's medical condition and the number of visitors permitted in the patient's room
 427 simultaneously;

428 16. Shall require that each nursing home and certified nursing facility shall, upon the request of the
 429 facility's family council, send notices and information about the family council mutually developed by
 430 the family council and the administration of the nursing home or certified nursing facility, and provided
 431 to the facility for such purpose, to the listed responsible party or a contact person of the resident's
 432 choice up to six times per year. Such notices may be included together with a monthly billing statement
 433 or other regular communication. Notices and information shall also be posted in a designated location
 434 within the nursing home or certified nursing facility. No family member of a resident or other resident
 435 representative shall be restricted from participating in meetings in the facility with the families or
 436 resident representatives of other residents in the facility;

437 17. Shall require that each nursing home and certified nursing facility maintain liability insurance
 438 coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least
 439 equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries
 440 and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such
 441 minimum insurance shall result in revocation of the facility's license;

442 18. Shall require each hospital that provides obstetrical services to establish policies to follow when a
 443 stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and
 444 their families and other aspects of managing stillbirths as may be specified by the Board in its
 445 regulations;

446 19. Shall require each nursing home to provide a full refund of any unexpended patient funds on
 447 deposit with the facility following the discharge or death of a patient, other than entrance-related fees
 448 paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for
 449 such funds by the discharged patient or, in the case of the death of a patient, the person administering
 450 the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.); and

451 20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol
 452 that (i) requires, for any refusal to admit a medically stable patient referred to its psychiatric unit, direct
 453 verbal communication between the on-call physician in the psychiatric unit and the referring physician,
 454 if requested by such referring physician, and (ii) prohibits on-call physicians or other hospital staff from
 455 refusing a request for such direct verbal communication by a referring physician.

456 C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and
 457 certified nursing facilities may operate adult day care centers.

458 D. All facilities licensed by the Board pursuant to this article which provide treatment or care for
 459 hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot
 460 numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to
 461 be contaminated with an infectious agent, those hemophiliacs who have received units of this
 462 contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot
 463 which is known to be contaminated shall notify the recipient's attending physician and request that he
 464 notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail,
 465 return receipt requested, each recipient who received treatment from a known contaminated lot at the
 466 individual's last known address.

467 **§ 32.1-134.01. Certain information required for maternity patients.**

468 Every licensed nurse midwife, licensed midwife, or hospital providing maternity care shall, prior to
 469 releasing each maternity patient, make available to such patient and, if present, to the ~~father~~ *other parent*
 470 of the infant, other relevant family members, or caretakers, information about the incidence of
 471 postpartum blues and perinatal depression, information to increase awareness of shaken baby syndrome
 472 and the dangers of shaking infants, and information about safe sleep environments for infants that is
 473 consistent with current information available from the American Academy of Pediatrics. This
 474 information shall be discussed with the maternity patient and the ~~father~~ *other parent* of the infant, other
 475 relevant family members, or caretakers who are present at discharge.

476 **§ 32.1-257. Filing birth certificates; from whom required; signatures of parents.**

477 A. A certificate of birth for each live birth which occurs in this Commonwealth shall be filed with
 478 the State Registrar within seven days after such birth. The certificate of birth shall be registered by the
 479 State Registrar if it has been completed and filed in accordance with this section.

480 B. When a birth occurs in an institution or en route thereto, the person in charge of such institution
 481 or an authorized designee shall obtain the personal data, and prepare the certificate either on forms
 482 furnished by the State Registrar or by an electronic process as approved by the Board. Such person or
 483 designee shall, if submitting a form, secure the signatures required by the certificate. The physician or
 484 other person in attendance shall provide the medical information required by the certificate within five
 485 days after the birth. The person in charge of the institution or an authorized designee shall certify to the
 486 authenticity of the birth registration either by affixing his signature to the certificate or by an electronic
 487 process approved by the Board, and shall file the certificate of birth with the State Registrar within
 488 seven days after such birth.

489 C. When a birth occurs outside an institution, the certificate shall be prepared on forms furnished by

490 the State Registrar and filed by one of the following in the indicated order of priority, in accordance
491 with the regulations of the Board:

492 1. The physician in attendance at or immediately after the birth, or in the absence of such physician,

493 2. Any other person in attendance at or immediately after the birth, or in the absence of such a
494 person,

495 3. The ~~father, the~~ mother, *the other parent*, or, in the absence of the ~~father~~ *other parent* and the
496 inability of the mother, the person in charge of the premises where the birth occurred.

497 C1. When a birth occurs on a moving conveyance within the United States of America and the child
498 is first removed from the conveyance in this Commonwealth, the birth shall be registered in this
499 Commonwealth and the place where the child is first removed from the conveyance shall be considered
500 the place of birth. When a birth occurs on a moving conveyance while in international waters or air
501 space or in a foreign country or its air space and the child is first removed from the conveyance in this
502 Commonwealth, the birth shall be registered in this Commonwealth although the certificate shall indicate
503 the actual place of birth insofar as can be determined.

504 D. If the mother of a child is not married to the natural father of the child at the time of birth or was
505 not married to the natural father at any time during the ~~ten~~ 10 months next preceding such birth, the
506 name of the father shall not be entered on the certificate of birth without a sworn acknowledgment of
507 paternity, executed subsequent to the birth of the child, of both the mother and of the person to be
508 named as the father. In any case in which a final determination of the paternity of a child has been
509 made by a court of competent jurisdiction pursuant to § 20-49.8, from which no appeal has been taken
510 and for which the time allowed to perfect an appeal has expired, the name of the father and the surname
511 of the child shall be entered on the certificate of birth in accordance with the finding and order of the
512 court.

513 Children born of marriages prohibited by law, deemed null or void or dissolved by a court shall
514 nevertheless be legitimate and the birth certificate for such children shall contain full information
515 concerning the ~~father~~ *other parent*.

516 For the purpose of birth registration in the case of a child resulting from assisted conception,
517 pursuant to Chapter 9 (§ 20-156 et seq.) of Title 20, the birth certificate of such child shall contain full
518 information concerning the mother's ~~husband~~ *spouse* as the ~~father~~ *other parent* of the child and the
519 gestational mother as the mother of the child. Donors of sperm or ova shall not have any parental rights
520 or duties for any such child.

521 In the event any person desires to have the name of the father entered on the certificate of birth
522 based upon the judgment of paternity of a court of another state, such person shall apply to an
523 appropriate court of the Commonwealth for an order reflecting that such court has reviewed such
524 judgment of paternity and has determined that such judgment of paternity was amply supported in
525 evidence and legitimate for the purposes of Article IV, Section 1 of the United States Constitution.

526 If the order of paternity should be appealed, the registrar shall not enter the name of the alleged
527 father on the certificate of birth during the pendency of such appeal. If the father is not named on the
528 certificate of birth, no other information concerning the father shall be entered on the certificate.

529 E. Either of the parents of the child shall verify the accuracy of the personal data to be entered on
530 the certificate of birth in time to permit the filing within the seven days prescribed above.

531 **§ 32.1-258.1. Certificate of Birth Resulting in Stillbirth; requirements.**

532 Upon the request of either individual listed as the ~~mother or father~~ *parent* on a report of fetal death
533 in the Commonwealth as defined in § 32.1-264, the State Registrar shall issue a Certificate of Birth
534 Resulting in Stillbirth for unintended, intrauterine fetal deaths occurring after a gestational period of 20
535 weeks or more. The requesting ~~mother or father~~ *parent* may, but shall not be required to, provide a
536 name for the stillborn child on the Certificate of Birth Resulting in Stillbirth. The Board of Health shall
537 prescribe a reasonable fee to cover the administrative cost and preparation of such certificate. This
538 section shall apply retroactively to any circumstances that would have resulted in the issuance of a
539 Certificate of Birth Resulting in Stillbirth, as prescribed by the Board.

540 **§ 32.1-271. Disclosure of information in records; when unlawful; when permitted; proceeding to
541 compel disclosure; when certain records made public.**

542 A. To protect the integrity of vital records and to ensure the efficient and proper administration of
543 the system of vital records, it shall be unlawful, notwithstanding the provisions of §§ 2.2-3700 through
544 2.2-3714, for any person to permit inspection of or to disclose information contained in vital records or
545 to copy or issue a copy of all or part of any such vital records except as authorized by this section or
546 regulation of the Board or when so ordered by a court of the Commonwealth.

547 B. Data contained in vital records may be disclosed for valid and substantial research purposes in
548 accordance with the regulations of the Board.

549 C. Any person aggrieved by a decision of a county or city registrar may appeal to the State
550 Registrar. If the State Registrar denies disclosure of information or inspection of or copying of vital

551 records, such person may petition the court of the county or city in which he resides if he resides in the
552 Commonwealth or in which the recorded event occurred or the Circuit Court of the City of Richmond,
553 Division I, for an order compelling disclosure, inspection or copying of such vital record. The State
554 Registrar or his authorized representative may appear and testify in such proceeding.

555 D. When 100 years have elapsed after the date of birth, or 25 years have elapsed after the date of
556 death, marriage, divorce, or annulment the records of these events in the custody of the State Registrar
557 shall, unless precluded from release by statute or court order, or at law-enforcement request, become
558 public information and be made available in accordance with regulations that shall provide for the
559 continued safekeeping of the records. All records that are public information on July 1, 1983, shall
560 continue to be public information. Original records in the custody of the State Registrar that become
561 public information shall be turned over to the Library of Virginia for safekeeping and for public access
562 consistent with other state archival records, subject to the State Registrar and the Library of Virginia
563 entering into a memorandum of understanding to arrange for continued prompt access by the State
564 Registrar to original records for purposes of amendments to those records or other working purposes.
565 The State Registrar's office may retain copies thereof for its own administrative and disclosure purposes.

566 E. The State Registrar or the city or county registrar shall disclose data about or issue a certified
567 copy of a birth certificate of a child to the grandparent of the child upon the written request of the
568 grandparent when the grandparent has demonstrated to the State Registrar evidence of need, as
569 prescribed by Board regulation, for the data or birth certificate.

570 F. The State Registrar or the city or county registrar shall issue a certified copy of a death certificate
571 to the grandchild or great-grandchild of a decedent in accordance with procedures prescribed by the
572 Board in regulation.

573 G. The State Registrar or the city or county registrar shall disclose data about or issue a certified
574 copy of a death certificate to a nonprofit organ, eye or tissue procurement organization that is a member
575 of the Virginia Transplant Council for the purpose of determining the suitability of organs, eyes and
576 tissues for donation, as prescribed by the Board in regulations. Such regulations shall ensure that the
577 information disclosed includes the cause of death and any other medical information necessary to
578 determine the suitability of the organs, eyes and tissues for donation.

579 H. The State Registrar shall seek to enter into a long-term contract with a private company
580 experienced in maintaining genealogical research databases to create, maintain, and update such an
581 online index at no direct cost to the Commonwealth, in exchange for allowing the private company to
582 also provide such index to its subscribers and customers. The online index shall be designed and
583 constructed to have the capability of allowing birth, marriage, divorce, and death entries on the index to
584 be linked to a digital image of the underlying original birth, marriage, divorce, or death record once any
585 such underlying record has become public information, and the index shall be designed to allow the
586 Library of Virginia to create and activate such links to digital images of the original records. Any social
587 security numbers appearing on original birth, marriage, divorce, or death records shall be redacted from
588 the digital images provided to the public in the manner provided by law, which may include bulk
589 redaction of social security fields from the images via automated methods.

590 Following contract implementation, the State Registrar shall maintain a publicly available online vital
591 records index or indexes, consisting at a minimum of name, date, and county or city of occurrence for
592 births (naming the child), marriages (naming the ~~bride and groom~~ spouses), divorces (naming the parties
593 to the divorce), and deaths (naming the decedent), which vital records index information, except as
594 otherwise precluded from release by statute, court order, or law-enforcement request, shall be public
595 information from the time of its receipt by the State Registrar and shall be accessible on the State
596 Registrar's website and on or through the Library of Virginia website.

597 **§ 37.2-714. Children born in state facilities.**

598 Any child born in a state facility shall be deemed a resident of the county or city in which the
599 mother resided at the time of her admission. The child shall be removed from the state facility as soon
600 after birth as the health and well-being of the child permit and shall be delivered to his ~~father~~ other
601 parent or other member of his family. If he is unable to effect the child's removal as herein provided,
602 the director of the state facility shall cause the filing of a petition in the juvenile and domestic relations
603 district court of the county or city in which the child is present, requesting adjudication of the care and
604 custody of the child under the provisions of § 16.1-278.3. If the mother has received services in a state
605 facility continuously for 10 months, the Department of Social Services shall have financial responsibility
606 for the care of the child, and the custody of the child shall be determined in accordance with the
607 provisions of § 16.1-278.3. The judge of such court shall take appropriate action to effect prompt
608 removal of the child from the state facility.

609 **§ 38.2-302. Life, accident and sickness insurance; application required.**

610 A. No contract of insurance upon a person shall be made or effectuated unless at the time of the
611 making of the contract the individual insured, being of lawful age and competent to contract for the
612 insurance contract (i) applies for insurance, or (ii) consents in writing to the insurance contract.

613 However:

614 1. A wife or husband *Either spouse* may effect an insurance contract upon each other;

615 2. Any person having an insurable interest in the life of a minor, or any person upon whom a minor
616 is dependent for support and maintenance, may effect an insurance contract upon the life of or
617 pertaining to the minor; or

618 3. A corporate employer or an employee benefit trust having the insurable interest described in
619 subdivision 3 of subsection B of § 38.2-301, may effect an insurance contract upon the lives of such
620 employees, provided that the employer or trust provides the employee with notice in writing that such
621 insurance has been purchased, the amount of such coverage, and to whom benefits are payable in the
622 event of the employee's death.

623 B. Nothing in this section shall prohibit a minor from obtaining insurance on his own life as
624 authorized in § 38.2-3105.

625 **§ 38.2-2204. Liability insurance on motor vehicles, aircraft and watercraft; standard provisions;**
626 **"omnibus clause."**

627 A. No policy or contract of bodily injury or property damage liability insurance, covering liability
628 arising from the ownership, maintenance, or use of any motor vehicle, aircraft, or private pleasure
629 watercraft, shall be issued or delivered in this Commonwealth to the owner of such vehicle, aircraft or
630 watercraft, or shall be issued or delivered by any insurer licensed in this Commonwealth upon any
631 motor vehicle, aircraft, or private pleasure watercraft that is principally garaged, docked, or used in this
632 Commonwealth, unless the policy contains a provision insuring the named insured, and any other person
633 using or responsible for the use of the motor vehicle, aircraft, or private pleasure watercraft with the
634 expressed or implied consent of the named insured, against liability for death or injury sustained, or loss
635 or damage incurred within the coverage of the policy or contract as a result of negligence in the
636 operation or use of such vehicle, aircraft, or watercraft by the named insured or by any such person;
637 however, nothing contained in this section shall be deemed to prohibit an insurer from limiting its
638 liability under any one policy for bodily injury or property damage resulting from any one accident or
639 occurrence to the liability limits for such coverage set forth in the policy for any such accident or
640 occurrence or for any one person, regardless of the number of insureds under that policy. Provided that,
641 when one accident or occurrence involves more than one defendant who is covered by the policy, the
642 plaintiff may recover the per person limit of the policy against each such defendant, subject to the per
643 accident or occurrence limit of the policy. Each such policy or contract of liability insurance, or
644 endorsement to the policy or contract, insuring private passenger automobiles, aircraft, or private
645 pleasure watercraft principally garaged, docked, or used in this Commonwealth, that has as the named
646 insured an individual or husband and wife spouses and that includes, with respect to any liability
647 insurance provided by the policy, contract or endorsement for use of a nonowned automobile, aircraft or
648 private pleasure watercraft, any provision requiring permission or consent of the owner of such
649 automobile, aircraft, or private pleasure watercraft for the insurance to apply, shall be construed to
650 include permission or consent of the custodian in the provision requiring permission or consent of the
651 owner.

652 B. Notwithstanding any requirements in this section to the contrary, an insurer may exclude any
653 person from coverage under a personal umbrella or excess policy, if the exclusion is requested in writing
654 by the first named insured and is acknowledged in writing by the excluded driver.

655 C. For aircraft liability insurance, such policy or contract may contain the exclusions listed in
656 § 38.2-2227. Notwithstanding the provisions of this section or any other provisions of law, no policy or
657 contract shall require pilot experience greater than that prescribed by the Federal Aviation
658 Administration, except for pilots operating air taxis, or pilots operating aircraft applying chemicals, seed,
659 or fertilizer.

660 D. No policy or contract of bodily injury or property damage liability insurance relating to the
661 ownership, maintenance, or use of a motor vehicle shall be issued or delivered in this Commonwealth to
662 the owner of such vehicle or shall be issued or delivered by an insurer licensed in this Commonwealth
663 upon any motor vehicle principally garaged or used in this Commonwealth without an endorsement or
664 provision insuring the named insured, and any other person using or responsible for the use of the motor
665 vehicle with the expressed or implied consent of the named insured, against liability for death or injury
666 sustained, or loss or damage incurred within the coverage of the policy or contract as a result of
667 negligence in the operation or use of the motor vehicle by the named insured or by any other such
668 person; however, nothing contained in this section shall be deemed to prohibit an insurer from limiting
669 its liability under any one policy for bodily injury or property damage resulting from any one accident
670 or occurrence to the liability limits for such coverage set forth in the policy for any such accident or
671 occurrence or for any one person regardless of the number of insureds under that policy. Provided that,
672 when one accident or occurrence involves more than one defendant who is covered by the policy, the
673 plaintiff may recover the per person limit of the policy against each such defendant, subject to the per

674 accident or occurrence limit of the policy. This provision shall apply notwithstanding the failure or
675 refusal of the named insured or such other person to cooperate with the insurer under the terms of the
676 policy. If the failure or refusal to cooperate prejudices the insurer in the defense of an action for
677 damages arising from the operation or use of such insured motor vehicle, then the endorsement or
678 provision shall be void. If an insurer has actual notice of a motion for judgment or complaint having
679 been served on an insured, the mere failure of the insured to turn the motion or complaint over to the
680 insurer shall not be a defense to the insurer, nor void the endorsement or provision, nor in any way
681 relieve the insurer of its obligations to the insured, provided the insured otherwise cooperates and in no
682 way prejudices the insurer.

683 Where the insurer has elected to provide a defense to its insured under such circumstances and files
684 responsive pleadings in the name of its insured, the insured shall not be subject to sanctions for failure
685 to comply with discovery pursuant to Part Four of the Rules of the Supreme Court of Virginia unless it
686 can be shown that the suit papers actually reached the insured, and that the insurer has failed after
687 exercising due diligence to locate its insured, and as long as the insurer provides such information in
688 response to discovery as it can without the assistance of the insured.

689 E. Any endorsement, provision or rider attached to or included in any such policy of insurance which
690 purports or seeks to limit or reduce the coverage afforded by the provisions required by this section
691 shall be void, except an insurer may exclude such coverage as is afforded by this section, where such
692 coverage would inure to the benefit of the United States Government or any agency or subdivision
693 thereof under the provisions of the Federal Tort Claims Act, the Federal Drivers Act and Public Law
694 86-654 District of Columbia Employee Non-Liability Act, or to the benefit of the Commonwealth under
695 the provisions of the Virginia Tort Claims Act (§ 8.01-195.1 et seq.) and the self-insurance plan
696 established by the Department of General Services pursuant to § 2.2-1837 for any state employee who,
697 in the regular course of his employment, transports patients in his own personal vehicle.

698 **§ 38.2-2212. Grounds and procedure for cancellation of or refusal to renew motor vehicle**
699 **insurance policies; review by Commissioner.**

700 A. The following definitions shall apply to this section:

701 "Cancellation" or "to cancel" means a termination of a policy during the policy period.

702 "Insurer" means any insurance company, association, or exchange licensed to transact motor vehicle
703 insurance in this Commonwealth.

704 "Policy of motor vehicle insurance" or "policy" means a policy or contract for bodily injury or
705 property damage liability insurance issued or delivered in this Commonwealth covering liability arising
706 from the ownership, maintenance, or use of any motor vehicle, insuring as the named insured one
707 individual or husband and wife spouses who are residents of the same household, and under which the
708 insured vehicle designated in the policy is either:

709 a. A motor vehicle of a private passenger, station wagon, or motorcycle type that is not used
710 commercially, rented to others, or used as a public or livery conveyance where the term "public or
711 livery conveyance" does not include car pools, or

712 b. Any other four-wheel motor vehicle which is not used in the occupation, profession, or business,
713 other than farming, of the insured, or as a public or livery conveyance, or rented to others. The term
714 "policy of motor vehicle insurance" or "policy" does not include (i) any policy issued through the
715 Virginia Automobile Insurance Plan, (ii) any policy covering the operation of a garage, sales agency,
716 repair shop, service station, or public parking place, (iii) any policy providing insurance only on an
717 excess basis, or (iv) any other contract providing insurance to the named insured even though the
718 contract may incidentally provide insurance on motor vehicles.

719 "Renewal" or "to renew" means (i) the issuance and delivery by an insurer of a policy superseding at
720 the end of the policy period a policy previously issued and delivered by the same insurer, providing
721 types and limits of coverage at least equal to those contained in the policy being superseded, or (ii) the
722 issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period
723 or term with types and limits of coverage at least equal to those contained in the policy. Each renewal
724 shall conform with the requirements of the manual rules and rating program currently filed by the
725 insurer with the Commission. Except as provided in subsection K of this section, any policy with a
726 policy period or term of less than 12 months or any policy with no fixed expiration date shall for the
727 purpose of this section be considered as if written for successive policy periods or terms of six months
728 from the original effective date.

729 B. This section shall apply only to that portion of a policy of motor vehicle insurance providing the
730 coverage required by §§ 38.2-2204, 38.2-2205, and 38.2-2206.

731 C. 1. No insurer shall refuse to renew a motor vehicle insurance policy solely because of any one or
732 more of the following factors:

733 a. Age;

734 b. Sex;

735 c. Residence;

736 d. Race;
737 e. Color;
738 f. Creed;
739 g. National origin;
740 h. Ancestry;
741 i. Marital status;
742 j. Lawful occupation, including the military service;
743 k. Lack of driving experience, or number of years driving experience;
744 l. Lack of supporting business or lack of the potential for acquiring such business;
745 m. One or more accidents or violations that occurred more than 48 months immediately preceding
746 the upcoming anniversary date;
747 n. One or more claims submitted under the uninsured motorists coverage of the policy where the
748 uninsured motorist is known or there is physical evidence of contact;
749 o. A single claim by a single insured submitted under the medical expense coverage due to an
750 accident for which the insured was neither wholly nor partially at fault;
751 p. One or more claims submitted under the comprehensive or towing coverages. However, nothing in
752 this section shall prohibit an insurer from modifying or refusing to renew the comprehensive or towing
753 coverages at the time of renewal of the policy on the basis of one or more claims submitted by an
754 insured under those coverages, provided that the insurer shall mail or deliver to the insured at the
755 address shown in the policy, or deliver electronically to the address provided by the named insured,
756 written notice of any such change in coverage at least 45 days prior to the renewal;
757 q. Two or fewer motor vehicle accidents within a three-year period unless the accident was caused
758 either wholly or partially by the named insured, a resident of the same household, or other customary
759 operator;
760 r. Credit information contained in a "consumer report," as defined in the federal Fair Credit
761 Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person's creditworthiness, credit standing
762 or credit capacity. If credit information is used, in part, as the basis for the nonrenewal, such credit
763 information shall be based on a consumer report procured within 120 days from the effective date of the
764 nonrenewal. The provisions of this subdivision shall apply only to insurance purchased primarily for
765 personal, family, or household purposes; or
766 s. The refusal of a motor vehicle owner as defined in § 46.2-1088.6 to provide access to recorded
767 data from a recording device as defined in § 46.2-1088.6.

768 2. Nothing in this section shall require any insurer to renew a policy for an insured where the
769 insured's occupation has changed so as to materially increase the risk. Nothing contained in subdivisions
770 C 1 n, 1 o, and 1 p of this subsection shall prohibit an insurer from refusing to renew a policy where a
771 claim is false or fraudulent. Nothing in this section prohibits any insurer from setting rates in accordance
772 with relevant actuarial data.

773 D. No insurer shall cancel a policy except for one or more of the following reasons:
774 1. The named insured or any other operator who either resides in the same household or customarily
775 operates a motor vehicle insured under the policy has had his driver's license suspended or revoked
776 during the policy period or, if the policy is a renewal, during its policy period or the 90 days
777 immediately preceding the last effective date.
778 2. The named insured fails to pay the premium for the policy or any installment of the premium,
779 whether payable to the insurer or its agent either directly or indirectly under any premium finance plan
780 or extension of credit.
781 3. The named insured or his duly constituted attorney-in-fact has notified the insurer of a change in
782 the insured's legal residence to a state other than Virginia and the insured vehicle will be principally
783 garaged in the new state of legal residence.

784 E. No cancellation or refusal to renew by an insurer of a policy of motor vehicle insurance shall be
785 effective unless the insurer delivers or mails to the named insured at the address shown in the policy a
786 written notice of the cancellation or refusal to renew, or the insurer delivers such notice electronically to
787 the address provided by the named insured. The notice shall:
788 1. Be in a type size authorized under § 38.2-311.
789 2. State the effective date of the cancellation or refusal to renew. The effective date of cancellation
790 or refusal to renew shall be at least 45 days after mailing or delivering to the insured the notice of
791 cancellation or notice of refusal to renew. However, when the policy is being canceled or not renewed
792 for the reason set forth in subdivision 2 of subsection D of this section the effective date may be less
793 than 45 days but at least 15 days from the date of mailing or delivery.
794 3. State the specific reason of the insurer for cancellation or refusal to renew and provide for the
795 notification required by §§ 38.2-608, 38.2-609, and subsection B of § 38.2-610. However, those
796 notification requirements shall not apply when the policy is being canceled or not renewed for the

797 reason set forth in subdivision 2 of subsection D of this section.

798 4. Inform the insured of his right to request in writing within 15 days of the receipt of the notice that
799 the Commissioner review the action of the insurer.

800 The notice of cancellation or refusal to renew shall contain the following statement to inform the
801 insured of such right:

802 **IMPORTANT NOTICE**

803 Within 15 days of receiving this notice, you or your attorney may request in writing that the
804 Commissioner of Insurance review this action to determine whether the insurer has complied with
805 Virginia laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the
806 cancellation or nonrenewal laws, the Commissioner may require that your policy be reinstated. However,
807 the Commissioner is prohibited from making underwriting judgments. If this insurer has complied with
808 the cancellation or nonrenewal laws, the Commissioner does not have the authority to overturn this
809 action.

810 5. Inform the insured of the possible availability of other insurance which may be obtained through
811 his agent, through another insurer, or through the Virginia Automobile Insurance Plan.

812 6. If sent by mail or delivered electronically, comply with the provisions of § 38.2-2208.

813 Nothing in this subsection prohibits any insurer or agent from including in the notice of cancellation
814 or refusal to renew, any additional disclosure statements required by state or federal laws, or any
815 additional information relating to the availability of other insurance.

816 F. Nothing in this section shall apply:

817 1. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew
818 by issuing or offering to issue a renewal policy, certificate, or other evidence of renewal, or has
819 manifested its willingness to renew in writing to the insured. The written manifestation shall include the
820 name of a proposed insurer, the expiration date of the policy, the type of insurance coverage, and
821 information regarding the estimated renewal premium. The insurer shall retain a copy of each written
822 manifestation for a period of at least one year from the expiration date of any policy that is not
823 renewed;

824 2. If the named insured, or his duly constituted attorney-in-fact, has notified the insurer or its agent
825 orally, or in writing, if the insurer requires such notification to be in writing, that he wishes the policy
826 to be canceled or that he does not wish the policy to be renewed, or if prior to the date of expiration he
827 fails to accept the offer of the insurer to renew the policy;

828 3. To any motor vehicle insurance policy which has been in effect less than 60 days when the
829 termination notice is mailed or delivered to the insured, unless it is a renewal policy; or

830 4. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than
831 would have been charged for the same exposures on the expiring policy. The affiliated insurer shall
832 manifest its willingness to provide coverage by issuing a policy with the types and limits of coverage at
833 least equal to those contained in the expiring policy unless the named insured has requested a change in
834 coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be
835 required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be
836 deemed to be a renewal policy.

837 G. There shall be no liability on the part of and no cause of action of any nature shall arise against
838 the Commissioner or his subordinates; any insurer, its authorized representatives, its agents, or its
839 employees; or any person furnishing to the insurer information as to reasons for cancellation or refusal
840 to renew, for any statement made by any of them in complying with this section or for providing
841 information pertaining to the cancellation or refusal to renew. For the purposes of this section, no
842 insurer shall be required to furnish a notice of cancellation or refusal to renew to anyone other than the
843 named insured, any person designated by the named insured, or any other person to whom such notice
844 is required to be given by the terms of the policy and the Commissioner.

845 H. Within 15 days of receipt of the notice of cancellation or refusal to renew, any insured or his
846 attorney shall be entitled to request in writing to the Commissioner that he review the action of the
847 insurer in canceling or refusing to renew the policy of the insured. Upon receipt of the request, the
848 Commissioner shall promptly begin a review to determine whether the insurer's cancellation or refusal to
849 renew complies with the requirements of this section and of § 38.2-2208 if the notice was sent by mail
850 or delivered electronically. The policy shall remain in full force and effect during the pendency of the
851 review by the Commissioner except where the cancellation or refusal to renew is for the reason set forth
852 in subdivision 2 of subsection D of this section, in which case the policy shall terminate as of the
853 effective date stated in the notice. Where the Commissioner finds from the review that the cancellation
854 or refusal to renew has not complied with the requirements of this section or of § 38.2-2208, he shall
855 immediately notify the insurer, the insured and any other person to whom such notice was required to
856 be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in
857 this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the
858 insurer. Where the Commissioner finds in favor of the insured, the Commission in its discretion may

859 award the insured reasonable attorneys' fees.

860 I. Each insurer shall maintain for at least one year, records of cancellation and refusal to renew and
861 copies of every notice or statement referred to in subsection E of this section that it sends to any of its
862 insureds.

863 J. The provisions of this section shall not apply to any insurer that limits the issuance of policies of
864 motor vehicle liability insurance to one class or group of persons engaged in any one particular
865 profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy
866 of motor vehicle insurance if the insured does not conform to the occupational or membership
867 requirements of an insurer who limits its writings to an occupation or membership of an organization.
868 No insurer is required to renew a policy if the insured becomes a nonresident of Virginia.

869 K. Notwithstanding any other provision of this section, a motor vehicle insurance policy with a
870 policy period or term of five months or less may expire at its expiration date when the insurer has
871 manifested in writing its willingness to renew the policy for at least 30 days and has mailed or delivered
872 the written manifestation to the insured at least 15 days before the expiration date of the policy. The
873 written manifestation shall include the name of the proposed insurer, the expiration date of the policy,
874 the type of insurance coverage, and the estimated renewal premium. The insurer shall retain a copy of
875 the written manifestation for at least one year from the expiration date of any policy that is not renewed.

876 **§ 55-20. Survivorship between joint tenants abolished.**

877 When any joint tenant dies, before or after the vesting of the estate, whether the estate is real or
878 personal, or whether partition could have been compelled or not, his part shall descend to his heirs, or
879 pass by devise, or go to his personal representative, subject to debts or distribution, as if he had been a
880 tenant in common. And if hereafter any estate, real or personal, is conveyed or devised to a husband and
881 his wife persons married to each other, they shall take and hold the same by moieties in like manner as
882 if a distinct moiety had been given to each by a separate conveyance.

883 **§ 55-20.2. Tenants by the entirety in real and personal property; certain trusts.**

884 A. Any husband and wife persons married to each other may own real or personal property as
885 tenants by the entirety for as long as they are married. Personal property may be owned as tenants by
886 the entirety whether or not the personal property represents the proceeds of the sale of real property.
887 An intent that the part of the one dying should belong to the other shall be manifest from a designation
888 of a husband and wife the spouses as "tenants by the entirety" or "tenants by the entirety."

889 B. Except as otherwise provided by statute, no interest in real property held as tenants by the
890 entirety shall be severed by written instrument unless the instrument is a deed signed by both spouses
891 as grantors.

892 C. Notwithstanding any contrary provision of § 64.2-747, any property of a husband and wife
893 persons married to each other that is held by them as tenants by the entirety and conveyed to their
894 joint revocable or irrevocable trusts, or to their separate revocable or irrevocable trusts, and any proceeds
895 of the sale or disposition of such property, shall have the same immunity from the claims of their
896 separate creditors as it would if it had remained a tenancy by the entirety, so long as (i) they remain
897 husband and wife married to each other, (ii) it continues to be held in the trust or trusts, and (iii) it
898 continues to be their property, including where both spouses are current beneficiaries of one trust that
899 holds the entire property or each spouse is a current beneficiary of a separate trust and the two separate
900 trusts together hold the entire property, whether or not other persons are also current or future
901 beneficiaries of the trust or trusts. The immunity from the claims of separate creditors under this
902 subsection may be waived as to any specific creditor, including any separate creditor of either spouse, or
903 any specifically described property, including any former tenancy by the entirety property conveyed
904 into trust, by the trustee acting under the express provision of a trust instrument or with the written
905 consent of both the husband and the wife spouses.

906 **§ 55-35. How married persons may acquire and dispose of property.**

907 A married woman Married persons shall have the right to acquire, hold, use, control and dispose of
908 property as if she they were unmarried and such. Such power of use, control and disposition shall apply
909 to all property of a married woman which that has been acquired by her since April 4, 1877, or shall be
910 hereafter acquired. Her husband's The marital rights of persons married to each other shall not entitle
911 him either spouse to the possession or use, or to the rents, issues and profits, of such real estate during
912 the coverture; nor shall the property of the wife either spouse be subject to the debts or liabilities of the
913 husband other spouse.

914 **§ 55-36. Contracts of, and suits by and against, married persons.**

915 A married woman person may contract and be contracted with and sue and be sued in the same
916 manner and with the same consequences as if she he were unmarried, whether the right or liability
917 asserted by or against her him accrued heretofore or hereafter. In an action by a married woman person
918 to recover for a personal injury inflicted on her she him, he may recover the entire damage sustained,
919 including the personal injury and expenses arising out of the injury, whether chargeable to her him or

920 ~~her husband~~ *his spouse*, notwithstanding the ~~husband spouse~~ *spouse* may be entitled to the benefit of ~~her~~ *his*
 921 services about domestic affairs and consortium, and any sum recovered therein shall be chargeable with
 922 expenses arising out of the injury, including hospital, medical and funeral expenses, and any person,
 923 including the ~~husband spouse~~, partially or completely discharging such debts shall be reimbursed out of
 924 the sum recovered in the action, whensoever paid, to the extent to which such payment was justified by
 925 services rendered or expenses incurred by the obligee, provided, however, that written notice of such
 926 claim for reimbursement, and the amount and items thereof, shall have been served on such married
 927 ~~woman~~ *person* and on the defendant prior to any settlement of the sum recovered by ~~her~~ *him*; and no
 928 action for such injury, expenses or loss of services or consortium shall be maintained by ~~the husband~~ *his*
 929 *spouse*.

930 **§ 55-38. Spouse's right of entry into land not barred by certain judgments; when a spouse may**
 931 **defend his right in lands that are his inheritance.**

932 A ~~woman~~ *spouse* shall not be barred of ~~her~~ *his* right of entry into land by a judgment in ~~her~~
 933 ~~husband's~~ *the other spouse's* lifetime by default or collusion, but after ~~his~~ *the other spouse's* death may
 934 prosecute the same by any proper suit; or, in the lifetime of the ~~husband~~ *other spouse*, if ~~he~~ *the other*
 935 *spouse* will not appear, or, against ~~his wife's~~ *the spouse's* consent, will render the ~~wife's~~ *spouse's* lands
 936 during the coverture in a suit against ~~the husband and wife~~ *both spouses* for lands ~~which~~ *that* are ~~her~~ *the*
 937 *spouse's* inheritance, the ~~wife~~ *spouse* may come at any time before judgment, and defend ~~her~~ *his* right.

938 **§ 55-39. Rights of spouse, etc., not affected by other spouse's acts only.**

939 No conveyance or other act suffered or done by ~~the husband~~ *one spouse* only of any land ~~which~~ *that*
 940 is the inheritance of ~~his wife~~ *the other spouse* shall be or make any discontinuance thereof, or be
 941 prejudicial to the ~~wife~~ *other spouse* or ~~her~~ *the other spouse's* heirs, or to any having right or title to the
 942 same by ~~her~~ *the other spouse's* death, but they may respectively enter into such land, according to their
 943 right and title therein, as if no such act had been done.

944 **§ 55-41. Conveyance from married persons; effect on right of either spouse.**

945 When a ~~husband and his wife~~ *persons married to each other* have signed and delivered a writing
 946 purporting to convey any estate, real or personal, such writing, whether admitted to record or not, shall
 947 (i) if delivered prior to January 1, 1991, operate to convey from the spouse her right of dower or his
 948 right of curtesy in the real estate embraced therein, and (ii) if delivered after December 31, 1990,
 949 operate to manifest the spouse's written consent or joinder, as contemplated in § 64.2-305 or 64.2-308.9
 950 to the transfer embraced therein. In either case, the writing passes from such spouse and his ~~or~~ *her*
 951 representatives all right, title and interest of every nature which at the date of such writing he ~~or~~ *she*
 952 may have in any estate conveyed thereby as effectually as if he ~~or~~ *she* were at such date an unmarried
 953 person. If, in either case, the writing is a deed conveying a spouse's land, no covenant or warranty
 954 therein on behalf of the other spouse joining in the deed shall operate to bind him ~~or~~ *her* any further
 955 than to convey ~~her~~ *or* his interest in such land, unless it is expressly stated that such spouse enters into
 956 such covenant or warranty for the purpose of binding himself ~~or~~ *herself* personally.

957 **§ 55-42.1. How infant spouse may release interests in spouse's property.**

958 Notwithstanding the disability of infancy, on or after January 1, 1991, an infant spouse, whether
 959 married before or after January 1, 1991, may release his ~~or~~ *her* marital rights in the other spouse's real
 960 or personal property by uniting in any contract, deed, or other instrument executed by the other spouse
 961 or by a commissioner of a court pursuant to a decree entered under §§ 8.01-67 through 8.01-77 or any
 962 other law with respect to the infant's property.

963 **§ 55-43. Appointment of attorney in fact by married person; effect of writing executed by such**
 964 **attorney.**

965 A married ~~woman~~ *person*, whether a resident of ~~this~~ *the* Commonwealth or not, may, by power of
 966 attorney duly executed and acknowledged as prescribed in § 55-113 or § 55-114, appoint an
 967 attorney-in-fact to execute and acknowledge, for ~~her~~ *him* and in ~~her~~ *his* name, any deed or other writing
 968 ~~which she~~ *that he* might execute. Every deed or other writing so executed by such attorney-in-fact in
 969 pursuance of such power of attorney while the same remains in force shall be valid and effectual, in all
 970 respects, to convey the interest and title of such married ~~woman~~ *person* in and to any real estate thereby
 971 conveyed or otherwise transferred.

972 **§ 55-46. How estate of a married person to pass at death.**

973 When a married ~~woman~~ *person*, having title to any estate, dies intestate, as to such estate, or any
 974 part thereof, it, or such part, shall pass according to the provisions of Chapter 2 (§ 64.2-200 et seq.) of
 975 Title 64.2, subject to ~~her~~ *his* debts.

976 **§ 55-106.1. Recording and indexing of certain documents showing changes of names.**

977 A duly authenticated copy of a marriage license with the certificate of the person celebrating the
 978 marriage or a duly authenticated copy of a final decree of divorce showing a change of name of a
 979 ~~woman~~ *person* shall be entitled to be admitted to record in the clerk's office wherein deeds are recorded
 980 of the county or city wherein any land which, or an interest in which, is owned by such ~~woman~~ *person*
 981 lies, and shall be indexed by such clerk in the grantor and grantee indices in his office.

982 § 55-131. Acknowledgments taken by officer who was spouse of grantee.

983 Any certificate of acknowledgment to a deed or other writings taken prior to July 1, 1995, by a
 984 notary public or other officer duly authorized to take acknowledgments, who at the time of taking such
 985 acknowledgment was the ~~husband or wife~~ *spouse* of the grantee in the deed or other instrument, shall be
 986 held, and the same is hereby declared, valid and effective in all respects, if otherwise valid according to
 987 the law then in force. All acknowledgments of conveyances to a fiduciary taken before an officer, who
 988 is the ~~husband or wife~~ *spouse* of the same and who has no beneficial or monetary interest other than
 989 possible commissions or legal fees shall be conclusively presumed valid.

990 § 58.1-322.02. Virginia taxable income; subtractions.

991 In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal
 992 adjusted gross income, there shall be subtracted:

993 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
 994 and on obligations or securities of any authority, commission, or instrumentality of the United States to
 995 the extent exempt from state income taxes under the laws of the United States, including, but not
 996 limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of
 997 federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

998 2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth
 999 or of any political subdivision or instrumentality of the Commonwealth.

1000 3. Benefits received under Title II of the Social Security Act and other benefits subject to federal
 1001 income taxation solely pursuant to § 86 of the Internal Revenue Code.

1002 4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code;
 1003 however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a
 1004 subtraction under this subdivision.

1005 5. The amount of any refund or credit for overpayment of income taxes imposed by the
 1006 Commonwealth or any other taxing jurisdiction.

1007 6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not
 1008 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

1009 7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

1010 8. The wages or salaries received by any person for active and inactive service in the National Guard
 1011 of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days
 1012 of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3
 1013 and below shall be entitled to the deductions specified in this subdivision.

1014 9. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for
 1015 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
 1016 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
 1017 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an
 1018 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime
 1019 for which the reward was paid, or any person who is compensated for the investigation of crimes or
 1020 accidents.

1021 10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction
 1022 for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the
 1023 Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and
 1024 members of limited liability companies to the extent and in the same manner as other deductions may
 1025 pass through to such partners, shareholders, and members.

1026 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or
 1027 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account
 1028 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as
 1029 defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the
 1030 contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the
 1031 extent the contributions to such plan or program were subject to taxation under the income tax in
 1032 another state.

1033 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
 1034 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
 1035 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
 1036 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
 1037 scholarship.

1038 13. All military pay and allowances, to the extent included in federal adjusted gross income and not
 1039 otherwise subtracted, deducted, or exempted under this section, earned by military personnel while
 1040 serving by order of the President of the United States with the consent of Congress in a combat zone or
 1041 qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112
 1042 of the Internal Revenue Code.

1043 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
1044 of real property or the sale or exchange of an easement to real property which results in the real
1045 property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230,
1046 for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with
1047 this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed
1048 for three years following the year in which the subtraction is taken.

1049 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active
1050 duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar
1051 by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero
1052 if such military basic pay amount is equal to or exceeds \$30,000.

1053 16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all
1054 employment for the taxable year is \$15,000 or less.

1055 17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

1056 18. Any amount received as military retirement income by an individual awarded the Congressional
1057 Medal of Honor.

1058 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from,
1059 hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii)
1060 damages, reparations, or other consideration received by a victim or target of Nazi persecution to
1061 compensate such individual for performing labor against his will under the threat of death, during World
1062 War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such
1063 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
1064 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The
1065 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
1066 of income and who was a victim or target of Nazi persecution, or a spouse, ~~widow, widower~~ *surviving*
1067 *spouse*, or child or stepchild of such victim.

1068 As used in this subdivision:

1069 "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those
1070 European countries allied with Nazi Germany, or any other neutral European country or area in Europe
1071 under the influence or threat of Nazi invasion.

1072 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by
1073 the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or
1074 omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath,
1075 (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution,
1076 or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II
1077 and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual
1078 forced into labor against his will, under the threat of death, during World War II and its prelude and
1079 direct aftermath.

1080 20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased
1081 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction
1082 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal
1083 gross income in accordance with § 134 of the Internal Revenue Code.

1084 21. The death benefit payments from an annuity contract that are received by a beneficiary of such
1085 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an
1086 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under
1087 this subdivision shall be allowed only for that portion of the death benefit payment that is included in
1088 federal adjusted gross income.

1089 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
1090 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
1091 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
1092 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

1093 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
1094 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the
1095 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,
1096 and launched from an airport or spaceport in Virginia.

1097 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
1098 taxed as investment services partnership interest income (otherwise known as investment partnership
1099 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
1100 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
1101 § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided
1102 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
1103 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
1104 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No

1105 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
1106 shall be eligible for the subtraction under this subdivision for an investment in the same business.

1107 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
1108 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
1109 first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55
1110 and (ii) interest income or other income for federal income tax purposes attributable to such person's
1111 first-time home buyer savings account.

1112 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
1113 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
1114 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
1115 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
1116 § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
1117 year that was used for other than the payment of eligible costs, computed by multiplying the amount
1118 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
1119 the account at the time of the withdrawal to the total balance in the account at such time.

1120 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
1121 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
1122 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
1123 through 1330; or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.)
1124 of Title 55 into another account established pursuant to such chapter for the benefit of another qualified
1125 beneficiary.

1126 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
1127 account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

1128 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year
1129 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
1130 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
1131 Revenue Code.

1132 27. a. Income, including investment services partnership interest income (otherwise known as
1133 investment partnership carried interest income), attributable to an investment in a Virginia venture
1134 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or
1135 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this
1136 subdivision for an investment in a company that is owned or operated by a family member or an
1137 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
1138 claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

1139 b. As used in this subdivision 27:

1140 "Qualified portfolio company" means a company that (i) has its principal place of business in the
1141 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
1142 service other than the management or investment of capital; and (iii) provides equity in the company to
1143 the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company"
1144 does not include a company that is an individual or sole proprietorship.

1145 "Virginia venture capital account" means an investment fund that has been certified by the
1146 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
1147 account, the operator of the investment fund shall register the investment fund with the Department prior
1148 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
1149 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
1150 investor who has at least four years of professional experience in venture capital investment or
1151 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
1152 an undergraduate degree from an accredited college or university in economics, finance, or a similar
1153 field of study. The Department may require an investment fund to provide documentation of the
1154 investor's training, education, or experience as deemed necessary by the Department to determine
1155 substantial equivalency. If the Department determines that the investment fund employs at least one
1156 investor with the experience set forth herein, the Department shall certify the investment fund as a
1157 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
1158 of the capital committed to its fund in qualified portfolio companies.

1159 **§ 58.1-324. Married individuals.**

1160 A. If the federal taxable income of ~~husband or wife~~ *married individuals* is determined on a separate
1161 federal ~~return~~ *returns*, their Virginia taxable incomes shall be separately determined.

1162 B. If the federal taxable income of ~~husband and wife~~ *married individuals* is determined on a joint
1163 federal return, or if neither files a federal return:

1164 1. Their tax shall be determined on their joint Virginia taxable income; or

1165 2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect.

1166 C. Where ~~husband and wife~~ *married individuals* have not separately reported and claimed items of
 1167 income, exemptions and deductions for federal income tax purposes, and have not elected to file a joint
 1168 Virginia income tax return, such items allowable for Virginia income tax purposes shall be allocated and
 1169 adjusted as follows:

1170 1. Income shall be allocated to the spouse who earned the income or with respect to whose property
 1171 the income is attributable.

1172 2. Allowable deductions with respect to trade, business, production of income, or employment shall
 1173 be allocated to the spouse to whom attributable.

1174 3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable
 1175 for Virginia income tax purposes, but shall be allocable between ~~husband and wife~~ *married individuals*
 1176 as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions
 1177 not described in subdivision 2.

1178 4. Where the standard deduction or low income allowance is properly taken pursuant to subdivision 1
 1179 a of § 58.1-322.03, such deduction or allowance shall be allocable between ~~husband and wife~~ *married*
 1180 *individuals* as they may mutually agree.

1181 5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for
 1182 Virginia income tax purposes as ~~husband and wife~~ *married individuals* may mutually agree; however,
 1183 exemptions for taxpayer and spouse together with exemptions for old age and blindness must be
 1184 allocated respectively to the spouse to whom they relate.

1185 D. Where allocations are permitted to be made under subsection C pursuant to agreement between
 1186 ~~husband and wife~~ *married individuals*, and ~~husband and wife~~ *they* have failed to agree as to those
 1187 allocations, such allocations shall be made between ~~husband and wife~~ *them* in a manner corresponding
 1188 to the treatment for federal income tax purposes of the items involved, under regulations prescribed by
 1189 the Department.

1190 **§ 58.1-326. Married individuals when one nonresident.**

1191 If ~~husband or wife~~ *either spouse* is a resident and the other *spouse* is a nonresident, separate taxes
 1192 shall be determined on their separate Virginia taxable incomes on such single or separate forms as may
 1193 be required by the Department, unless both elect to determine their joint Virginia taxable income as if
 1194 both were residents.

1195 **§ 58.1-339.8. Income tax credit for low-income taxpayers.**

1196 A. As used in this section, unless the context requires otherwise:

1197 "Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an
 1198 individual, the individual's spouse, and any person claimed as a dependent on the individual's or his
 1199 spouse's income tax return for the taxable year.

1200 "Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of
 1201 Columbia updated annually in the Federal Register by the U.S. Department of Health and Human
 1202 Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

1203 "Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

1204 B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a
 1205 joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty
 1206 guideline amount corresponding to a household of an equal number of persons as listed in the poverty
 1207 guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant
 1208 to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any
 1209 person claimed as a dependent on the individual's or ~~married persons'~~ *individuals'* income tax return for
 1210 the taxable year. For any taxable year in which a ~~husband and wife~~ *married individuals* file separate
 1211 Virginia income tax returns, the credit provided under this section shall be allowed against the tax for
 1212 only one of such two tax returns. Additionally, the credit provided under this section shall not be
 1213 allowed against such tax of a dependent of the individual or of ~~married persons'~~ *individuals*.

1214 2. For taxable years beginning on and after January 1, 2006, any individual or ~~married persons~~
 1215 *individuals*, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable
 1216 year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed
 1217 pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or
 1218 ~~married persons'~~ *individuals* for federal individual income taxes pursuant to § 32 of the Internal Revenue
 1219 Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision
 1220 and subdivision B 1 for the same taxable year.

1221 For *the* purpose of this subdivision, "household" means an individual and in the case of ~~married~~
 1222 ~~persons'~~ *individuals*, the individual and his spouse regardless of whether or not the individual and his
 1223 spouse file combined or separate Virginia individual income tax returns.

1224 C. The amount of the credit provided pursuant to subsection B for any taxable year shall not exceed
 1225 the individual's or ~~married persons'~~ *individuals'* Virginia income tax liability.

1226 D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to
 1227 subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person

1228 claimed as a dependent on such individual's or married persons' *individuals'* income tax return, claims
 1229 one or any combination of the following on his or their income tax return for such taxable year:

- 1230 1. The subtraction under subdivision 8 of § 58.1-322.02;
- 1231 2. The subtraction under subdivision 15 of § 58.1-322.02;
- 1232 3. The subtraction under subdivision 16 of § 58.1-322.02;
- 1233 4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision
 1234 2 b of § 58.1-322.03; or
- 1235 5. The deduction under subdivision 5 of § 58.1-322.03.

1236 **§ 58.1-341. Returns of individuals.**

1237 A. On or before May 1 of each year if an individual's taxable year is the calendar year, or on or
 1238 before the fifteenth day of the fourth month following the close of a taxable year other than the calendar
 1239 year, an income tax return under this chapter shall be made and filed by or for:

- 1240 1. Every resident individual, except as provided in § 58.1-321, required to file a federal income tax
 1241 return for the taxable year, or having Virginia taxable income for the taxable year;
- 1242 2. Every nonresident individual having Virginia taxable income for the taxable year, except as
 1243 provided in § 58.1-321.

1244 Notwithstanding the foregoing, every member of the armed services of the United States deployed
 1245 outside of the United States shall be allowed an automatic extension to file an income tax return. Such
 1246 extension shall expire 90 days following the completion of such member's deployment. For purposes of
 1247 this section, "the armed services of the United States" includes active duty service with the regular
 1248 Armed Forces of the United States or the National Guard or other reserve component.

1249 B. If the federal income tax liability of ~~husband or wife~~ *either spouse* is determined on a separate
 1250 federal return, their Virginia income tax liabilities and returns shall be separate. If the federal income tax
 1251 liabilities of ~~husband and wife~~ *married individuals* (other than a ~~husband and wife~~ *married individuals*
 1252 described in subdivision A 2 of subsection A) are determined on a joint federal return, or if neither files
 1253 a federal return:

- 1254 1. They shall file a joint Virginia income tax return, and their tax liabilities shall be joint and
 1255 several; or
- 1256 2. They may elect to file separate Virginia income tax returns if they comply with the requirements
 1257 of the Department in setting forth information (whether or not on a single form), in which event their
 1258 tax liabilities shall be separate unless such ~~husband and wife~~ *married individuals* file separately on a
 1259 combined return. The election permitted under this subsection may be made or changed at any time
 1260 within three years from the last day prescribed by law for the timely filing of the return.

1261 C. If either ~~husband or wife~~ *spouse* is a resident and the other is a nonresident, they shall file
 1262 separate Virginia income tax returns on such single or separate forms as may be required by the
 1263 Department, in which event their tax liabilities shall be separate except as provided in subsection D,
 1264 unless both elect to determine their joint Virginia taxable income as if both were residents, in which
 1265 event their tax liabilities shall be joint and several.

1266 D. If ~~husband and wife~~ *married individuals* file separate Virginia income tax returns on a single form
 1267 pursuant to subsection B or C, and:

- 1268 1. If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the
 1269 amount of the tax for which such spouse is separately liable, the excess may be applied by the
 1270 Department to the credit of the other spouse if the sum of the payments by such other spouse, including
 1271 withheld and estimated taxes, is less than the amount of the tax for which such other spouse is
 1272 separately liable;

1273 2. If the sum of the payments made by both spouses with respect to the taxes for which they are
 1274 separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of
 1275 the excess may be made payable to both spouses.

1276 The provisions of this subsection shall not apply if the return of either spouse includes a demand that
 1277 any overpayment made by him ~~or her~~ shall be applied only on account of his ~~or her~~ separate liability.

1278 E. The return for any deceased individual shall be made and filed by his executor, administrator, or
 1279 other person charged with his property.

1280 F. The return for an individual who is unable to make a return by reason of minority or other
 1281 disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the
 1282 care of his person or property (other than a receiver in possession of only a part of his property), or by
 1283 his duly authorized agent.

1284 **§ 58.1-344.3. Voluntary contributions of refunds requirements.**

1285 A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary
 1286 contributions of tax refunds listed in subsections B and C must have received at least \$10,000 in
 1287 contributions in each of the three previous taxable years for which there is complete data and in which
 1288 such entity was listed on the individual income tax return.

1289 2. In the event that an entity listed in subsections B and C does not satisfy the requirement in
1290 subdivision 1, such entity shall no longer be listed on the individual income tax return.

1291 3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B
1292 and C added subsequent to the 2004 Session of the General Assembly shall not appear on the individual
1293 income tax return until their addition to the individual income tax return results in a maximum of 25
1294 contributions listed on the return. Such contributions shall be added in the order that they are listed in
1295 subsections B and C.

1296 b. Each entity added to the income tax return shall appear on the return for at least three consecutive
1297 taxable years before the requirement in subdivision 1 is applied to such entity.

1298 4. The Department of Taxation shall report annually by the first day of each General Assembly
1299 Regular Session to the chairmen of the House and Senate Finance Committees the amounts collected for
1300 each entity listed under subsections B and C for the three most recent taxable years for which there is
1301 complete data. Such report shall also identify the entities, if any, that will be removed from the
1302 individual income tax return because they have failed the requirements in subdivision 1, the entities that
1303 will remain on the individual income tax return, and the entities, if any, that will be added to the
1304 individual income tax return.

1305 B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions
1306 shall appear on the individual income tax return and are eligible to receive tax refund contributions of
1307 not less than \$1:

1308 1. Nongame wildlife voluntary contribution.

1309 a. All moneys contributed shall be used for the conservation and management of endangered species
1310 and other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened
1311 wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks,
1312 crustaceans, and other invertebrates under the jurisdiction of the Board of Game and Inland Fisheries.

1313 b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which
1314 shall be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All
1315 moneys so deposited in the Nongame Cash Fund shall be used by the Commission of Game and Inland
1316 Fisheries for the purposes set forth herein.

1317 2. Open space recreation and conservation voluntary contribution.

1318 a. All moneys contributed shall be used by the Department of Conservation and Recreation to
1319 acquire land for recreational purposes and preserve natural areas; to develop, maintain, and improve state
1320 park sites and facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor
1321 Fund Grants Program.

1322 b. All moneys shall be deposited into a special fund known as the Open Space Recreation and
1323 Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of
1324 Conservation and Recreation for the purposes stated in subdivision 2 a and one-half to local public
1325 bodies pursuant to the Virginia Outdoor Fund Grants Program.

1326 3. Voluntary contribution to political party.

1327 All moneys contributed shall be paid to the State Central Committee of any party that meets the
1328 definition of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum
1329 contribution allowable under this subdivision shall be \$25. In the case of a joint return of ~~husband and~~
1330 ~~wife married individuals~~, each spouse may designate that the maximum contribution allowable be paid.

1331 4. United States Olympic Committee voluntary contribution.

1332 All moneys contributed shall be paid to the United States Olympic Committee.

1333 5. Housing program voluntary contribution.

1334 a. All moneys contributed shall be used by the Department of Housing and Community Development
1335 to provide assistance for emergency, transitional, and permanent housing for the homeless; and to
1336 provide assistance to housing for the low-income elderly for the physically or mentally disabled.

1337 b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for
1338 Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and
1339 Community Development for the purposes set forth in this subdivision. Funds made available to the
1340 Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the
1341 Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of
1342 the Virginia Housing Development Authority.

1343 6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

1344 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for
1345 the enhancement of transportation services for the elderly and disabled.

1346 b. All moneys shall be deposited into a special fund known as the Transportation Services for the
1347 Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for
1348 Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and
1349 disabled. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the
1350 moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded

1351 pursuant to this subdivision annually to the Secretary of Health and Human Resources.
1352 7. Voluntary contribution to the Community Policing Fund.
1353 a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the
1354 purchase of equipment or the support of services, as approved by the Criminal Justice Services Board,
1355 relating to community policing.
1356 b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All
1357 moneys deposited in such fund shall be used by the Department of Criminal Justices Services for the
1358 purposes set forth herein.
1359 8. Voluntary contribution to promote the arts.
1360 All moneys contributed shall be used by the Virginia Arts Foundation to assist the Virginia
1361 Commission for the Arts in its statutory responsibility of promoting the arts in the Commonwealth. All
1362 moneys shall be deposited into a special fund known as the Virginia Arts Foundation Fund.
1363 9. Voluntary contribution to the Historic Resources Fund.
1364 All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to
1365 § 10.1-2202.1.
1366 10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.
1367 All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public
1368 Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.
1369 11. Voluntary contribution to the Center for Governmental Studies.
1370 All moneys contributed shall be paid to the Center for Governmental Studies, a public service and
1371 research center of the University of Virginia. All moneys shall be deposited into a special fund known
1372 as the Governmental Studies Fund.
1373 12. Voluntary contribution to the Law and Economics Center.
1374 All moneys contributed shall be paid to the Law and Economics Center, a public service and
1375 research center of George Mason University. All moneys shall be deposited into a special fund known
1376 as the Law and Economics Fund.
1377 13. Voluntary contribution to Children of America Finding Hope.
1378 All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs
1379 which are designed to reach children with emotional and physical needs.
1380 14. Voluntary contribution to 4-H Educational Centers.
1381 All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth
1382 for their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The
1383 State Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.
1384 15. Voluntary contribution to promote organ and tissue donation.
1385 a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory
1386 responsibility of promoting and coordinating educational and informational activities as related to the
1387 organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.
1388 b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and
1389 Public Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant
1390 Council for the purposes set forth herein.
1391 16. Voluntary contributions to the Virginia War Memorial division of the Department of Veterans
1392 Services and the National D-Day Memorial Foundation.
1393 All moneys contributed shall be used by the Virginia War Memorial division of the Department of
1394 Veterans Services and the National D-Day Memorial Foundation in their work through each of their
1395 respective memorials. The State Treasurer shall divide the moneys into two equal portions and pay one
1396 portion to the Virginia War Memorial division of the Department of Veterans Services and the other
1397 portion to the National D-Day Memorial Foundation.
1398 17. Voluntary contribution to the Virginia Federation of Humane Societies.
1399 All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its
1400 mission of saving, caring for, and finding homes for homeless animals.
1401 18. Voluntary contribution to the Tuition Assistance Grant Fund.
1402 a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing
1403 monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate
1404 programs in private Virginia colleges.
1405 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund.
1406 All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for
1407 Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act
1408 (§ 23.1-628 et seq.).
1409 19. Voluntary contribution to the Spay and Neuter Fund.
1410 All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the
1411 Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or

1412 each locality may make the funds available to any private, nonprofit sterilization program for dogs and
1413 cats in such locality. The Tax Commissioner shall determine annually the total amounts designated on
1414 all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a
1415 voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the
1416 appropriate amount to each respective locality.

1417 20. Voluntary contribution to the Virginia Commission for the Arts.

1418 All moneys contributed shall be paid to the Virginia Commission for the Arts.

1419 21. Voluntary contribution for the Department of Emergency Management.

1420 All moneys contributed shall be paid to the Department of Emergency Management.

1421 22. Voluntary contribution for the cancer centers in the Commonwealth.

1422 All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have
1423 been designated as cancer centers by the National Cancer Institute.

1424 23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

1425 a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program
1426 Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education
1427 Scholarship Program.

1428 b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as
1429 established in § 30-231.4.

1430 c. All moneys so deposited in the Fund shall be administered by the State Council of Higher
1431 Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of
1432 Title 30.

1433 24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

1434 All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living
1435 History and Public Policy Center.

1436 25. Voluntary contribution to the Virginia Caregivers Grant Fund.

1437 All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to
1438 § 63.2-2202.

1439 26. Voluntary contribution to public library foundations.

1440 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The
1441 Tax Commissioner shall determine annually the total amounts designated on all returns for each public
1442 library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
1443 appropriate amount to the respective public library foundation.

1444 27. Voluntary contribution to Celebrating Special Children, Inc.

1445 All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into
1446 a special fund known as the Celebrating Special Children, Inc. Fund.

1447 28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

1448 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for
1449 providing Medicare Part D counseling to the elderly and disabled.

1450 b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund.

1451 All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to
1452 provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging
1453 and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this
1454 subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the
1455 Secretary of Health and Human Resources.

1456 29. Voluntary contribution to community foundations.

1457 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The
1458 Tax Commissioner shall determine annually the total amounts designated on all returns for each
1459 community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
1460 appropriate amount to the respective community foundation. A "community foundation" shall be defined
1461 as any institution that meets the membership requirements for a community foundation established by
1462 the Council on Foundations.

1463 30. Voluntary contribution to the Virginia Foundation for Community College Education.

1464 a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education
1465 for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive
1466 community colleges in Virginia.

1467 b. All moneys shall be deposited into a special fund known as the Virginia Foundation for
1468 Community College Education Fund. All moneys so deposited in the Fund shall be administered by the
1469 Virginia Foundation for Community College Education in accordance with and for the purposes
1470 provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

1471 31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

1472 All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access
1473 Authority to be used for the purposes described in § 15.2-6601.

- 1474 32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.
 1475 All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment
 1476 Fund established pursuant to § 32.1-368.
 1477 33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.
 1478 All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in
 1479 its mission to increase the public's knowledge and appreciation of Virginia's marine environment and
 1480 inspire commitment to preserve its existence.
 1481 34. Voluntary contribution to the Virginia Capitol Preservation Foundation.
 1482 All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its
 1483 mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol
 1484 and Capitol Square.
 1485 35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.
 1486 All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs
 1487 for related programs and services.
 1488 C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on
 1489 the individual income tax return and are eligible to receive tax refund contributions or by making
 1490 payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309
 1491 or if the amount of such tax refund is less than the amount of the voluntary contribution:
 1492 1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.
 1493 All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.
 1494 2. Voluntary Chesapeake Bay restoration contribution.
 1495 a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration
 1496 activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of
 1497 Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the
 1498 Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and
 1499 any subsequent revisions thereof.
 1500 b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and
 1501 shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund
 1502 to be administered by the Office of the Secretary of Natural Resources. All moneys so deposited shall
 1503 be used for the purposes of providing grants for the implementation of tributary plans developed
 1504 pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed
 1505 Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection
 1506 Agency on November 29, 2010, and any subsequent revisions thereof.
 1507 c. No later than November 1 of each year, the Secretary of Natural Resources shall submit a report
 1508 to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on
 1509 Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate
 1510 Committee on Finance; and the Virginia delegation to the Chesapeake Bay Commission, describing the
 1511 grants awarded from moneys deposited in the fund. The report shall include a list of grant recipients, a
 1512 description of the purpose of each grant, the amount received by each grant recipient, and an assessment
 1513 of activities or initiatives supported by each grant. The report shall be posted on a website maintained
 1514 by the Secretary of Natural Resources, along with a cumulative listing of previous grant awards
 1515 beginning with awards granted on or after July 1, 2014.
 1516 3. Voluntary Jamestown-Yorktown Foundation Contribution.
 1517 All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown
 1518 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the
 1519 Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before
 1520 January 1, 2008.
 1521 4. State forests voluntary contribution.
 1522 a. All moneys contributed shall be used for the development and implementation of conservation and
 1523 education initiatives in the state forests system.
 1524 b. All moneys shall be deposited into a special fund known as the State Forests System Fund,
 1525 established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State
 1526 Forester for the purposes set forth herein.
 1527 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.
 1528 All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established
 1529 pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured
 1530 medical catastrophes.
 1531 6. Voluntary contribution to local school divisions.
 1532 a. All moneys contributed shall be used by a specified local public school foundation as created by
 1533 and for the purposes stated in § 22.1-212.2:2.
 1534 b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers

1535 designated for a local public school foundation over refundable amounts shall be deposited into the state
1536 treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for
1537 each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall
1538 pay the appropriate amount to the respective public school foundation.

1539 c. In order for a public school foundation to be eligible to receive contributions under this section,
1540 school boards must notify the Department during the taxable year in which they want to participate prior
1541 to the deadlines and according to procedures established by the Tax Commissioner.

1542 7. Voluntary contribution to Home Energy Assistance Fund.

1543 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to
1544 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy
1545 needs.

1546 8. Voluntary contribution to the Virginia Military Family Relief Fund.

1547 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in
1548 providing assistance to military service personnel on active duty and their families for living expenses
1549 including, but not limited to, food, housing, utilities, and medical services.

1550 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief
1551 Fund, established and administered pursuant to § 44-102.2.

1552 9. Voluntary contribution to the Federation of Virginia Food Banks.

1553 All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State
1554 Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable
1555 make an equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area
1556 Food Bank, Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia
1557 and the Eastern Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

1558 The Secretary of Finance may request records or receipts of all distributions by the Federation of
1559 Virginia Food Banks of such moneys contributed for purposes of ensuring compliance with the
1560 requirements of this subdivision.

1561 D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected
1562 for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner
1563 shall determine annually the total amount designated for each entity in subsections B and C on all
1564 individual income tax returns and shall report the same to the State Treasurer, who shall credit that
1565 amount to each entity's respective special fund.

1566 **§ 58.1-344.4. Voluntary contributions of refunds into Virginia College Savings Plan accounts.**

1567 A. If an individual is entitled to an income tax refund for the taxable year, that individual may
1568 designate on his Virginia individual income tax return a contribution to one or more Virginia College
1569 Savings Plan accounts established under Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, in the amount of
1570 the entire individual income tax refund or a portion thereof.

1571 B. 1. The Department of Taxation shall send each contribution made pursuant to subsection A to the
1572 Virginia College Savings Plan with the following information:

1573 a. The amount of the individual income tax refund or that portion of the refund that the individual
1574 has chosen to contribute;

1575 b. The taxpayer's name, Social Security number or taxpayer identification number, address, and
1576 telephone number; and

1577 c. The Virginia College Savings Plan account number or numbers into which the contributions will
1578 be deposited.

1579 2. If a contribution to a Virginia College Savings Plan account is designated in an individual income
1580 tax return filed jointly by a ~~husband and wife~~ *married individuals*, the Department of Taxation shall
1581 send the information described in subdivision 1 for both ~~the husband and wife~~ *spouses* to the Virginia
1582 College Savings Plan.

1583 C. 1. If the taxpayer owns a single Virginia College Savings Plan account, the Virginia College
1584 Savings Plan shall deposit the contribution made pursuant to subsection A into that account.

1585 2. If the taxpayer owns more than one Virginia College Savings Plan account, the Virginia College
1586 Savings Plan shall allocate the contribution made pursuant to subsection A between or among the
1587 accounts in equal amounts, or as otherwise designated by the taxpayer.

1588 3. If the taxpayer does not own an existing Virginia College Savings Plan account and does not wish
1589 to open an account, contributions made pursuant to subsection A shall be returned to the taxpayer by the
1590 Virginia College Savings Plan.

1591 D. For the purpose of determining interest on an overpayment or refund under § 58.1-1833, no
1592 interest shall accrue after the Department of Taxation sends the contribution to the Virginia College
1593 Savings Plan.

1594 E. Any taxpayer designating that a refund be contributed to a Virginia College Savings Plan account
1595 shall, by making such designation, be deemed to authorize the Department of Taxation to provide all
1596 necessary information, including the information specified in subdivision B 1, to the Virginia College

1597 Savings Plan.

1598 **§ 58.1-490. Declarations of estimated tax.**

1599 A. Every resident and nonresident individual shall make a declaration of his estimated tax for every
1600 taxable year, if his Virginia tax liability can reasonably be expected to exceed an amount, to be
1601 determined under regulations promulgated by the Tax Commissioner, which takes into account the
1602 additions, subtractions, and deductions set forth in §§ 58.1-322.01, 58.1-322.02, 58.1-322.03, and
1603 58.1-322.04, the credits set forth in Articles 3 (§ 58.1-332 et seq.) and 13.2 (§ 58.1-439.18 et seq.), and
1604 the filing exclusions set forth in § 58.1-321. Every estate with respect to any taxable year ending two or
1605 more years after the date of death of the decedent and every trust shall make a declaration of its
1606 estimated tax for every taxable year, if its Virginia taxable income can reasonably be expected to exceed
1607 the amount specified by regulation for individuals as set forth above.

1608 B. For purposes of this article, "estimated tax" means the amount which an individual estimates to be
1609 his income tax under this chapter for the taxable year, less the amount which he estimates to be the sum
1610 of any credits allowable against the tax.

1611 C. For purposes of this section, the declaration shall be the first voucher.

1612 D. In the case of a ~~husband and wife~~ *married individuals*, a single declaration under this section may
1613 be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and
1614 several. No joint declaration may be made if either ~~the husband or the wife~~ *spouse* is a nonresident of
1615 the Commonwealth unless both are required by this chapter to file a return, if they are separated under a
1616 decree of divorce or of separate maintenance, or if they have different taxable years. If a joint
1617 declaration is made but a joint return is not made for the taxable year, the estimated tax for such year
1618 may be treated as the estimated tax of either ~~the husband or the wife~~ *spouse*, or may be divided between
1619 them.

1620 E. A declaration of estimated tax of an individual other than a farmer, fisherman, or merchant
1621 seaman shall be filed on or before May 1 of the taxable year, except that if the requirements of
1622 subsection A are first met:

1623 1. The declaration shall be filed on or before June 15; or

1624 2. After June 1 and before September 2 of the taxable year, the declaration shall be filed on or
1625 before September 15; or

1626 3. After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the
1627 succeeding year.

1628 F. A declaration of estimated tax of an individual having an estimated gross income from (i) farming
1629 (including oyster farming); (ii) fishing; or (iii) working as a merchant seaman for the taxable year,
1630 which is at least two-thirds of his total estimated gross income for the taxable year, may be filed at any
1631 time on or before January 15 of the succeeding year, in lieu of the time otherwise prescribed.

1632 G. A declaration of estimated tax of an individual having a total estimated tax for the taxable year of
1633 \$40 or less may be filed at any time on or before January 15 of the succeeding year under regulations
1634 of the Tax Commissioner.

1635 H. An individual may amend a declaration under regulations of the Tax Commissioner.

1636 I. If on or before March 1 of the succeeding taxable year an individual files his return for the taxable
1637 year for which the declaration is required, and pays therewith the full amount of the tax shown to be
1638 due on the return:

1639 1. Such return shall be considered as his declaration if no declaration was required to be filed during
1640 the taxable year, but is otherwise required to be filed on or before January 15.

1641 2. Such return shall be considered as the amendment permitted by subsection H to be filed on or
1642 before January 15 if the tax shown on the return is greater than the estimated tax shown in a declaration
1643 previously made.

1644 J. This section shall apply to a taxable year other than a calendar year by the substitution of the
1645 months of such fiscal year for the corresponding months specified in this section.

1646 K. An individual having a taxable year of less than 12 months shall make a declaration in
1647 accordance with regulations of the Tax Commissioner.

1648 L. The declaration of estimated tax for an individual who is unable to make a declaration by reason
1649 of any disability shall be made and filed by his guardian, committee, fiduciary or other person charged
1650 with the care of his person or property (other than a receiver in possession of only a part of his
1651 property), or by his duly authorized agent.

1652 M. The declaration of estimated tax for a trust or estate shall be made by the fiduciary. For purposes
1653 of the estimated tax imposed in this article, any reference to an "individual" shall be deemed to include
1654 the fiduciary required to file a declaration for a trust or estate. Any overpayment of estimated tax with
1655 respect to any trust or estate shall be refunded to the fiduciary. A beneficiary of a trust or estate shall
1656 not be entitled to a credit against the beneficiary's individual income tax for any overpayment of
1657 estimated tax by a trust or estate.

1658 **§ 58.1-499. Refunds to individual taxpayers; crediting overpayment against estimated tax for**
 1659 **ensuing year.**

1660 A. In the case of any overpayment of any tax, addition to tax, interest or penalties imposed on an
 1661 individual income taxpayer by this chapter, whether by reason of excessive withholding, overestimating
 1662 and overpaying estimated tax, error on the part of the taxpayer, or an erroneous assessment of tax, the
 1663 Tax Commissioner shall order a refund of the amount of the overpayment to the taxpayer. The
 1664 overpayment shall be refunded out of the state treasury on the order of the Tax Commissioner upon the
 1665 Comptroller.

1666 B. If a refund of an overpayment of individual income tax payments is made payable jointly to a
 1667 ~~husband and wife~~ *married individuals* who receive a final divorce decree after filing a joint income tax
 1668 return, separate income tax returns on a single form, an amendment thereto, or other claim resulting in
 1669 the issuance of a refund, the Tax Commissioner shall order the reissuance of the refund in separate
 1670 checks to ~~the husband and to the wife~~ *each spouse* if the unnegotiated joint refund check is returned to
 1671 Department with a certification, in a form satisfactory to the Department, made by one spouse that the
 1672 other spouse refuses to endorse the joint refund check or cannot be located. In making such certification,
 1673 the spouse returning the check shall agree to indemnify the Commonwealth for any amounts that the
 1674 Commonwealth may be required to pay to the other spouse with respect to such refund. A certified copy
 1675 of the final divorce decree, including any agreement with respect to the division of property between the
 1676 spouses, shall be provided with the certification. If the final divorce decree addresses the apportionment
 1677 or ownership of the refunded amount, the refund shall be apportioned and separate payments ordered as
 1678 provided therein. If the final divorce decree does not address the apportionment or ownership of the
 1679 refunded amount, the amount of the refund shall be divided equally between the ~~husband and wife~~
 1680 *spouses*. The reissuance of refund payments pursuant to this subsection shall not affect the joint and
 1681 several liability of the ~~husband and wife~~ *spouses* for tax liabilities for the period for which the return or
 1682 returns were filed.

1683 C. Whenever the annual income tax return of an individual income taxpayer indicates in the place
 1684 provided thereon that the taxpayer has overpaid his tax for the taxable year by reason of excessive
 1685 withholding or overestimating and overpaying estimated tax, or both, the amount of the overpayment as
 1686 shown on his return, subject to correction for error, may be credited against the estimated income tax for
 1687 the ensuing year at the taxpayer's election and according to regulations prescribed by the Department
 1688 and such overpayments by either a ~~husband or wife~~ *spouse* on a separate return may be credited to the
 1689 tax for the ensuing year of either of them or may be credited to their joint tax at the election of the
 1690 person to whom the overpayment is payable; or otherwise such amount shall be refunded to him as soon
 1691 as practicable. Interest on such refund shall be allowed and computed in accordance with § 58.1-1833.
 1692 The making of any refund shall not absolve any taxpayer of any income tax liability which may in fact
 1693 exist and the Tax Commissioner may make an assessment for any deficiency in the manner provided by
 1694 law.

1695 D. No refund under this section, however, shall be made for any overpayment of less than one dollar
 1696 except on special written application of the taxpayer, nor shall any refund of any amount under this
 1697 section be made, whether on discovery by the Department or on written application of the taxpayer, if
 1698 such discovery is not made or such written application is not received within three years from the last
 1699 day prescribed by law for the timely filing of the return, or within ~~sixty~~ *60* days from the final
 1700 determination of any change or correction in the liability of the taxpayer for any federal tax upon which
 1701 the state tax is based, whichever is later.

1702 E. Notwithstanding the provisions of the Setoff Debt Collection Act, Article 21 (§ 58.1-520 et seq.)
 1703 of this chapter, whenever any taxpayer is entitled to a refund under this section, or under § 58.1-309 or
 1704 §§ 58.1-1821 through 58.1-1830 and such taxpayer owes the Commonwealth a past due income tax, or
 1705 balance thereof, for any year, the amount of such refund may be credited on such past due income tax
 1706 or balance, to the extent indicated.

1707 **§ 58.1-520. (Contingent expiration date) Definitions.**

1708 As used in this article:

1709 "Claimant agency" means any administrative unit of state, county, city or town government,
 1710 including department, institution, commission, authority, or the office of Executive Secretary of the
 1711 Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and
 1712 institutions shall participate in the setoff program.

1713 "Debtor" means any individual having a delinquent debt or account with any claimant agency which
 1714 obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

1715 "Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution
 1716 ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines
 1717 which have accrued through contract, subrogation, tort, operation of law, or any other legal theory
 1718 regardless of whether there is an outstanding judgment for that sum which is legally collectible and for
 1719 which a collection effort has been or is being made.

1720 "Mailing date of notice" means the date of notice appearing thereon.

1721 "Refund" means any individual's Virginia state or local income tax refund payable pursuant to
1722 § 58.1-309. This term also includes any refund belonging to a debtor resulting from the filing of a joint
1723 income tax return or a refund belonging to a debtor resulting from the filing of a return where ~~husband~~
1724 ~~and wife~~ *married individuals* have elected to file a combined return and separately state their Virginia
1725 taxable incomes under the provisions of § 58.1-324 B 2.

1726 **§ 58.1-520. (Contingent effective date) Definitions.**

1727 As used in this article:

1728 "Claimant agency" means any administrative unit of state, county, city or town government,
1729 including department, institution, commission, authority, or the office of Executive Secretary of the
1730 Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and
1731 institutions shall participate in the setoff program.

1732 "Debtor" means any individual having a delinquent debt or account with any claimant agency which
1733 obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

1734 "Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution
1735 ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines
1736 which have accrued through contract, subrogation, tort, operation of law, or any other legal theory
1737 regardless of whether there is an outstanding judgment for that sum which is legally collectible and for
1738 which a collection effort has been or is being made.

1739 "Mailing date of notice" means the date of notice appearing thereon.

1740 "Refund" means any individual's (i) Virginia state or local income tax refund payable pursuant to
1741 § 58.1-309 or (ii) federal income tax refund payable pursuant to § 6402 of the Internal Revenue Code.
1742 This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax
1743 return or a refund belonging to a debtor resulting from the filing of a return where ~~husband and wife~~
1744 *married individuals* have elected to file a combined return and separately state their Virginia taxable
1745 incomes under the provisions of § 58.1-324 B 2.

1746 **§ 58.1-810. What other deeds not taxable.**

1747 When the tax has been paid at the time of the recordation of the original deed, no additional
1748 recordation tax shall be required for admitting to record:

1749 1. A deed of confirmation;

1750 2. A deed of correction;

1751 3. A deed to which a ~~husband and wife~~ *married individuals* are the only parties;

1752 4. A deed arising out of a contract to purchase real estate; if the tax already paid is less than a
1753 proper tax based upon the full amount of consideration or actual value of the property involved in the
1754 transaction, an additional tax shall be paid based on the difference between the full amount of such
1755 consideration or actual value and the amount on which the tax has been paid; or

1756 5. A notice of assignment of a note secured by a deed of trust or mortgage.

1757 **§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped**
1758 **persons.**

1759 A. The governing body of any county, city or town may, by ordinance, provide for the exemption
1760 from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate
1761 and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and
1762 in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as
1763 the sole dwelling of anyone at least 65 years of age or if provided in the ordinance, anyone found to be
1764 permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the
1765 exemption from or deferral of that portion of the tax which represents the increase in tax liability since
1766 the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became
1767 effective, whichever is later. A dwelling jointly held by a ~~husband and wife~~ *married individuals*, with no
1768 other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and
1769 the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

1770 B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if
1771 provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection
1772 A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i)
1773 held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint
1774 lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and
1775 his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible
1776 person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or
1777 enjoys a continuing right of use or support. The term "eligible person" does not include any interest held
1778 under a leasehold or term of years.

1779 C. For purposes of this article, any reference to real estate shall include manufactured homes.

1780 **§ 58.1-3211.1. Prorated tax exemption or deferral of tax.**

1781 A. The governing body of the county, city, or town may, by ordinance, also provide for an
1782 exemption from or deferral of (or combination program thereof) real estate taxes for dwellings jointly
1783 held by two or more individuals not all of whom are at least age 65 or (if provided in the ordinance)
1784 permanently and totally disabled, provided that the dwelling is occupied as the sole dwelling by all such
1785 joint owners.

1786 The tax exemption or deferral for the dwelling that otherwise would have been provided under the
1787 local ordinance shall be prorated by multiplying the amount of the exemption or deferral by a fraction
1788 that has as a numerator the percentage of ownership interest in the dwelling held by all such joint
1789 owners who are at least age 65 or (if provided in the ordinance) permanently and totally disabled, and
1790 as a denominator, 100%. As a condition of eligibility for such tax exemption or deferral, the joint
1791 owners of the dwelling shall be required to furnish to the relevant local officer sufficient evidence of
1792 each joint owner's ownership interest in the dwelling.

1793 B. For purposes of this subsection, "eligible person" means a person who is at least age 65 or, if
1794 provided in the ordinance pursuant to subsection A, permanently and totally disabled. For purposes of
1795 the tax exemption pursuant to subsection A, real property that is a dwelling jointly held by two or more
1796 individuals includes real property (i) held by an eligible person in conjunction with one or more other
1797 people as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which an
1798 eligible person with one or more other people hold the power of revocation, or (iii) held in an
1799 irrevocable trust under which an eligible person in conjunction with one or more other people possesses
1800 a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible
1801 person" does not include any interest held under a leasehold or term of years.

1802 C. The provisions of this section shall not apply to dwellings jointly held by a ~~husband and wife~~
1803 *married individuals*, with no other joint owners.

1804 D. Nothing in this section shall be interpreted or construed to provide for an exemption from or
1805 deferral of tax for any dwelling jointly held by nonindividuals.

1806 **§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.**

1807 A. Pursuant to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia, and for
1808 tax years beginning on or after January 1, 2011, the General Assembly hereby exempts from taxation
1809 the real property, including the joint real property of ~~husband and wife married individuals~~, of any
1810 veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant
1811 to federal law to have a 100 percent service-connected, permanent, and total disability, and who
1812 occupies the real property as his principal place of residence. If the veteran's disability rating occurs
1813 after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the
1814 exemption for him under this section begins on the date of such rating. However, no county, city, or
1815 town shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's
1816 filing of the affidavit or written statement required by § 58.1-3219.6. If the qualified veteran acquires the
1817 property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the
1818 previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to
1819 § 58.1-3360.

1820 B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also
1821 qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the
1822 surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his
1823 principal place of residence.

1824 C. A county, city, or town shall provide for the exemption from real property taxes the qualifying
1825 dwelling pursuant to this section and shall provide for the exemption from real property taxes the land,
1826 not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an
1827 exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2
1828 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same
1829 number of acres pursuant to this section. If the veteran owns a house that is his residence, including a
1830 manufactured home as defined in § 46.2-100 whether or not the wheels and other equipment previously
1831 used for mobility have been removed, such house or manufactured home shall be exempt even if the
1832 veteran does not own the land on which the house or manufactured home is located. If such land is not
1833 owned by the veteran, then the land is not exempt. A real property improvement other than a dwelling,
1834 including the land upon which such improvement is situated, made to such one acre or greater number
1835 of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as
1836 the principal use of the improvement is (i) to house or cover motor vehicles or household goods and
1837 personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for
1838 other than a business purpose.

1839 D. For purposes of this exemption, real property of any veteran includes real property (i) held by a
1840 veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii)
1841 held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power
1842 of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his

1843 spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support.
1844 The term does not include any interest held under a leasehold or term of years.

1845 The exemption for a surviving spouse under subsection B includes real property (a) held by the
1846 veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving
1847 spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving
1848 spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not
1849 apply to any interest held under a leasehold or term of years.

1850 E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding
1851 the property in any of the three ways set forth in subsection D and (ii) one or more other persons have
1852 an ownership interest in the property that permits them to occupy the property, then the tax exemption
1853 for the property that otherwise would have been provided shall be prorated by multiplying the amount of
1854 the exemption by a fraction that has as a numerator the number of people who are qualified for the
1855 exemption pursuant to this section and has as a denominator the total number of all people having an
1856 ownership interest that permits them to occupy the property.

1857 2. In the event that the primary residence is jointly owned by two or more individuals, not all of
1858 whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the
1859 exemption under this section by virtue of holding the property in any of the three ways set forth in
1860 subsection D, then the exemption shall be prorated by multiplying the amount of the exemption or
1861 deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held
1862 by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a
1863 denominator, 100 percent.

1864 **§ 58.1-3219.6. Application for exemption.**

1865 The veteran or surviving spouse claiming the exemption under this article shall file with the
1866 commissioner of the revenue of the county, city, or town or such other officer as may be designated by
1867 the governing body in which the real property is located, on forms to be supplied by the county, city, or
1868 town, an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of
1869 the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly
1870 owned by a ~~husband and wife~~ *married individuals*, and (iii) certifying that the real property is occupied
1871 as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S.
1872 Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent
1873 service-connected, permanent, and total disability. The veteran shall be required to refile the information
1874 required by this section only if the veteran's principal place of residence changes. In the event of a
1875 surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide
1876 documentation that the veteran's death occurred on or after January 1, 2011.

1877 **§ 58.1-3343. Effect of lien on certain real estate jointly owned.**

1878 The lien on real estate owned by more than one person as tenants in common, joint tenants or
1879 otherwise for the payment of all prior, present and subsequent taxes and levies or assessments thereof,
1880 including any tax, levy, or assessment authorized under § 58.1-3712, 58.1-3713, 58.1-3713.4, or
1881 58.1-3741, shall not be impaired if such real estate was or is assessed in the name of one of such
1882 owners with the notation, "and another," or "and others," or "and wife," or "and husband," or "*and*
1883 *spouse*," or the appropriate abbreviations of such words, or their legal equivalents, so as to indicate that
1884 the real estate was or is owned by more than one person.

1885 **§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by**
1886 **certain elderly and handicapped persons.**

1887 The governing body of any county, city or town may, by ordinance, levy a tax on one motor vehicle
1888 owned and used primarily by or for anyone at least 65 years of age or anyone found to be permanently
1889 and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on other tangible
1890 personal property, upon such conditions as the ordinance may prescribe. Such rate shall not exceed the
1891 tangible personal property tax on the general class of tangible personal property. For purposes of this
1892 article, the term motor vehicle shall include only automobiles and pickup trucks. Any such motor
1893 vehicle owned by a ~~husband and wife~~ *married individuals* may qualify if either spouse is 65 or over or
1894 if either spouse is permanently and totally disabled. Notwithstanding any other provision of this section
1895 or article, for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in
1896 § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a
1897 payment from the Commonwealth under Chapter 35.1 of this title for providing tangible personal
1898 property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of tax and
1899 rates of assessment required under such chapter.

1900 **§ 58.1-3506.2. Restrictions and conditions.**

1901 Any difference in the rates for purposes of this section shall be subject to the following restrictions
1902 and conditions:

1903 1. The total combined income received, excluding the first \$7,500 of income, at the option of the

1904 local government, from all sources during the preceding calendar year by the owner of the motor vehicle
 1905 shall not exceed the greater of \$30,000 or the income limits based on family size for the respective
 1906 metropolitan statistical area, annually published by the Department of Housing and Urban Development
 1907 for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C.
 1908 § 1715z).

1909 2. The owner's net financial worth, including the present value of all equitable interests, as of
 1910 December 31 of the immediately preceding calendar year, excluding the value of the principal residence
 1911 and the land, not exceeding one acre, upon which it is situated, shall not exceed \$75,000. The local
 1912 government may also exclude such furnishings as furniture, household appliances and other items
 1913 typically used in a home.

1914 3. Notwithstanding the provisions of subdivisions 1 and 2 of this section, in Fairfax County and any
 1915 town adjacent thereto, Arlington County, Chesterfield County, Loudoun County, and Prince William
 1916 County, or the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Manassas, Manassas Park,
 1917 Portsmouth, Suffolk or Virginia Beach, or the Town of Leesburg, the board of supervisors or council
 1918 may, by ordinance, raise the income and financial worth limitations for any reductions under this article
 1919 to a maximum of the greater of \$52,000 or the income limits based upon family size for the respective
 1920 metropolitan statistical area, published annually by the Department of Housing and Urban Development
 1921 for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C.
 1922 § 1715z), for the total combined income amount, and \$195,000 for the maximum net financial worth
 1923 amount which shall exclude the value of the principal residence and the land, not exceeding one acre,
 1924 upon which it is located.

1925 4. All income and net worth limitations shall be computed by aggregating the income and assets, as
 1926 the case may be, of a ~~husband and wife~~ *married individuals* who reside in the same dwelling and shall
 1927 be applied to any owner of the motor vehicle who seeks the benefit of the preferential tax rate permitted
 1928 under this article, irrespective of how such motor vehicle may be titled.

1929 **§ 59.1-332. Conditions on offering items as an inducement to execute.**

1930 A. It is unlawful for any person by any means, as part of an advertising program, to offer any item
 1931 of value as an inducement to the recipient to visit a membership camping operator's campground, attend
 1932 a sales presentation or contact a salesperson, unless the person clearly discloses in writing in the offer in
 1933 readily understandable language each of the following:

- 1934 1. The name and campground address of the membership camping operator.
- 1935 2. A general statement that the advertising program is being conducted by a membership camping
 1936 operator and the purpose of any requested visit.
- 1937 3. A statement of odds, in arabic numerals, of receiving each item offered.
- 1938 4. The approximate retail value of each item offered.
- 1939 5. The number of campgrounds that are participating in such advertising program.
- 1940 6. The restrictions, qualifications and other conditions that must be satisfied before the recipient is
 1941 entitled to receive the item, including:
 - 1942 a. Any deadline, if any, by which the recipient must visit the campground, attend the sales
 1943 presentation or contact a salesperson in order to receive the item.
 - 1944 b. The approximate duration of any visit and sales presentation.
 - 1945 c. The date upon which the offer shall terminate and the final date upon which the gifts or prizes are
 1946 to be awarded.
 - 1947 d. Any other conditions, such as minimum age qualification, a financial qualification or a
 1948 requirement that if the recipient is married both ~~husband and wife~~ *spouses* must be present in order to
 1949 receive the item.

1950 7. A statement that the membership camping operator reserves the right to provide a rain check or a
 1951 substitute or like item, if these rights are reserved.

1952 8. All other material rules, terms and conditions of the offer or program.

1953 B. It is unlawful for any person making an offer subject to subsection A, or any employee or agent
 1954 of the person, to offer any item if the person knows or has reason to know that the offered item will not
 1955 be available in a sufficient quantity based on the reasonably anticipated response to the offer.

1956 C. It is unlawful for any person making an offer subject to subsection A, or any employee or agent
 1957 of the person, to fail to provide any offered item which any recipient who has responded to the offer in
 1958 the manner specified in the offer, has performed the requirements disclosed in the offer and has met the
 1959 qualifications described in the offer is entitled to receive, unless the offered item is not reasonably
 1960 available and the offer discloses the reservation of a right to provide a rain check or a like or substitute
 1961 item if the offered item is unavailable.

1962 D. If the person making an offer subject to subsection A is unable to provide an offered item
 1963 because of limitations of supply, quantity or quality not reasonably foreseeable or controllable by the
 1964 person making the offer, the person making the offer shall inform the recipient of the recipient's right to
 1965 receive a rain check for the item offered, unless the person making the offer knows or has a reasonable

1966 basis for knowing that the item will not be reasonably available at approximately the same price to the
 1967 person making the offer, and shall inform the recipient of the recipient's right to at least one of the
 1968 following additional options:

1969 1. The person making the offer will provide a like item of equivalent or greater retail value or a rain
 1970 check for the item. This option must be offered if the offered item is not reasonably available.

1971 2. The person making the offer will provide a substitute item of equivalent or greater retail value.

1972 3. The person making the offer will provide a rain check for a like or substitute item.

1973 E. If a rain check is provided, the person making an offer subject to subsection A shall, within a
 1974 reasonable time, and in any event not more than ~~ninety~~ 90 days after the rain check is provided, deliver
 1975 the agreed item to the recipient's address without additional cost or obligation to the recipient, unless the
 1976 item for which the rain check is provided remains unavailable because of limitations of supply, quantity
 1977 or quality not reasonably foreseeable or controllable by the person making the offer. If the item is
 1978 unavailable for these reasons, the person shall, not more than ~~thirty~~ 30 days after the expiration of the
 1979 aforesaid ~~ninety-day~~ 90-day period, deliver a like item of equal or greater retail value or, if the item is
 1980 not reasonably available to the person at approximately the same price, a substitute item of equal or
 1981 greater retail value.

1982 F. On the written request of a recipient who has received or claims a right to receive any offered
 1983 item, the person making an offer subject to subsection A shall furnish to the recipient sufficient evidence
 1984 showing that the item provided matches the item randomly or otherwise selected for distribution to that
 1985 recipient.

1986 G. It is unlawful for any person making an offer subject to subsection A, or any employee or agent
 1987 of the person, to:

1988 1. Misrepresent the size, quantity, identity or quality of any prize, gift, money or other item of value
 1989 offered.

1990 2. Misrepresent in any manner the odds of receiving any particular gift, prize, amount of money or
 1991 other item of value.

1992 3. Label any offer a "notice of termination" or "notice of cancellation."

1993 4. Materially misrepresent, in any manner, the offer, or program.

1994 H. If any provision of this section is in conflict with the provisions of the Prizes and Gifts Act
 1995 (§ 59.1-415 et seq.), the provisions of the Prizes and Gifts Act shall control.

1996 **§ 63.2-510. Obligation of person to support certain children living in same home; penalty.**

1997 A person shall be responsible for the support and maintenance of any child or children living in the
 1998 same home in which he and the natural or adoptive parent of such child or children cohabit as ~~man and~~
 1999 ~~wife spouses~~ and any such person who without cause willfully neglects or refuses or fails to provide for
 2000 such support and maintenance shall be guilty of a misdemeanor and upon conviction shall be punished
 2001 in accordance with the provisions of § 20-61.

2002 A pregnancy or the birth of a child during the time a person occupies the status set out above shall
 2003 not be required as proof of cohabitation.

2004 The obligations imposed herein shall continue so long as such person occupies the status herein
 2005 described.

2006 **§ 63.2-1519. Physician-patient and spousal privileges inapplicable.**

2007 In any legal proceeding resulting from the filing of any report or complaint pursuant to this chapter,
 2008 the physician-patient and ~~husband-wife~~ spousal privileges shall not apply.

2009 **§ 64.2-200. Course of descents generally; right of Commonwealth if no other heir.**

2010 A. The real estate of any decedent not effectively disposed of by will descends and passes by
 2011 intestate succession in the following course:

2012 1. To the surviving spouse of the decedent, unless the decedent is survived by children or their
 2013 descendants, one or more of whom are not children or their descendants of the surviving spouse, in
 2014 which case, two-thirds of the estate descends and passes to the decedent's children and their descendants,
 2015 and one-third of the estate descends and passes to the surviving spouse.

2016 2. If there is no surviving spouse, then the estate descends and passes to the decedent's children and
 2017 their descendants.

2018 3. If there is none of the foregoing, then to the decedent's parents, or to the surviving parent.

2019 4. If there is none of the foregoing, then to the decedent's ~~brothers and sisters~~ siblings, and their
 2020 descendants.

2021 5. If there is none of the foregoing, then one-half of the estate descends and passes to the ~~paternal~~
 2022 ~~kindred of one of the decedent's parents~~ and one-half descends and passes to the ~~maternal~~ kindred of the
 2023 ~~decedent~~ other of the decedent's parents in the following course:

2024 a. To the decedent's grandparents, or to the surviving grandparent.

2025 b. If there is none of the foregoing, then to the decedent's uncles and aunts, and their descendants.

2026 c. If there is none of the foregoing, then to the decedent's great-grandparents.

2027 d. If there is none of the foregoing, then to the ~~brothers and sisters~~ *siblings* of the decedent's
 2028 grandparents, and their descendants.

2029 e. And so on, in other cases, without end, passing to the nearest lineal ancestors, and the descendants
 2030 of such ancestors.

2031 B. If there are either no surviving ~~paternal~~ kindred ~~or no surviving maternal kindred of one of the~~
 2032 ~~decedent's parents~~, the whole estate descends and passes to the ~~paternal or maternal surviving~~ kindred
 2033 ~~who survive the decedent of the other of the decedent's parent's~~. If there are ~~neither maternal nor~~
 2034 ~~paternal~~ no kindred of either parent, the whole estate descends and passes to the kindred of the
 2035 decedent's most recent spouse, if any, provided that the decedent and the spouse were married at the
 2036 time of the spouse's death, as if such spouse had died intestate and entitled to the estate.

2037 C. If there is no other heir of a decedent's real estate, such real estate is subject to escheat to the
 2038 Commonwealth in accordance with Chapter 10 (§ 55-168 et seq.) of Title 55.

2039 **§ 64.2-905. Multiple beneficiaries; separate custodial trusts; survivorship.**

2040 A. Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate
 2041 custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for
 2042 use and benefit of ~~husband and wife~~ *spouses*, for whom survivorship is presumed, a right of
 2043 survivorship does not exist unless the instrument creating the custodial trust specifically provides for
 2044 survivorship or survivorship is required as to marital property.

2045 B. Custodial trust property held under this chapter by the same custodial trustee for the use and
 2046 benefit of the same beneficiary may be administered as a single custodial trust.

2047 C. A custodial trustee of custodial trust property held for more than one beneficiary shall separately
 2048 account to each beneficiary pursuant to §§ 64.2-906 and 64.2-914 for the administration of the custodial
 2049 trust.

2050 **§ 64.2-2401. Bond; orders as to management of estate; support of dependents.**

2051 The court shall require that any conservator appointed pursuant to § 64.2-2400 post a bond in an
 2052 amount deemed sufficient by the court. The court shall also enter any orders it deems necessary (i)
 2053 directing the conservator in the management, operation, and control of the estate and (ii) requiring the
 2054 conservator to make ample and suitable provisions out of the estate in his possession, subject to the
 2055 rights of creditors, for the support of the absentee's ~~wife~~ *spouse* and minor children, as well as any other
 2056 person dependent upon the absentee for support and maintenance. The court shall require the conservator
 2057 to make reports from time to time as the court may deem expedient.

2058 **§ 65.2-512. Compensation to dependents of an employee killed; burial expenses.**

2059 A. Except as provided in subsections F, G and H, if death results from the accident within nine
 2060 years, the employer shall pay, or cause to be paid, compensation in weekly payments equal to 66 2/3
 2061 percent of the employee's average weekly wages, but not more than 100 percent of the average weekly
 2062 wage of the Commonwealth as defined in § 65.2-500 nor less than 25 percent of the average weekly
 2063 wage as defined therein:

2064 1. To those persons presumed to be wholly dependent upon the deceased employee as set forth in
 2065 subdivisions A 1; ~~A and 2; and A 3~~ of § 65.2-515, for a period of 500 weeks from the date of injury; or

2066 2. If there are no total dependents pursuant to subdivision A 1; ~~A or 2; or A 3~~ of § 65.2-515, to
 2067 those persons presumed to be wholly dependent as set forth in subdivision A 4 3 of § 65.2-515, and to
 2068 those determined to be wholly dependent in fact, for a period of 400 weeks from the date of injury; or

2069 3. If there are no total dependents, to partial dependents in fact, for a period of 400 weeks from the
 2070 date of injury.

2071 B. The employer shall also pay burial expenses not exceeding \$10,000 and reasonable transportation
 2072 expenses for the deceased not exceeding \$1,000.

2073 C. Benefits shall be divided equally among total dependents, to the exclusion of partial dependents.
 2074 If there are no total dependents, benefits shall be divided among partial dependents according to the
 2075 dependency of each upon the earnings of the employee at the time of the injury, in the proportion that
 2076 partial dependency bears to total dependency.

2077 D. If benefits are terminated as to any member of a class herein, that member's share shall be
 2078 divided among the remaining members of the class proportionately according to their dependency.

2079 E. When weekly payments have been made to an injured employee before his death, the
 2080 compensation to dependents shall begin from the date of the last of such payments but shall not
 2081 continue for a period longer than specified in subsection A of this section.

2082 F. No benefits shall be paid pursuant to this section to the dependents of an AmeriCorps member as
 2083 defined in subdivision r of § 65.2-101.

2084 G. No benefits shall be paid pursuant to subsections A, C, D or E to the dependents of a Food
 2085 Stamp recipient participating in the work experience component of the Food Stamp Employment and
 2086 Training Program as defined in subdivision s of § 65.2-101.

2087 H. No benefits shall be paid pursuant to subsections A, C, D or E to the dependents of a Temporary
 2088 Assistance for Needy Families recipient participating in the work experience component of the Virginia

2089 Initiative for Employment Not Welfare Program as defined in subdivision t of § 65.2-101.

2090 **§ 65.2-515. Persons conclusively presumed to be wholly dependent.**

2091 A. The following persons shall be conclusively presumed to be dependents wholly dependent for
2092 support upon the deceased employee:

2093 1. ~~A wife upon a husband whom she had not voluntarily deserted or abandoned at the time of the~~
2094 ~~accident or with whom she lived at the time of his accident, if she is then actually dependent upon him;~~

2095 ~~2. A husband spouse upon a wife his deceased spouse whom he had not voluntarily deserted at the~~
2096 ~~time of the accident or with whom he lived at the time of her the accident, if he is then actually~~
2097 ~~dependent upon her his deceased spouse;~~

2098 ~~3. 2. A child under the age of eighteen 18 upon a parent and a child over such age if physically or~~
2099 ~~mentally incapacitated from earning a livelihood or a child under the age of twenty-three 23 if enrolled~~
2100 ~~as a full-time student in any accredited educational institution; and~~

2101 ~~4. 3. Parents in destitute circumstances, provided there be no total dependents pursuant to other~~
2102 ~~provisions of this section.~~

2103 B. As used in this section, the term "child" shall include a stepchild, a legally adopted child, a
2104 posthumous child, and an acknowledged illegitimate child, but shall not include a married child; and the
2105 term "parent" shall include stepparents and parents by adoption.

2106 **2. That §§ 20-45.2 and 20-45.3 of the Code of Virginia are repealed.**

INTRODUCED

SB603