ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-511, 8.01-36, 8.01-267.8, 8.01-383.1, 8.01-555, 8.01-626, 8.01-670, 8.01-671, 8.01-675.3, 8.01-676.1, 9.1-909, 15.2-1627, 15.2-1643, 15.2-2139, 15.2-2140, 15.2-2656, 15.2-3104, 15.2-3217, 15.2-3221, 15.2-3222, 15.2-3227, 15.2-3244, 15.2-3308, 15.2-3528, 15.2-3605, 15.2-3809, 15.2-3909, 15.2-4108, 15.2-4120, 15.2-5218, 15.2-5367, 15.2-6606, 15.2-6632, 15.2-7406, 16.1-279.1, 17.1-309, 17.1-400 through 17.1-403, 17.1-405 through 17.1-408, 17.1-410, 17.1-413, 17.1-503, 17.1-513, 18.2-308.08, 18.2-384, 19.2-152.10, 19.2-165, 19.2-321.1, 19.2-321.2, 19.2-322.1, 19.2-386.13, 19.2-402, 19.2-403, 19.2-404, 22.1-97, 22.1-289.024, as it shall become effective, 24.2-237, 24.2-422, 24.2-433, 25.1-239, 32.1-48.010, 32.1-48.013, 33.2-928, 33.2-2917, 37.2-920, 45.1-161.322, 55.1-1833, 55.1-1966, 55.1-2211, 57-2.02, 58.1-527, 58.1-1828, 58.1-2282, 58.1-3147, 58.1-3992, and 63.2-1710 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 26.1 of Title 8.01 sections numbered 8.01-675.5 and 8.01-675.6; and to repeal §§ 8.01-670.1 and 8.01-672 of the Code of Virginia, relating to the Court of Appeals; jurisdiction; number of judges.

[S 1261]

Approved

SB1261ER

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-511, 8.01-36, 8.01-267.8, 8.01-383.1, 8.01-555, 8.01-626, 8.01-670, 8.01-671, 8.01-675.3, 8.01-676.1, 9.1-909, 15.2-1627, 15.2-1643, 15.2-2139, 15.2-2140, 15.2-2656, 15.2-3104, 15.2-3217, 15.2-3221, 15.2-3222, 15.2-3227, 15.2-3244, 15.2-3308, 15.2-3528, 15.2-3605, 15.2-3809, 15.2-3909, 15.2-4108, 15.2-4120, 15.2-5218, 15.2-5367, 15.2-6606, 15.2-6632, 15.2-7406, 16.1-279.1, 17.1-309, 17.1-400 through 17.1-403, 17.1-405 through 17.1-408, 17.1-410, 17.1-413, 17.1-503, 17.1-513, 18.2-308.08, 18.2-384, 19.2-152.10, 19.2-165, 19.2-321.1, 19.2-321.2, 19.2-322.1, 19.2-386.13, 19.2-402, 19.2-403, 19.2-404, 22.1-97, 22.1-289.024, as it shall become effective, 24.2-237, 24.2-422, 24.2-433, 25.1-239, 32.1-48.010, 32.1-48.013, 33.2-928, 33.2-2917, 37.2-920, 45.1-161.322, 55.1-1833, 55.1-1966, 55.1-2211, 57-2.02, 58.1-527, 58.1-1828, 58.1-2282, 58.1-3147, 58.1-3992, and 63.2-1710 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 26.1 of Title 8.01 sections numbered 8.01-675.5 and 8.01-675.6 as follows:

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the

authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a ~~petition for~~ *notice of* appeal has been ~~granted by~~ *filed with the clerk of the circuit court noting an appeal to* the Court of Appeals or ~~a writ of error has been granted by~~ the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth~~. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court~~, *unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the underlying criminal case files a notice of appearance to represent the Commonwealth in any such appeal*.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

§ 8.01-36. Joinder of action of tort to infant with action for recovery of expenses incurred thereby and claim for recovery of expenses by infant.

A. Where there is pending any action by an infant plaintiff against a tort-feasor for a personal injury, where the cause of action accrued prior to July 1, 2013, any parent or guardian of such infant, who is entitled to recover from the same tort-feasor the expenses of curing or attempting to cure such infant from the result of such personal injury, may bring an action against such tort-feasor for such expenses, in the same court where such infant's case is pending, either in the action filed in behalf of the infant or in a separate action. If the claim for expenses be by separate action, upon motion of any party to either case, made to the court at least one week before the trial, both cases shall be tried together at the same time as parts of the same transaction. But separate verdicts when there is a jury trial shall be rendered, and the judgment shall distinctly separate the decision and judgment in the separate causes of action.

In the event of the cases being carried to the ~~Supreme~~ Court *of Appeals*, which may be done if there be the jurisdictional amount in either case, they shall both be carried together as one case and record, but the ~~Supreme~~ Court *of Appeals* shall clearly specify the decision in each case, separating them in the decision to the extent necessary to do justice among the parties. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall clearly specify the decision in each case, separating them in the decision to the extent necessary to do justice among the parties.*

B. For causes of action that accrue on or after July 1, 2013, the past and future expenses of curing or attempting to cure an infant of personal injuries proximately caused by a tort-feasor are damages recoverable by an infant in a cause of action against the tort-feasor and, if applicable to the infant's cause of action, are subject to the limitation on damages in § 8.01-581.15. Any parent or guardian of such infant who has paid for or is personally obligated to pay for past or future expenses to cure or attempt to cure the infant shall have a lien and right of reimbursement against any recovery by the infant up to the amount the parent or guardian has actually paid or is personally obligated to pay. The right to reimbursement of any parent or guardian shall accrue upon the first tender of funds of any recovery from a tort-feasor to the infant. Court approval of the infant settlement shall release party defendants from all claims for past or future expenses of curing or attempting to cure the infant.

Nothing in this section shall relieve a parent of the obligation to pay for the medical expenses of curing or attempting to cure the infant as such obligation exists under current law.

§ 8.01-267.8. Interlocutory appeal.

A. The ~~Supreme Court or the~~ Court of Appeals, in its discretion, may permit an appeal to be taken from an order of a circuit court although the order is not a final order where the circuit court has ordered a consolidated trial of claims joined or consolidated pursuant to this chapter.

B. The ~~Supreme Court or the~~ Court of Appeals, in its discretion, may permit an appeal to be taken from any other order of a circuit court in an action combined pursuant to this chapter although the order is not a final order provided the written order of the circuit court states that the order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.

C. Application for an appeal pursuant to this section shall be made within ~~ten~~ *10* days after the entry of the order and shall not stay proceedings in the circuit court unless the circuit court or the appellate court shall so order.

§ 8.01-383.1. Appeal when verdict reduced and accepted under protest; new trial for inadequate damages.

A. In any action at law in which the trial court ~~shall require~~ *requires* a plaintiff to remit a part of his recovery, as ascertained by the verdict of a jury, or else submit to a new trial, such plaintiff may remit and accept judgment of the court thereon for the reduced sum under protest, but, notwithstanding such remittitur and acceptance, if under protest, *may appeal* the judgment of the court in requiring him to remit ~~may be reviewed by the Supreme Court upon an appeal awarded the plaintiff as in other actions at law; and in any such case in which an appeal is awarded the~~ *to the Court of Appeals. The* defendant~~,~~ *may appeal* the judgment of the court in requiring such remittitur ~~may be the subject of review by the Supreme Court~~ *to the Court of Appeals*, regardless of the amount. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall review the judgment, regardless of amount.*

B. In any action at law when the court finds as a matter of law that the damages awarded by the jury are inadequate, the trial court may (i) award a new trial or (ii) require the defendant to pay an amount in excess of the recovery of the plaintiff found in the verdict. If either the plaintiff or the defendant declines to accept such additional award, the trial court shall award a new trial.

If additur pursuant to this subsection is accepted by either party under protest, it may be reviewed on appeal.

§ 8.01-555. When appeal bond given property to be delivered to owner.

When judgment in favor of the plaintiff is rendered by a general district court in any case in which an attachment is issued and on appeal therefrom to a circuit court an appeal bond is given, with condition to prosecute the appeal with effect or pay the debt, interest, costs and damages, as well as the costs of the appeal, the officer, in whose custody any attached property is, shall deliver the same to the owner thereof. When an appeal is from a circuit court to the ~~Supreme~~ Court *of Appeals* and an appeal bond is given pursuant to § 8.01-676.1, the officer having custody shall proceed in like manner.

§ 8.01-626. Review of injunction by Court of Appeals.

Wherein a circuit court (i) grants an injunction or (ii) refuses an injunction or (iii) having granted an injunction, dissolves or refuses to enlarge it, an aggrieved party may~~, within 15 days of the court's order, present a petition for review to a justice of the Supreme Court; however, if the issue concerning the injunction arose in a case over which the Court of Appeals would have appellate jurisdiction under § 17.1-405 or 17.1-406, the petition for review shall be initially presented to a judge of~~ *file a petition for review with the clerk of* the Court of Appeals within 15 days of the *circuit* court's order. *The clerk shall assign the petition to a three-judge panel of the Court of Appeals.* The aggrieved party shall serve a copy of the petition for review on the counsel for the opposing party, which may file a response within seven days from the date of service unless the court determines a shorter time frame. The petition for review shall be accompanied by a copy of the proceedings, including the original papers and the court's order respecting the injunction. The ~~justice or judge~~ *court* may take such action thereon as ~~he~~ *it* considers appropriate under the circumstances of the case.

When ~~a judge of~~ the Court of Appeals has initially acted upon a petition for review of an order of a circuit court respecting an injunction, a party aggrieved by such action of ~~the judge of~~ the Court of Appeals may, within 15 days of the order of ~~the judge of~~ the Court of Appeals, present a petition for review of such order to ~~a justice~~ *the clerk* of the Supreme Court ~~if the case would otherwise be appealable to the Supreme Court in accordance with § 17.1-410~~. *The clerk shall assign the petition to a three-justice panel of the Supreme Court.* The aggrieved party shall serve a copy of the petition for review on the counsel for the opposing party, which may file a response within seven days from the date of service unless the court determines a shorter time frame. The petition for review shall be accompanied by a copy of the proceedings before the circuit court, including the original papers and the circuit court's order respecting the injunction, and a copy of the order of ~~the judge of~~ the Court of Appeals from which review is sought. The ~~justice~~ *Supreme Court* may take such action thereon as ~~he~~ *it* considers appropriate under the circumstances of the case.

Nothing in this section shall be construed to prevent the Court of Appeals or the Supreme Court from resolving a petition for review by an order joined by more than one judge or justice. An order issued by a justice of the Supreme Court does not become a judgment of the court except on the concurrence of at least three justices, as provided in § 17.1-308.

§ 8.01-670. In what cases awarded.

~~A. Except as provided by § 17.1-405, any person may present a petition for an appeal to the Supreme Court if he believes himself aggrieved:~~

~~1. By any judgment in a controversy concerning:~~

a. The title to or boundaries of land,
b. The condemnation of property,
c. The probate of a will,
d. The appointment or qualification of a personal representative, guardian, conservator, committee, or curator,
e. A mill, roadway, ferry, wharf, or landing,
f. The right of the Commonwealth, or a county, or municipal corporation to levy tolls or taxes, or
g. The construction of any statute, ordinance, or county proceeding imposing taxes; or
2. By the order of a court refusing a writ of quo warranto or by the final judgment on any such writ; or
3. By a final judgment in any other civil case.
B. Except as provided by § 17.1-405, any party may present a petition for an appeal to the Supreme Court in any case on an equitable claim wherein there is an interlocutory decree or order:
1. Granting, dissolving or denying an injunction; or
2. Requiring money to be paid or the possession or title of property to be changed; or
3. Adjudicating the principles of a cause.
C. Except in cases where appeal from a final judgment lies in the Court of Appeals, as provided in § 17.1-405, any party may present a petition pursuant to § 8.01-670.1 for appeal to the Supreme Court.

A party aggrieved by a final decision of the Court of Appeals may petition the Supreme Court for an appeal in accordance with § 17.1-411.

§ 8.01-671. Time within which petition must be presented.

A. In cases where an appeal is permitted from the trial court to the Supreme Court, no petition shall be presented for an appeal to the Supreme Court from any final judgment, whether the Commonwealth be a party or not, (i) which shall have been *that was* rendered more than 90 days before the petition is presented, provided that a 30-day *an* extension may be granted, in the discretion of the court *Supreme Court*, in order to attain the ends of justice, or (ii) if it be an appeal from a final decree refusing a bill of review to a decree rendered more than 120 days prior thereto, unless the petition is presented within 90 days from the date of such decree.

B. When an appeal from an interlocutory decree or order is permitted, the petition for appeal shall be presented within the appropriate time limitation set forth in subsection A.

C. No appeal to the Supreme Court from a decision of the Court of Appeals shall be granted unless a petition for appeal is filed within 30 days after the date of the decision appealed from. *However, an extension may be granted, in the discretion of the court, in order to attain the ends of justice.*

§ 8.01-675.3. Time within which appeal must be taken; notice.

Except as provided in § 19.2-400 for pretrial appeals by the Commonwealth in criminal cases and in § 19.2-401 for cross appeals by the defendant in such pretrial appeals, a notice of appeal to the Court of Appeals in any case within the jurisdiction of the court shall be filed within 30 days from the date of any final judgment order, decree, or conviction. When an appeal from an interlocutory decree or order is permitted, the *notice of* appeal shall be filed within 30 days from the date of such decree or order, except for pretrial appeals pursuant to § 19.2-398. *However, an extension may be granted, in the discretion of the Court of Appeals, in order to attain the ends of justice.*

For purposes of this section, § 17.1-408, and an appeal pursuant to § 19.2-398, a petition for appeal in a criminal case or a notice of appeal to the Court of Appeals, shall be deemed to be timely filed if (i) it is mailed postage prepaid by registered or certified mail and (ii) the official postal receipt, showing mailing within the prescribed time limits, is exhibited upon demand of the clerk or any party.

§ 8.01-675.5. Appeal of interlocutory orders and decrees by permission; immunity.

A. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order or decree that is not otherwise appealable, any party may file in the circuit court a motion requesting that the circuit court certify such order or decree for interlocutory appeal.

The motion shall include a concise analysis of the statutes, rules, or cases believed to be determinative of the issues and request that the court certify in writing that the order or decree involves a question of law as to which (i) there is substantial ground for difference of opinion; (ii) there is no clear, controlling precedent on point in the decisions of the Supreme Court of Virginia or the Court of Appeals of Virginia; (iii) determination of the issues will be dispositive of a material aspect of the proceeding currently pending before the court; and (iv) it is in the parties' best interest to seek an interlocutory appeal. If the request for certification is opposed by any party, the parties may brief the motion in accordance with the Rules of Supreme Court of Virginia.

Within 15 days of the entry of an order by the circuit court granting such certification, a petition for appeal may be filed with the Court of Appeals. If the Court of Appeals determines that the certification by the circuit court has sufficient merit, it may, in its discretion, permit an appeal to be taken from the interlocutory order or decree and shall notify the certifying circuit court and counsel for the parties of

its decision.

The consideration of any petition and appeal by the Court of Appeals shall be in accordance with the applicable provisions of the Rules of the Supreme Court of Virginia and shall not take precedence on the docket unless the court so orders.

B. When, prior to the commencement of trial, the circuit court has entered in any pending civil action an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. Any person aggrieved by such order may, within 15 days of the entry of such order, file a petition for review with the Court of Appeals in accordance with the procedures set forth in § 8.01-626. If the assigned judge or judges grant the petition for review, the clerk shall refer the appeal to a panel of the court, as the court shall direct, and the parties shall prosecute the appeal in the manner provided for in the Rules of Supreme Court of Virginia.

C. No petitions or appeals under this section shall stay proceedings in the circuit court unless the circuit court or appellate court orders such a stay upon a finding that (i) the petition or appeal could be dispositive of the entire civil action or (ii) there exists good cause, other than the pending petition or appeal, to stay the proceedings.

D. The failure of a party to seek interlocutory review under this section shall not preclude review of the issue on appeal from a final order. An order by the Court of Appeals denying interlocutory review under this section shall not preclude review of the issue on appeal from a final order, unless the order denying such interlocutory review provides for such preclusion.

§ 8.01-675.6. Jurisdictional amount.

No petition shall be presented for an appeal from any judgment of a circuit court except in cases in which the controversy is for a matter of $500 or more in value or amount, and except in cases in which it is otherwise expressly provided; nor to a judgment of any circuit court when the controversy is for a matter less in value or amount than $500, exclusive of costs, unless there be drawn in question a freehold or franchise or the title or bounds of land, or some other matter not merely pecuniary.

§ 8.01-676.1. Security for appeal.

A. Security for costs of appeal of right to Court of Appeals *in civil cases*. A party filing a notice of an appeal of right to the Court of Appeals *in a civil case* shall simultaneously file an appeal bond or irrevocable letter of credit in the penalty of $500, or such sum as the trial court may require, subject to subsection E, conditioned upon paying all costs and fees incurred in the Court of Appeals and the Supreme Court if it takes cognizance of the claim. If the appellant wishes suspension of execution *in a civil appeal*, the security shall also be conditioned and shall be in such sum as the trial court may require as provided in subsection C.

B. Security for costs on petition for appeal to Court of Appeals or Supreme Court. An appellant whose petition for appeal is granted by the Court of Appeals or the Supreme Court shall (if he has not done so) within 15 days from the date of the Certificate of Appeal file an appeal bond or irrevocable letter of credit in the same penalty as provided in subsection A, conditioned on the payment of all damages, costs, and fees incurred in the Court of Appeals and in the Supreme Court.

C. Security for suspension of execution. An appellant who wishes execution of the judgment or award from which an appeal is sought to be suspended during the appeal shall, subject to the provisions of subsection J, file a suspending bond or irrevocable letter of credit conditioned upon the performance or satisfaction of the judgment and payment of all damages incurred in consequence of such suspension, and except as provided in subsection D, execution shall be suspended upon the filing of such security and the timely prosecution of such appeal. Such security shall be continuing and additional security shall not be necessary except as to any additional amount ~~which~~ *that* may be added or to any additional requirement ~~which~~ *that* may be imposed by the courts.

D. Suspension of execution in decrees for support and custody; injunctions. The court from which an appeal is sought may refuse to suspend the execution of decrees for support and custody, and may also refuse suspension when a judgment refuses, grants, modifies, or dissolves an injunction.

E. Increase or decrease in penalty or other modification of security. 1. The trial court or commission may, upon the motion of any party (i) for good cause shown, modify the terms of the security for the appeal or of the security for the suspension of execution of a judgment and (ii) resolve any objection to the form or issuer of a bond or letter of credit at any time until the Court of Appeals or the Supreme Court acts upon any similar motion. Any party aggrieved by the decision of the trial court or commission may request a review of such decision by the appellate court before which the case is pending.

2. The Court of Appeals or the Supreme Court may order that the penalty or any other terms or requirements of the security for the appeal or of the security for the suspension of execution of a judgment be modified for good cause shown (i) upon the motion of any party or (ii) if such request is made in the brief of any party filed in the Court of Appeals, or in the Petition for Appeal or the

appellee's Brief in Opposition filed in the Supreme Court or the Court of Appeals.

3. Affidavits and counter-affidavits may be filed by the parties containing facts pertinent to such request. Any increase or decrease in the amount of or other modification of the security so ordered shall be effected in the clerk's office of the trial court within 15 days of the order of the trial court, the Court of Appeals, or the Supreme Court.

4. If an increase so ordered is not effected within 15 days, the appeal shall be dismissed, in the case of the security required under subsection A or B, or the suspension of execution of a judgment shall be discontinued, in the case of the security required under subsection C.

F. By whom executed. Each bond filed shall be executed by a party or another on his behalf, and by surety approved by the clerk of the court from which appeal is sought, or by the clerk of the Supreme Court or the clerk of the Court of Appeals if the bond is ordered by such Court. Any letter of credit posted as security for an appeal shall be in a form acceptable to the clerk of the court from which appeal is sought, or by the clerk of the Supreme Court or the Court of Appeals if the security is ordered by such court. The letter of credit shall be from a bank incorporated or authorized to conduct banking business under the laws of this Commonwealth or authorized to do business in this Commonwealth under the banking laws of the United States, or a federally insured savings institution located in this Commonwealth.

G. Appeal from State Corporation Commission; security for costs. When an appeal of right is entered from the State Corporation Commission to the Supreme Court, and no suspension of the order, judgment, or decree appealed from is requested, such appeal bond or letter of credit shall be filed when and in the amount required by the clerk of the Supreme Court, whose action shall be subject to review by the Supreme Court.

H. Appeal from State Corporation Commission; suspension. Any judgment, order, or decree of the State Corporation Commission subject to appeal to the Supreme Court may be suspended by the Commission or by the Supreme Court pending decision of the appeal if the Commission or the Supreme Court deems such suspension necessary for the proper administration of justice but only upon the written application of an appellant after reasonable notice to all other parties in interest and the filing of a suspending bond or irrevocable letter of credit with such conditions, in such penalty, and with such surety thereon as the Commission or the Supreme Court may deem sufficient. But no surety shall be required if the appellant is any county, city or town of this Commonwealth, or the Commonwealth.

I. Forms of bonds; letters of credit; where filed. The Clerk of the Supreme Court shall prescribe separate forms for bonds, one for costs alone, one for suspension of execution, and one for both and a form for irrevocable letters of credit, to which the bond or bonds or irrevocable letters of credit given shall substantially conform. The forms for each bond and the letter of credit shall be published in the Rules of Court. It shall be sufficient if the bond or letter of credit, when executed as required, is filed with the trial court, clerk of the Virginia Workers' Compensation Commission, or the clerk of the State Corporation Commission, whichever is applicable, and no personal appearance in the trial court, Virginia Workers' Compensation Commission, or State Corporation Commission by the principal, the surety on the bond or the bank issuing the letter of credit shall be required as a condition precedent to its filing.

J. In any civil litigation under any legal theory, the amount of the suspending bond or irrevocable letter of credit to be furnished during the pendency of all appeals or discretionary reviews of any judgment granting legal, equitable, or any other form of relief in order to stay the execution thereon during the entire course of appellate review by any courts shall be set in accordance with applicable laws or court rules, and the amount of the suspending bond or irrevocable letter of credit shall include an amount equivalent to one year's interest calculated from the date of the notice of appeal in accordance with § 8.01-682. However, the total suspending bond or irrevocable letter of credit that is required of an appellant and all of its affiliates shall not exceed $25 million, regardless of the value of the judgment.

K. Dissipation of assets. If the appellee proves by a preponderance of the evidence that a party bringing an appeal, for whom the suspending bond or irrevocable letter of credit requirement has been limited or waived, is purposefully dissipating its assets or diverting assets outside the jurisdiction of the United States courts for the purpose of evading the judgment, the limitation or waiver shall be rescinded and a court may require the appellant to post a suspending bond or irrevocable letter of credit in an amount up to the full amount of the judgment. Dissipation of assets shall not include those ongoing expenditures made from assets of the kind that the appellant made in the regular course of business prior to the judgment being appealed, such as the payment of stock dividends and other financial incentives to the shareholders of publicly owned companies, continued participation in charitable and civic activities, and other expenditures consistent with the exercise of good business judgment.

L. For good cause shown, a court may otherwise waive the filing of a suspending bond or irrevocable letter of credit as to the damages in excess of, or other than, the compensatory damages. Subject to the provisions of subsection K, the parties may agree to waive the requirement of a

suspending bond or irrevocable letter of credit or agree to a suspending bond or irrevocable letter of credit in an amount less than the compensatory damages.

M. Exemption. When an appeal is proper to protect the estate of a decedent or person under disability, or to protect the interest of the Commonwealth or any county, city, or town of this Commonwealth, no security for appeal shall be required.

N. Indigents. No person who is an indigent shall be required to post security for an appeal bond.

O. Virginia Workers' Compensation Commission. No claimant who files an appeal from a final decision of the Virginia Workers' Compensation Commission with the Court of Appeals shall be required to post security for costs as provided in subsection A ~~or B~~ if such claimant has not returned to his employment or by reason of his disability is unemployed. Such claimant shall file an affidavit describing his disability and employment status with the Court of Appeals together with a motion to waive the filing of the security under subsection A ~~or B~~.

P. Time for filing security for appeal. The appeal bond or letter of credit prescribed in subsections A and B is not jurisdictional and the time for filing such security in cases before the Court of Appeals or the Supreme Court may be extended by a judge or justice of the court before which the case is pending on motion for good cause shown and to attain the ends of justice. The effect of failing to perfect an appeal bond shall be governed by the Rules of Supreme Court of Virginia.

Q. Consideration of appeal bond, suspending bond, or letter of credit by Court of Appeals or Supreme Court. A determination on an issue affecting an appeal bond, suspending bond, or letter of credit in a case before the Court of Appeals or the Supreme Court may be considered by an individual judge of such court rather than by a panel of judges.

R. This section applies to injunction bonds required pursuant to § 8.01-631.

S. In accordance with § 1-205, if the party required to post an appeal or suspending bond tenders such bond together with cash in the full amount required by this section to the clerk specified in this section, no surety shall be required.

§ 9.1-909. Relief from registration, reregistration, or verification.

A. Upon expiration of three years from the date upon which the duty to register as a Tier III offender or murderer is imposed, the person required to register may petition the court in which he was convicted or, if the conviction occurred outside of the Commonwealth, the circuit court in the jurisdiction where he currently resides, for relief from the requirement to verify his registration information four times each year at three-month intervals. After five years from the date of his last conviction for a violation of § 18.2-472.1, a Tier III offender or murderer may petition for relief from the requirement to verify his registration information every month. A person who is required to register may similarly petition the circuit court for relief from the requirement to verify his registration twice each year after five years from the date of his last conviction for a violation of § 18.2-472.1. The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior. Prior to the hearing the court shall order a comprehensive assessment of the applicant by a panel of three certified sex offender treatment providers as defined in § 54.1-3600. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that the person does not suffer from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior, the petition shall be granted and the duty to verify his registration information more frequently than once a year shall be terminated. The court shall promptly notify the State Police upon entry of an order granting the petition. The person shall, however, be under a continuing duty to register annually for life. If the petition is denied, the duty to verify his registration information with the same frequency as before shall continue. ~~An appeal from the~~ *A* denial of a petition shall ~~lie to the Supreme Court~~ *be appealable pursuant to § 17.1-405*.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

B. The duly appointed guardian of a person convicted of an offense requiring registration, reregistration, or verification of his registration information as either a Tier I, Tier II, or Tier III offender or murderer, who due to a physical condition is incapable of (i) reoffending and (ii) reregistering or verifying his registration information, may petition the court in which the person was convicted for relief from the requirement to reregister or verify his registration information. The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a physical condition that makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering or verifying his registration

information. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that due to his physical condition the person (i) no longer poses a menace to the health and safety of others and (ii) is incapable of reregistering or verifying his registration information, the petition shall be granted and the duty to reregister or verify his registration information shall be terminated. However, for a person whose duty to reregister or verify his registration information was terminated under this subsection, the Department of State Police shall, annually for Tier I or Tier II offenders and quarterly for persons convicted of Tier III offenses and murder, verify and report to the attorney for the Commonwealth in the jurisdiction in which the person resides that the person continues to suffer from the physical condition that resulted in such termination.

The court shall promptly notify the State Police upon entry of an order granting the petition to terminate the duty to reregister.

If the petition is denied, the duty to reregister shall continue. An appeal from the denial of a petition shall be to the ~~Virginia Supreme~~ Court *of Appeals*.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

If, at any time, the person's physical condition changes so that he is capable of reoffending, reregistering, or verifying his registration information, the attorney for the Commonwealth shall file a petition with the circuit court in the jurisdiction where the person resides and the court shall hold a hearing on the petition, with notice to the person and his guardian, to determine whether the person still suffers from a physical condition that makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering or verifying his registration information. If the petition is granted, the duty to reregister shall commence from the date of the court's order. An appeal from the denial or granting of a petition shall be to the ~~Virginia Supreme~~ Court *of Appeals*. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of $500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of § 18.2-250.1, 18.2-268.3, 29.1-738.2, or 46.2-341.26:3. *He may, in his discretion, file a notice of appeal with the circuit court for the appeal of a criminal case for which he was the prosecuting attorney and he may appear and represent the Commonwealth in any criminal case on appeal before the Court of Appeals or the Supreme Court for which he was the prosecuting attorney, provided that the Attorney General consented to such appearance pursuant to § 2.2-511.*

He shall also represent the Commonwealth in an appeal of a civil matter related to the enforcement of a criminal law or a criminal case for which he was the prosecuting attorney, including a petition for expungement of a defendant's criminal record, an action of forfeiture filed in accordance with the provisions of Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, or any matter which he may enforce pursuant to this section.

§ 15.2-1643. Circuit courts to order court facilities to be repaired.

A. When it appears to the circuit court for any county or city, from the report of persons appointed to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure, out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the court shall enter an order, in the name and on behalf of the Commonwealth against the supervisors of the county, or the members of the council of the city, as the case may be, to show cause

why a mandamus should not issue, commanding them to cause the court facilities of such county or city to be made secure, or put in good repair, or rendered otherwise safe as the case may be, and to proceed as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of such order to be served upon each supervisor or member of the council, as the case may be.

B. Upon the entry of such order, as provided in subsection A hereof, the chief judge of the circuit shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of the notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are alleged to be necessary to hear and determine whether, after consideration of such matters as set forth in subdivisions 1 through 4, the court facilities are in fact insecure or out of repair or otherwise pose a danger to the health, welfare and safety of court employees or the public and the extent to which repairs, if any, are necessary.

Before a mandamus is issued, if the concerned governing body elects, or if the pleadings allege that the court facilities are in fact insecure or out of repair, or otherwise pose a danger to the health, welfare and safety of court employees or the public, the local governing body shall appoint a five-member panel, three of whom shall be qualified by training and experience as either an architect or a professional engineer, not representing the same firms, to review the court facilities in question and make recommendations to the local governing body and circuit court judge assigned by the Chief Justice concerning the construction or repairs deemed necessary.

In making their recommendations, the panel shall consider matters such as, but not limited to, the following:

1. Security provisions to safeguard court personnel, participants and the public;

2. Efficient layout and circulation patterns to maximize public access, promote efficient operations, and accommodate the diverse users;

3. Provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms, prison holding areas, and public information areas; and

4. Comfort, safety and obsolescence of the existing facility or any part thereof.

The existing facilities shall be considered in relationship to their location and the extent of their use, and their failure to meet any of these general considerations shall not necessarily be deemed a cause for determining them inadequate.

In making their recommendations, the panel may consult recognized national standard works in the field.

All costs, fees and expenses of the five-member panel, after approval by the local governing body, shall be paid by the county or city that appointed the panel.

C. If, after hearing, the court finds that the court facilities are not insecure or out of repair or otherwise unsafe, or having been in such condition, that the necessary repairs have been made, the court shall vacate the order. If the court finds that the court facilities are insecure or out of repair or otherwise unsafe, it shall issue its mandamus as provided in subsection A.

D. Appeals shall be allowed to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* as appeals from courts of equity are allowed.

E. Nothing in this section shall be construed to authorize a circuit court to require that an additional or replacement courthouse be constructed.

§ 15.2-2139. Special court; costs.

The costs in the proceedings before the special court shall be paid by the party instituting the proceedings and shall be the same as in other civil cases; the costs shall also include the per diem and expenses of the court reporter, if any, and, in the discretion of the court, a reasonable allowance to the court for secretarial services in connection with the preparation of the written opinion. In the event of an appeal, the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* shall determine by whom the appellate costs shall be paid. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall determine by whom the appellate costs shall be paid.*

§ 15.2-2140. Dispute between jurisdictions; appeals.

A. An appeal may be ~~granted by the Supreme Court of Virginia, or any judge thereof, to~~ *filed in the Court of Appeals by* any party from the judgment of the special court, and the appeal shall be heard and determined without reference to the principles of demurrer to evidence. The special court shall certify the facts in the case to the ~~Supreme~~ Court *of Appeals*, and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. In any case, by consent of all parties of record, a motion to dismiss may be made at any time before final judgment on appeal.

B. If the judgment of the special court is reversed on appeal, or if the judgment is modified, the ~~Supreme~~ Court *of Appeals* shall enter such order as the special court should have entered~~, and the order shall be final~~.

C. If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall consider the appeal consistent with the procedures set forth

in subsection A and shall enter such order as the special court should have entered.

§ 15.2-2656. Appeals.

An appeal from the final judgment of the circuit court in a bond validation proceeding may be taken to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*. No appeal shall be allowed unless a notice of appeal is filed in the circuit court within 15 days after the date on which the final judgment of the court is entered and unless the appealing party's ~~petition for appeal~~ *opening brief* is filed with the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* within 30 days after the date on which the final judgment of the court is entered. When a notice of appeal is timely and properly filed with the clerk of the circuit court, the clerk shall certify and transmit the record to the Clerk of the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* within 30 days after the date on which the final judgment of the circuit court is entered *and the Court of Appeals shall give the appeal an expedited review*. Failure of the clerk to comply with this requirement shall not affect the jurisdiction of the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* to consider the appeal. ~~If the Supreme Court of Virginia grants the petition for appeal, it shall be placed on the privileged docket.~~

§ 15.2-3104. Procedure when commissioners fail to agree.

If the commissioners fail to agree upon the location of the line, they shall so report to the circuit courts for their respective localities, stating in their reports the points and grounds of disagreement and describing fully the conflicting lines. Either locality may file a petition in the circuit court for either locality to have a court, constituted as hereinafter provided, ascertain and establish the true boundary line in doubt or dispute. Such petition shall describe, with reasonable certainty, the location contended for and shall state the grounds of such contention. A plat, showing the location contended for, filed with the petition, may serve the purposes of such description. The petitioner shall make the other locality the party defendant, and the case shall be commenced by serving a copy of the petition upon the county attorney, if any, or the attorney for the Commonwealth of such county, the city attorney of such city or the town attorney of such town. No formal plea or answer to the petition shall be necessary, but the defendant shall state its grounds of defense in writing, describing, with the same degree of certainty required of the petitioner, the line as contended for by the defendant, and the locality shall be deemed to be at issue. The issue shall be the true location of the boundary line so in doubt or dispute.

The case shall be heard and decided by a court without a jury presided over by three judges as follows: the judge of the circuit court for the petitioning locality, the judge of the circuit court for the defendant locality, and a judge of some circuit court in this Commonwealth remote from the localities, to be designated by the Chief Justice. When the localities are within the same circuit, the Chief Justice shall designate a third judge from an adjoining circuit. The court shall hear the case upon the evidence introduced in the manner in which evidence is introduced in common-law cases and shall ascertain and establish the true boundary line by a majority decision, and shall give judgment accordingly. Costs shall be awarded as the court shall determine. The judgment of the court shall be recorded in the common-law order book and in the current deed book of the court and indexed in the names of the localities, and, unless reversed, shall forever settle, determine, designate and establish the true boundary line. A copy of any final judgment shall be certified to the Secretary of the Commonwealth. ~~An appeal may be granted by the Supreme Court, or any justice thereof, to either~~ *Either* party *may appeal* from the judgment of the court *to the Court of Appeals*, and the cost of such appeal shall be awarded to the party substantially prevailing. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall render a decision and award the costs of the appeal to the party that substantially prevailed.*

§ 15.2-3217. Court granting annexation to exist for 10 years.

The special court shall not be dissolved after rendering a decision granting any motion or petition for annexation, but shall remain in existence for a period of ~~ten~~ *10* years from the effective date of any annexation order entered, or from the date of any decision of the Supreme Court *or the Court of Appeals* affirming such an order. Vacancies occurring in the court during such ~~ten-year~~ *10-year* period shall be filled as provided in § 15.2-3004.

The court may be reconvened at any time during the ~~ten-year~~ *10-year* period on its own motion, or on motion of the governing body of the county, or of the city or town, or on petition of not less than ~~fifty~~ *50* registered voters or property owners in the area annexed; however, if the area annexed contains fewer than 100 registered voters or property owners, a majority of such registered voters or property owners may petition for the reconvening of the court.

The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which annexation was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award ~~attorneys'~~ *attorney* fees, and court and other reasonable costs to the party or parties on whose motion the court is reconvened.

Any such action of the court shall be subject to review by the ~~Supreme~~ Court *of Appeals* in the same manner as is provided with respect to the original decision of the court.

§ 15.2-3221. Appeals; how heard.

An appeal may be ~~granted by the Supreme Court, or any justice thereof~~ *made to the Court of Appeals*. The special court shall certify the facts in the case to the ~~Supreme~~ Court *of Appeals*, and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall consider the appeal consistent with the procedures set forth herein and shall enter such order as the special court should have entered.* In any case, by consent of all parties of record, the motion to annex may be dismissed at any time before final judgment on appeal.

§ 15.2-3222. What order to be entered by the Supreme Court or the Court of Appeals.

If the judgment of the special court is reversed on appeal, or if the judgment is modified, the ~~Supreme~~ Court *of Appeals* shall enter such order as the special court should have entered, *certify a copy of the order to the Secretary of the Commonwealth,* and such order shall be final~~. In the event that the Supreme Court enters such order, a copy of the order shall be certified to the Secretary of the Commonwealth~~ *unless appealed to the Supreme Court. If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall consider the appeal consistent with the procedures set forth in § 15.2-3221, shall enter such order as the special court should have entered, and shall certify the order to the Secretary of the Commonwealth.*

§ 15.2-3227. Annexation proceedings final for 10 years.

Except by mutual agreement of the governing bodies affected, no city or town, having instituted proceedings to annex territory of a county, shall again seek to annex territory of such county within the ~~ten~~ *10* years next succeeding the effective date of annexation in any proceeding under this article or previous acts. In the event annexation is denied, such prohibition shall begin with the date of the final order of the court denying annexation or, in the case of an appeal to the Supreme Court *or the Court of Appeals*, with the date of the final order of the Supreme Court *or the Court of Appeals*. However, a city or town moving to dismiss the proceedings before a hearing on its merits may file a new petition five years after the filing of the petition in the prior suit. No county shall, except with the consent of its governing body, be made defendant in any annexation proceeding brought by any city within such ~~ten-year~~ *10-year* period.

Notwithstanding the foregoing provisions, a city shall have the right to file and maintain an annexation proceeding against any county against which it has not filed such a proceeding during the preceding ~~thirteen~~ *13* years.

The provisions of this section shall not apply to any petition for annexation brought by a city or town, within such ~~ten-year~~ *10-year* period, if the previous petition was dismissed due to a procedural defect, lack of jurisdiction, or any defense other than the merits of the case. The provisions of this section shall not apply to a city or town ~~which~~ *that* institutes an annexation proceeding by filing notice with the Commission on Local Government but which subsequently fails to petition the court to grant such annexation. In that event, however, the city or town shall not again institute proceedings for annexation against the county for at least two years after the date the Commission renders its final report on the initial proceeding.

This section shall also apply to any city ~~which~~ *that* was a town at the time of the filing of such petition.

§ 15.2-3244. Appeal from such order.

Any one or more of the petitioners, or the defendants, or any inhabitants of the town, who may feel themselves aggrieved by an order declaring territory to be abandoned as provided by this article, or by the refusal to enter such order, may, at any time within ~~sixty~~ *60* days from the date of the order, upon giving bond for costs, the amount thereof to be fixed by the court, ~~apply~~ *appeal* to the ~~Supreme Court for a writ of error and supersedeas~~ *Court of Appeals* according to the general law. *Any one or more of the petitioners, or the defendants, or any inhabitants of the town, who may feel themselves aggrieved by any decision of the Court of Appeals rendered pursuant to this section, may, at any time within 30 days from the date of the order, upon giving bond for costs, the amount thereof to be fixed by the court, apply to the Supreme Court for a writ of error and supersedeas according to the general law.*

§ 15.2-3308. Partial immunity proceedings final for five years; exceptions.

No county, having instituted proceedings for immunity for part or parts of the county, shall again seek immunity for substantially the same part or parts of the county within the next five years.

Such prohibition shall begin with the date of the final order of the court granting or denying immunity or, in the case of an appeal to the ~~Supreme~~ Court *of Appeals*, with the date of the final order of the ~~Supreme~~ Court*of Appeals or, in the case of an appeal to the Supreme Court, with the date of the final order issued by the Supreme Court.* The provisions of this section shall not apply to a petition for partial immunity if the previous petition was withdrawn, or was dismissed for any reason other than the merits of the case.

The provisions of this section further shall not apply to a county which institutes an immunity proceeding by filing notice with the Commission on Local Government but subsequently fails to petition

the court to grant such immunity. In that event, however, the county shall not again institute proceedings for immunity for substantially the same part or parts of the county for at least two years after the date the Commission renders its final report on the initial proceeding.

§ 15.2-3528. Appeals.

Appeals may be ~~granted by~~ *made to* the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-3605. How appeals granted and heard.

An appeal may be ~~granted by~~ *made to* the ~~Supreme Court or any justice thereof~~ *Court of Appeals*. Court costs shall be awarded as the ~~Supreme~~ Court *of Appeals* determines. The costs in the ~~Supreme~~ Court *of Appeals* shall be awarded to the party substantially prevailing. *If an appeal is taken from the judgment of the Court of Appeals, the Supreme Court, in matters in which it grants the petition for appeal, shall render a decision and award the costs of the appeal to the party that substantially prevailed.*

§ 15.2-3809. Appeals.

Appeals may be ~~granted by~~ *made to* the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-3909. Appeals.

Appeals may be ~~granted by~~ *made to* the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-4108. Appeals.

Appeals may be ~~granted by~~ *made to* the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis. *Any judgment of the Court of Appeals rendered pursuant to this section may be appealed to the Supreme Court, which, if it grants the petition for appeal, shall hear the appeal as provided in §§ 15.2-3221 and 15.2-3222, which shall apply mutatis mutandis.*

§ 15.2-4120. Court granting transition to town status to exist for 10 years.

A. The special court created pursuant to § 15.2-4101 shall not be dissolved after rendering a decision granting any motion or petition for transition to town status, but shall remain in existence for a period of ~~ten~~ *10* years from the effective date of any transition order entered, or from the date of any decision of the Supreme Court *or the Court of Appeals* affirming such an order. Vacancies occurring in the court during such ~~ten-year~~ *10-year* period shall be filled by designation of another judge from the panel provided for in Chapter 30 (§ 15.2-3000 et seq.) of this title.

B. The court may be reconvened at any time during the ~~ten-year~~ *10-year* period on its own motion, or on motion of the governing body of the county, or of the town, or on petition of not less than ~~fifteen~~ *15* percent of the registered voters of the town.

C. The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which town status was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award ~~attorneys'~~ *attorney* fees, court and other reasonable costs to the party or parties on whose motion the court is reconvened.

D. Any such action of the court shall be subject to review by the Supreme Court *and the Court of Appeals* in the same manner as is provided with respect to the original decision of the court.

§ 15.2-5218. Appeal from order; supersedeas.

Any party aggrieved by such order may ~~apply for an~~ appeal to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* and a supersedeas may be granted in the same manner as is now or hereafter shall be provided by law and the rules of court applicable to civil cases. *Any party aggrieved by a judgment of the Court of Appeals rendered pursuant to this section may appeal to the Supreme Court, and a supersedeas may be granted in the same manner as is now or hereafter shall be provided by law and the rules of court applicable to civil cases.*

§ 15.2-5367. Appeal.

~~An appeal may be granted by the Supreme Court of Virginia, or any judge thereof, to either the~~ *The* authority or the city *may take an appeal* from the judgment of the court *to the Court of Appeals*, and the appeal shall be heard and determined without reference to the principles of demurrer to evidence.

The trial court shall certify the facts in the case to the ~~Supreme~~ Court *of Appeals* and the evidence shall be considered as on appeal in proceedings under Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. By consent of both parties of record, the petition may be dismissed at any time before final judgment on the appeal. *The authority or the city may appeal any judgment of the Court of Appeals rendered pursuant to this section to the Supreme Court. If the Supreme Court grants the petition for appeal, the appeal shall be heard consistent with the procedures set forth in this section. By consent of both parties of record, the petition may be dismissed at any time before final judgment on the appeal.*

§ 15.2-6606. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions and execute such agreements, and legal instruments, as may be necessary, convenient or desirable or imposed as a condition to such financial aid;

10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Northern Neck Chesapeake Bay Public Access Authority (the NNCBPAA), created pursuant to the provisions of Chapter 66.1 (§ 15.2-6626 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the NNCBPAA exists;

12. Appoint, employ or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-6612 hereof, accounting services, including the annual independent audit required by § 15.2-6609 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

14. Establish personnel rules;

15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or

was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Request and accept legal advice and assistance from the Office of the Attorney General;

21. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

22. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*.

§ 15.2-6632. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, or grants of money or gifts, grants or loans of other property, or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth of Virginia, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements, and legal instruments, as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;

10. Receive and expend public funds and private donations for dredging or construction; apply for permits in order to perform dredging projects on waterways or to construct facilities and infrastructure within the region for which the Authority exists, provided that such projects enhance recreational and commercial public access; and perform such dredging projects or construct such facilities and infrastructure;

11. In conjunction with one or both of the Eastern Shore Water Access Authority (the ESWAA), created pursuant to the provisions of Chapter 74 (§ 15.2-7400 et seq.), and the Middle Peninsula Chesapeake Bay Public Access Authority (the MPCBPAA), created pursuant to the provisions of Chapter 66 (§ 15.2-6600 et seq.), receive and expend public funds and private donations for dredging, apply for permits in order to perform dredging projects, and perform such dredging projects on waterways within the region for which any or all of the Authority, the ESWAA, or the MPCBPAA exists;

12. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;

13. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, and depository and investment services contemplated by § 15.2-6638 hereof, accounting services, including the annual independent audit required by § 15.2-6635 hereof, procurement of goods and services, and to act as fiscal agent for the Authority;

14. Establish personnel rules;

15. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

16. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

17. Borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;

18. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

19. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

20. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

21. Whenever it shall appear to the Authority, or to a simple majority of participating political subdivisions, that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court shall determine that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivisions. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*.

§ 15.2-7406. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this act, including the following, to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;

2. Sue and be sued in its own name;

3. Have perpetual succession;

4. Adopt a corporate seal and alter the same at its pleasure;

5. Maintain offices at such places as it may designate;

6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate public access sites that are owned or managed by the Authority within the territorial limits of the participating political subdivisions;

7. Construct, install, maintain, and operate facilities for managing access sites;

8. Determine fees, rates, and charges for the use of its facilities;

9. Apply for and accept gifts, grants of money, or gifts, grants, or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof, the Commonwealth, or any other person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the public access sites or for the payment of principal of any indebtedness of the Authority, interest thereon, or other cost incident thereto, and to this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid;

10. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and fix their duties and compensation;

11. Contract with any participating political subdivision for such subdivision to provide legal services, engineering services, depository and investment services contemplated by § 15.2-7412, accounting services, including the annual independent audit required by § 15.2-7409, and procurement of

goods and services and act as fiscal agent for the Authority;

12. Establish personnel rules;

13. Own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest, or otherwise acquire any property, real or personal, or any interest therein, and in connection therewith to assume or take subject to any indebtedness secured by such property;

14. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;

15. Borrow money, as hereinafter provided, and borrow money for the purpose of meeting casual deficits in its revenues;

16. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities, all as hereinafter provided;

17. Purchase and maintain insurance or provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such;

18. Do all things necessary or convenient to the purposes of this act. To that end, the Authority may acquire, own, or convey property; enter into contracts; seek financial assistance and incur debt; and adopt rules and regulations; and

19. Whenever it shall appear to the Authority that the need for the Authority no longer exists, the Authority, or in the proper case, any such subdivision, may petition the circuit court of a participating political subdivision for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this act no longer exists and that all debts and pecuniary obligations of the Authority have been fully paid or provided for, it may enter an order dissolving the Authority.

Upon dissolution, the court shall order any real or tangible personal property contributed to the Authority by a participating political subdivision, together with any improvements thereon, returned to such participating political subdivision. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective contributions theretofore made to the Authority.

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. From the final judgment of the court, an appeal shall lie to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*.

§ 16.1-279.1. Protective order in cases of family abuse.

A. In cases of family abuse, including any case involving an incarcerated or recently incarcerated respondent against whom a preliminary protective order has been issued pursuant to § 16.1-253.1, the court may issue a protective order to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of family abuse or criminal offenses that result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Granting the petitioner possession of the residence occupied by the parties to the exclusion of the respondent; however, no such grant of possession shall affect title to any real or personal property;

4. Enjoining the respondent from terminating any necessary utility service to the residence to which the petitioner was granted possession pursuant to subdivision 3 or, where appropriate, ordering the respondent to restore utility services to that residence;

5. Granting the petitioner and, where appropriate, any other family or household member of the petitioner, exclusive use and possession of a cellular telephone number or electronic device. The court may enjoin the respondent from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The court may enjoin the respondent from using a cellular telephone or other electronic device to locate the petitioner;

6. Granting the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone or jointly owned by the parties to the exclusion of the respondent and enjoining the respondent from terminating any insurance, registration, or taxes on the motor vehicle and directing the respondent to maintain the insurance, registration, and taxes, as appropriate; however, no such grant of possession or use shall affect title to the vehicle;

7. Requiring that the respondent provide suitable alternative housing for the petitioner and, if appropriate, any other family or household member and where appropriate, requiring the respondent to pay deposits to connect or restore necessary utility services in the alternative housing provided;

8. Ordering the respondent to participate in treatment, counseling or other programs as the court deems appropriate;

9. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500; and

10. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.

A1. If a protective order is issued pursuant to subsection A, the court may also issue a temporary child support order for the support of any children of the petitioner whom the respondent has a legal obligation to support. Such order shall terminate upon the determination of support pursuant to § 20-108.1.

B. The protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. If the petitioner was a family or household member of the respondent at the time the initial protective order was issued, the court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

D. Except as otherwise provided in § 16.1-253.2, a violation of a protective order issued under this section shall constitute contempt of court.

E. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

F. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any juvenile and domestic relations district court by filing with the court an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where

practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

G. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to dissolve or modify a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

H. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fee shall be charged for filing or serving any petition or order pursuant to this section.

K. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

L. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

§ 17.1-309. Jurisdiction of writs of mandamus and prohibition.

The Supreme Court shall have jurisdiction to issue writs of mandamus and prohibition to the circuit and district courts, *the Court of Appeals,* and to the State Corporation Commission and in all other cases in which such writs, respectively, would lie according to the principles of the common law. Provided that no writ of mandamus, prohibition or any other summary process whatever shall issue in any case of the collection of revenue or attempt to collect the same, or to compel the collecting officers to receive anything in payment of taxes except such money as is legal tender for the payment of revenue, or in any case arising out of the collection of revenue in which the applicant for the writ of process has any other remedy adequate for the protection and enforcement of his individual right, claim and demand, if just.

§ 17.1-400. Creation and organization; election and terms of judges; oath; vacancies; qualifications; incompatible activities prohibited; chief judge.

A. The Court of Appeals of Virginia is hereby established effective January 1, 1985. It shall consist of ~~11~~ *17* judges who shall be elected for terms of eight years by the majority of the members elected to each house of the General Assembly. *The General Assembly shall consider regional diversity in making its elections.* Before entering upon the duties of the office, a judge of the Court of Appeals shall take the oath of office required by law. The oath shall be taken before a justice of the Supreme Court of Virginia or before any officer authorized by law to administer an oath. When any vacancy exists while the General Assembly is not in session, the Governor may appoint a successor to serve until 30 days after the commencement of the next regular session of the General Assembly. Whenever a vacancy occurs or exists in the office of a judge of the Court of Appeals while the General Assembly is in session, or when the term of office of a judge of the Court of Appeals will expire or the office will be *vacant or* vacated at a date certain between the adjournment of the General Assembly and the commencement of the next session of the General Assembly, a successor may be elected at any time during a session preceding the date of such vacancy by the vote of a majority of the members elected to each house of the General Assembly for a full term and, upon qualification, the successor shall enter at once upon the discharge of the duties of the office; however, such successor shall not qualify prior to the predecessor leaving office. No person shall be elected or reelected to a subsequent term under this section until he has submitted to a criminal history record search and submitted to a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect and reports of such searches have been received by the chairmen of the House and Senate Committees for Courts of Justice. If the person has not met the requirement of filing in the preceding calendar year a disclosure form prescribed in § 2.2-3117 or 30-111, he shall also provide a written statement of economic interests on the disclosure form prescribed in § 2.2-3117 to the chairmen of the House and Senate Committees for Courts of Justice.

All judges of the Court of Appeals shall be residents of the Commonwealth and shall, at least five years prior to the appointment or election, have been licensed to practice law in the Commonwealth. No judge of the Court of Appeals, during his continuance in office, shall engage in the practice of law within or without the Commonwealth or seek or accept any nonjudicial elective office, or hold any other office of public trust, or engage in any other incompatible activity.

B. The chief judge shall be elected by majority vote of the judges of the Court of Appeals to serve a term of four years.

C. If a judge of the Court of Appeals is absent or unable through sickness, disability, or any other reason to perform or discharge any official duty or function authorized or required by law, a (i) retired chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of the Court of Appeals of Virginia, or (iii) retired judge of a circuit court of Virginia, with his or her prior consent, may be appointed by the chief judge of the Court of Appeals, acting upon his own initiative or upon a personal request from the absent or disabled judge, to perform or discharge the official duties or functions of the absent or disabled judge until that judge shall again be able to attend his duties. The chief judge of the Court of Appeals shall be notified forthwith at the time any absent or disabled judge is able to return to his duties.

D. The chief judge of the Court of Appeals may, upon his own initiative, designate a (i) retired chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of the Court of Appeals of Virginia, or (iii) retired or active judge of a circuit court of Virginia, with the prior consent of such justice or judge, to perform or discharge the official duties or functions of a judge of the Court of Appeals if there is a need to do so due to congestion in the work of the court. Nothing in this subsection shall be construed to increase the number of judges of the Court of Appeals provided for in subsection A of this section.

E. Any retired chief justice, retired justice, retired chief judge or active or retired judge sitting on the Court of Appeals pursuant to subsection C or D shall receive from the state treasury actual expenses for the time he or she is actually engaged in holding court.

F. The powers and duties herein conferred or empowered upon the chief judge of the Court of Appeals may be exercised and performed by any judge or any committee of judges of the court designated by the chief judge for such purpose.

§ 17.1-401. Senior judge.

A. Any chief judge or judge of the Court of Appeals who is eligible for retirement, other than for disability, with the consent of a majority of the members of the court first obtained, may elect to retire under the Judicial Retirement System (§ 51.1-300 et seq.) and be known and designated as a senior judge. In addition, any chief judge or judge of the Court of Appeals who is retired under the Judicial Retirement System (§ 51.1-300 et seq.) shall be subject to recall, with the consent of a majority of the members of the court, and may be known and designated as a senior judge.

B. Any chief judge or judge who has retired from active service, as provided in subsection A, may be designated and assigned by the Chief Judge of the Court of Appeals to perform the duties of a judge of the court. Such judge shall have all the powers, duties, and privileges attendant on the position for which he is recalled to serve.

C. While serving in such status, a senior judge shall be deemed to be serving in a temporary capacity and, in addition to the retirement benefits received by such judge, shall receive as compensation a sum equal to one-fourth of the total compensation of an active judge of the Court of Appeals for a similar period of service. A retired judge, while performing the duties of a senior judge, shall be furnished office space, support staff, a telephone, and supplies as are furnished a judge of the court.

D. A judge may terminate his status as a senior judge, or such status may be terminated by a majority of the members of the court. Each judge designated a senior judge shall serve a one-year term unless the court, by order or otherwise, extends the term for an additional year. There shall be no limit on the number of terms a senior judge may so serve.

E. Only ~~five~~ *seven* retired judges shall serve as senior judges at any one time.

F. Nothing in this section shall be construed to increase the number of judges of the Court of Appeals provided for in § 17.1-400.

§ 17.1-402. Sessions; panels; quorum; presiding judges; hearings en banc.

A. The Court of Appeals shall sit at such locations within the Commonwealth as the chief judge, upon consultation with the other judges of the court, shall designate so as to provide, insofar as feasible, convenient access to the various geographic areas of the Commonwealth. The chief judge shall schedule sessions of the court as required to discharge expeditiously the business of the court.

B. The Court of Appeals shall sit in panels of at least three judges each. The presence of all judges in the panel shall be necessary to constitute a quorum. The chief judge shall assign the members to panels and, insofar as practicable, rotate the membership of the panels. The chief judge shall preside over any panel of which he is a member and shall designate the presiding judges of the other panels.

C. Each panel shall hear and determine, independently of the others, the petitions for appeal *pursuant to § 17.1-406 or 19.2-398* and appeals ~~granted~~ in criminal *and civil* cases ~~and the other cases~~ assigned to that panel.

D. The Court of Appeals shall sit en banc (i) when there is a dissent in the panel to which the case was originally assigned and an aggrieved party requests an en banc hearing and at least ~~four~~ *six* judges of the court vote in favor of such a hearing or (ii) when any judge of any panel shall certify that in his opinion a decision of such panel of the court is in conflict with a prior decision of the court or of any panel thereof and ~~three~~ *five* other judges of the court concur in that view. The court may sit en banc upon its own motion at any time *or upon the petition of any party*, in any case in which a majority of the court determines it is appropriate to do so. The court sitting en banc shall consider and decide the case and may overrule any previous decision by any panel or of the full court.

E. The court may sit en banc with no fewer than ~~eight~~ *13* judges. In all cases decided by the court en banc, the concurrence of at least a majority of the judges sitting shall be required to reverse a judgment, in whole or in part.

§ 17.1-403. Rules of practice, procedure, and internal processes; promulgation by Supreme Court; amendments; summary disposition of appeals.

The Supreme Court shall prescribe and publish the initial rules governing practice, procedure, and internal processes for the Court of Appeals designed to achieve the just, speedy, and inexpensive disposition of all litigation in that court consistent with the ends of justice and to maintain uniformity in the law of the Commonwealth. Before amending the rules thereafter, the Supreme Court shall receive and consider recommendations from the Court of Appeals. The rules shall prescribe procedures ~~governing the summary disposition of appeals which are determined to be without merit~~ *(i) authorizing the Court of Appeals to prescribe truncated record or appendix preparation and (ii) permitting the Court of Appeals to dispense with oral argument if the panel has examined the briefs and record and unanimously agrees that oral argument is unnecessary because (a) the appeal is wholly without merit or (b) the dispositive issue or issues have been authoritatively decided, and the appellant has not argued that the case law should be overturned, extended, modified, or reversed*.

§ 17.1-405. Appellate jurisdiction — Administrative agency, Virginia Workers' Compensation Commission, and civil matter appeals.

~~Any~~ *Unless otherwise provided by law, any* aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

2. Any final decision of the Virginia Workers' Compensation Commission;

3. ~~Any~~ *Except as provided in subsection B of § 17.1-406, any* final judgment, order, or decree of a circuit court ~~involving:~~

~~a. Affirmance or annulment of a marriage;~~

~~b. Divorce;~~

~~c. Custody;~~

~~d. Spousal or child support;~~

~~e. The control or disposition of a child;~~

~~f. Any other domestic relations matter arising under Title 16.1 or Title 20;~~

~~g. Adoption under Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2; or~~

~~h. A final grievance hearing decision issued pursuant to subsection B of § 2.2-3007.~~ *in a civil matter;*

4. Any interlocutory decree or order ~~entered in any of the cases listed in this section (i) granting, dissolving, or denying an injunction or (ii) adjudicating the principles of a cause~~ *pursuant to § 8.01-267.8, 8.01-626, or 8.01-675.5; or*

5. Any final judgment, order, or decree of a circuit court (i) involving an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (ii) involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iii) for declaratory or injunctive relief under § 57-2.02.

§ 17.1-406. Appeals in criminal matters; cases over which Court of Appeals does not have jurisdiction.

A. Any aggrieved party may ~~present a petition for~~ appeal to the Court of Appeals from ~~(i)~~ any final conviction in a circuit court of a traffic infraction or a crime, except where a sentence of death has been imposed~~, (ii) any final decision of a circuit court on an application for a concealed weapons permit pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2, (iii) any final order of a circuit court involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04, or (iv) any final order for declaratory or injunctive relief under § 57-2.02~~. The Commonwealth or any county, city, or town may petition the Court of Appeals for an appeal pursuant to this subsection in any case in which such party previously could have petitioned the Supreme Court for a writ of error under

§ 19.2-317. The Commonwealth may also petition the Court of Appeals for an appeal in a criminal case pursuant to § 19.2-398.

B. In accordance with other applicable provisions of law, appeals lie directly to the Supreme Court from a conviction in which a sentence of death is imposed, from a final decision, judgment or order of a circuit court involving a petition for a writ of habeas corpus, from any final finding, decision, order, or judgment of the State Corporation Commission, and from proceedings under §§ 54.1-3935 and 54.1-3937. Complaints of the Judicial Inquiry and Review Commission shall be filed with the Supreme Court of Virginia. The Court of Appeals shall not have jurisdiction over any cases or proceedings described in this subsection.

§ 17.1-407. Procedures on appeal.

A. The notice of appeal in all cases within the jurisdiction of the court shall be filed with the clerk of the trial court or the clerk of the Virginia Workers' Compensation Commission, as appropriate, and a copy of such notice shall be mailed or delivered to all opposing counsel and parties not represented by counsel, ~~and~~ to the clerk of the Court of Appeals, *and to the Attorney General in criminal cases*. The clerk shall endorse thereon the day and year he received it.

B. Appeals pursuant to § 17.1-405 *and subsection A of § 17.1-406, other than petitions for appeal by the Commonwealth in criminal cases,* are appeals of right. The clerk of the Court of Appeals shall refer each case for which a notice of appeal has been filed~~, other than appeals in criminal cases,~~ to a panel of the court as the court may direct.

C. Each petition for appeal *by the Commonwealth* in a criminal case shall be referred to one or more judges of the Court of Appeals as the court shall direct. A judge to whom the petition is referred may grant the petition on the basis of the record without the necessity of oral argument. The clerk shall refer each appeal for which a petition has been granted to a panel of the court as the court shall direct.

D. ~~If the judge to whom a petition is initially referred does not grant the appeal~~ *Before a petition for appeal by the Commonwealth is denied,* counsel for the ~~petitioner~~ *Commonwealth* shall be entitled to state orally before a panel of the court the reasons why ~~his~~ *its* appeal should be granted. If all of the judges of the panel to whom the petition is referred are of the opinion that the petition ought not be granted, the order denying the appeal shall state the reasons for the denial. Thereafter, no other petition in the matter shall be entertained in the Court of Appeals.

§ 17.1-408. Time for filing; notice; opening brief; petition.

The notice of appeal to the Court of Appeals shall be filed in every case within the court's appellate jurisdiction as provided in § 8.01-675.3. The ~~petition for appeal~~ *opening brief* in a criminal case shall be filed not more than ~~forty~~ *40* days after the filing of the record with the Court of Appeals. However, ~~a thirty-day~~ *an* extension may be granted in the discretion of the ~~court~~ *Court of Appeals* in order to attain the ends of justice. ~~When an appeal from an interlocutory decree or order is permitted in a criminal case,~~ *In an appeal pursuant to subsection B or C of § 19.2-398,* the petition for appeal shall be presented within the ~~forty-day~~ *40-day* time limitation provided in this section.

Upon receiving a notice of appeal in a criminal case or, if notice of the appeal is received by the clerk prior to the entry of final judgment, upon entry of final judgment, the clerk of the circuit court shall cause a transcript to be prepared of the trial and any other circuit court proceedings, as requested by the appellant in the notice of appeal or by order of the circuit court, at the expense of the Commonwealth.

§ 17.1-410. Disposition of appeals; finality of decisions.

A. Each appeal of right taken to the Court of Appeals and each appeal for which a petition for appeal has been granted shall be considered by a panel of the court.

When the Court of Appeals has (i) ~~rejected a petition for appeal,~~ ~~(ii)~~ dismissed an appeal in any case in accordance with the Rules of Court~~,~~ or ~~(iii)~~ *(ii)* decided an appeal, its decision shall be final, without appeal to the Supreme Court, in:

1. ~~Traffic infraction and misdemeanor cases where no incarceration is imposed;~~

~~2. Cases originating before any administrative agency or the Virginia Workers' Compensation Commission;~~

~~3. Cases involving the affirmance or annulment of a marriage, divorce, custody, spousal or child support or the control or disposition of a juvenile and other domestic relations cases arising under Title 16.1 or Title 20, or involving adoption under Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2;~~

~~4.~~ Appeals in criminal cases pursuant to ~~§§~~ *subsections A or E of §* 19.2-398 and *§* 19.2-401. Such finality of the Court of Appeals' decision shall not preclude a defendant, if he is convicted, from requesting the Court of Appeals or Supreme Court on direct appeal to reconsider an issue which was the subject of the pretrial appeal; and

~~5.~~ *2.* Appeals involving involuntary treatment of prisoners pursuant to § 53.1-40.1 or 53.1-133.04.

3. Appeals involving denial of a concealed handgun permit pursuant to § 18.2-308.08.

B. ~~Notwithstanding the provisions of subsection A, in any case other than an appeal pursuant to~~

~~§ 19.2-398,~~ ~~in~~ ~~which~~ ~~the~~ ~~Supreme~~ ~~Court~~ ~~determines~~ ~~on~~ ~~a~~ ~~petition~~ ~~for~~ ~~review~~ ~~that~~ ~~the~~ ~~decision~~ ~~of~~ ~~the~~ ~~Court~~ ~~of~~ ~~Appeals~~ ~~involves~~ ~~a~~ ~~substantial~~ ~~constitutional~~ ~~question~~ ~~as~~ ~~a~~ ~~determinative~~ ~~issue~~ ~~or~~ ~~matters~~ ~~of~~ ~~significant~~ ~~precedential~~ ~~value,~~ ~~review~~ ~~may~~ ~~be~~ ~~had~~ ~~in~~ *All other decisions of the Court of Appeals shall be appealable to* the Supreme Court in accordance with the provisions of § 17.1-411.

§ 17.1-413. Opinions; reporting, printing and electronic publication.

A. The Court of Appeals shall state in writing the reasons for its ~~decision~~ ~~(i)~~ ~~rejecting~~ ~~a~~ ~~petition~~ ~~for~~ ~~appeal~~ ~~or~~ ~~(ii)~~ ~~deciding~~ *ruling in* a case ~~after~~ ~~hearing~~. Subject to rules promulgated under § 17.1-403 the Court in its discretion may render its decision by order or memorandum opinion. All orders and opinions of the Court of Appeals shall be preserved with the record of the case. Opinions designated by the Court of Appeals as having precedential value or as otherwise having significance for the law or legal system shall be expeditiously reported in separate Court of Appeals Reports in the same manner as the decisions and opinions of the Supreme Court. The clerk of the Court of Appeals shall retain in the clerk's office a list and brief summary of the case for all unpublished decisions and opinions of the Court of Appeals. The list of cases and summary shall be made available to any person upon request.

B. The Executive Secretary of the Supreme Court shall contract for the printing of the reports of the Supreme Court and the Court of Appeals and for the advance sheets of each court. He shall select a printer for the reports and prescribe such contract terms as will ensure issuance of the reports as soon as practicable after a sufficient number of opinions are filed. He shall make such contracts after consultation with the Department of General Services and shall distribute these reports in accordance with the applicable provisions of law. He shall also provide for the electronic publication on the Internet of the opinions of the Supreme Court and Court of Appeals subject to conditions and restrictions established by each court regarding the electronic publication of its opinions.

§ 17.1-503. Rules of practice and procedure; rules not to preclude judges from hearing certain cases.

A. The Supreme Court may formulate rules of practice and procedure for the circuit courts following consultation with the chairmen of the House and Senate Courts of Justice Committees and the executive committee of the Judicial Conference of Virginia for courts of record. Such rules, subject to the strict construction of the provisions of § 8.01-4, which shall be the only rules of practice and procedure in the circuit courts of the Commonwealth, shall be included in the Code of Virginia as provided in § 8.01-3, subject to revision by the General Assembly.

B. No rule shall hereafter be promulgated under the limitations of § 8.01-4, or otherwise which would avoid or preclude the judge before whom an accused is arraigned in criminal cases from hearing all aspects of the case on its merits, or to avoid or preclude any judge in any case who has heard any part of the case on its merits, from hearing the case to its conclusion. However, another judge may hear portions of a case where a judge is required to disqualify himself, in cases in which a mistrial is declared, or in cases which have been reversed on appeal, or in the event of sickness, disability or vacation of the judge. The parties to any suit, action, cause or prosecution may waive the provisions of this section. Such waiver shall be entered of record.

C. In its rules of practice and procedure for the circuit courts, the Supreme Court shall include rules relating to court decisions on any order of quarantine or isolation issued by the State Health Commissioner pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1 that shall ensure, to the extent possible, that such hearings are held in a manner that will protect the health and safety of individuals subject to any such order of quarantine or isolation, court personnel, counsels, witnesses, and the general public. The rules shall also provide for expedited reviews by the ~~Supreme~~ Court *of Appeals* of decisions by any circuit court *and by the Supreme Court of decisions of the Court of Appeals* relating to appeals of any order of quarantine or isolation.

§ 17.1-513. Jurisdiction of circuit courts.

The circuit courts shall have jurisdiction of proceedings by quo warranto or information in the nature of quo warranto and to issue writs of mandamus, prohibition and certiorari to all inferior tribunals created or existing under the laws of the Commonwealth, and to issue writs of mandamus in all matters of proceedings arising from or pertaining to the action of the boards of supervisors or other governing bodies of the several counties for which such courts are respectively held or in other cases in which it may be necessary to prevent the failure of justice and in which mandamus may issue according to the principles of common law. They shall have appellate jurisdiction in all cases, civil and criminal, in which an appeal may, as provided by law, be taken from the judgment or proceedings of any inferior tribunal.

They shall have original and general jurisdiction of all civil cases, except cases upon claims to recover personal property or money not of greater value than $100, exclusive of interest, and except such cases as are assigned to some other tribunal; also in all cases for the recovery of fees in excess of $100; penalties or cases involving the right to levy and collect toll or taxes or the validity of an ordinance or bylaw of any corporation; and also, of all cases, civil or criminal, in which an appeal may

be had to the ~~Supreme~~ Court *of Appeals*.

They shall have jurisdiction to hear motions filed for the purpose of modifying, dissolving, or extending a protective order pursuant to § 16.1-279.1 or 19.2-152.10 if the circuit court issued such order, unless the circuit court remanded the matter to the jurisdiction of the juvenile and domestic relations district court in accordance with § 16.1-297. They shall also have original jurisdiction of all indictments for felonies and of presentments, informations and indictments for misdemeanors. They shall also have jurisdiction for bail hearings pursuant to §§ 19.2-327.2:1 and 19.2-327.10:1.

They shall have appellate jurisdiction of all cases, civil and criminal, in which an appeal, writ of error or supersedeas may, as provided by law, be taken to or allowed by such courts, or the judges thereof, from or to the judgment or proceedings of any inferior tribunal. They shall also have jurisdiction of all other matters, civil and criminal, made cognizable therein by law and when a motion to recover money is allowed in such tribunals, they may hear and determine the same, although it is to recover less than $100.

While a matter is pending in a circuit court, upon motion of the plaintiff seeking to decrease the amount of the claim to within the exclusive or concurrent jurisdiction of the general district court as described in subdivision 1 of § 16.1-77, the circuit court shall order transfer of the matter to the general district court that has jurisdiction over the amended amount of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after which time the case shall be removed from the pending docket of the transferring court and the order of transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the receiving court.

§ 18.2-308.08. Denial of a concealed handgun permit; appeal.

A. Only a circuit court judge may deny issuance of a concealed handgun permit to a Virginia resident or domiciliary who has applied for a permit pursuant to § 18.2-308.04. Any order denying issuance of a concealed handgun permit shall state the basis for the denial of the permit, including, if applicable, any reason under § 18.2-308.09 that is the basis of the denial, and the clerk shall provide notice, in writing, upon denial of the application, of the applicant's right to an ore tenus hearing and the requirements for perfecting an appeal of such order.

B. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

C. Any person denied a permit to carry a concealed handgun by the circuit court may ~~present a petition for review~~ *appeal* to the Court of Appeals. ~~The petition for review shall be filed~~ *Such person shall file a notice of appeal with the clerk of the circuit court noting an appeal to the Court of Appeals and file his opening brief with the Court of Appeals* within 60 days of the expiration of the time for requesting an ore tenus hearing, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The ~~petition~~ *opening brief* shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. ~~Subject to the provisions of subsection B of § 17.1-410, the~~ *The* decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

§ 18.2-384. Proceeding against book alleged to be obscene.

~~(1)~~ *A.* Whenever he has reasonable cause to believe that any person is engaged in the sale or commercial distribution of any obscene book, any citizen or the attorney for the Commonwealth of any county or city, or city attorney, in which the sale or commercial distribution of such book occurs may institute a proceeding in the circuit court in said city or county for adjudication of the obscenity of the book.

~~(2)~~ *B.* The proceeding shall be instituted by filing with the court a petition:

~~(a)~~ *1.* Directed against the book by name or description;

~~(b)~~ *2.* Alleging the obscene nature of the book; and

~~(c)~~ *3.* Listing the names and addresses, if known, of the author, publisher, and all other persons interested in its sale or commercial distribution.

~~(3)~~ *C.* Upon the filing of a petition pursuant to this article, the court in term or in vacation shall forthwith examine the book alleged to be obscene. If the court find no probable cause to believe the

book obscene, the judge thereof shall dismiss the petition; but if the court find probable cause to believe the book obscene, the judge thereof shall issue an order to show cause why the book should not be adjudicated obscene.

~~(4)~~ *D.* The order to show cause shall be:

~~(a)~~ *1.* Directed against the book by name or description;

~~(b)~~ *2.* Published once a week for two successive weeks in a newspaper of general circulation within the county or city in which the proceeding is filed;

~~(c)~~ *3.* If their names and addresses are known, served by registered mail upon the author, publisher, and all other persons interested in the sale or commercial distribution of the book; and

~~(d)~~ *4.* Returnable ~~twenty-one~~ *21*days after its service by registered mail or the commencement of its publication, whichever is later.

~~(5)~~ *E.* When an order to show cause is issued pursuant to this article, and upon four days' notice to be given to the persons and in the manner prescribed by the court, the court may issue a temporary restraining order against the sale or distribution of the book alleged to be obscene.

~~(6)~~ *F.* On or before the return date specified in the order to show cause, the author, publisher, and any person interested in the sale or commercial distribution of the book may appear and file an answer. The court may by order permit any other person to appear and file an answer amicus curiae.

~~(7)~~ *G.* If no one appears and files an answer on or before the return date specified in the order to show cause, the court, upon being satisfied that the book is obscene, shall order the clerk of court to enter judgment that the book is obscene, but the court in its discretion may except from its judgment a restricted category of persons to whom the book is not obscene.

~~(8)~~ *H.* If an appearance is entered and an answer filed, the court shall order the proceeding set on the calendar for a prompt hearing. The court shall conduct the hearing in accordance with the rules of civil procedure applicable to the trial of cases by the court without a jury. At the hearing, the court shall receive evidence, including the testimony of experts, if such evidence be offered, pertaining to:

~~(a)~~ *1.* The artistic, literary, medical, scientific, cultural and educational values, if any, of the book considered as a whole;

~~(b)~~ *2.* The degree of public acceptance of the book, or books of similar character, within the county or city in which the proceeding is brought;

~~(c)~~ *3.* The intent of the author and publisher of the book;

~~(d)~~ *4.* The reputation of the author and publisher;

~~(e)~~ *5.* The advertising, promotion, and other circumstances relating to the sale of the book;

~~(f)~~ *6.* The nature of classes of persons, including scholars, scientists, and physicians, for whom the book may not have prurient appeal, and who may be subject to exception pursuant to subsection ~~(7)~~ *G*.

~~(9)~~ *I.* In making a decision on the obscenity of the book, the court shall consider, among other things, the evidence offered pursuant to subsection ~~(8)~~ *H*, if any, and shall make a written determination upon every such consideration relied upon in the proceeding in his findings of fact and conclusions of law or in a memorandum accompanying them.

~~(10)~~ *J.* If he finds the book not obscene, the court shall order the clerk of court to enter judgment accordingly. If he finds the book obscene, the court shall order the clerk of court to enter judgment that the book is obscene, but the court, in its discretion, may except from its judgment a restricted category of persons to whom the book is not obscene.

~~(11)~~ *K.* While a temporary restraining order made pursuant to subsection ~~(5)~~ *E* is in effect, or after the entry of a judgment pursuant to subsection ~~(7)~~ *G*, or after the entry of judgment pursuant to subsection ~~(10)~~ *J*, any person who publishes, sells, rents, lends, transports in intrastate commerce, or commercially distributes or exhibits the book, or has the book in his possession with intent to publish, sell, rent, lend, transport in intrastate commerce, or commercially distribute or exhibit the book, is presumed to have knowledge that the book is obscene under §§ 18.2-372 through 18.2-378 of this article.

~~(12)~~ *L.* Any party to the proceeding, including the petitioner, may appeal from the judgment of the court to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*, as otherwise provided by law.

~~(13)~~ *M.* It is expressly provided that the petition and proceeding authorized under this article, relating to books alleged to be obscene, shall be intended only to establish scienter in cases where the establishment of such scienter is thought to be useful or desirable by the petitioner; and the provisions of § 18.2-384 shall in nowise be construed to be a necessary prerequisite to the filing of criminal charges under this article.

§ 19.2-152.10. Protective order.

A. The court may issue a protective order pursuant to this chapter to protect the health and safety of the petitioner and family or household members of a petitioner upon (i) the issuance of a petition or warrant for, or a conviction of, any criminal offense resulting from the commission of an act of violence, force, or threat or (ii) a hearing held pursuant to subsection D of § 19.2-152.9. A protective

order issued under this section may include any one or more of the following conditions to be imposed on the respondent:

1. Prohibiting acts of violence, force, or threat or criminal offenses that may result in injury to person or property;

2. Prohibiting such contacts by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons;

3. Any other relief necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent; and

4. Granting the petitioner the possession of any companion animal as defined in § 3.2-6500 if such petitioner meets the definition of owner in § 3.2-6500.

B. Except as provided in subsection C, the protective order may be issued for a specified period of time up to a maximum of two years. The protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Prior to the expiration of the protective order, a petitioner may file a written motion requesting a hearing to extend the order. Proceedings to extend a protective order shall be given precedence on the docket of the court. The court may extend the protective order for a period not longer than two years to protect the health and safety of the petitioner or persons who are family or household members of the petitioner at the time the request for an extension is made. The extension of the protective order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the two-year period if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.

C. Upon conviction for an act of violence as defined in § 19.2-297.1 and upon the request of the victim or of the attorney for the Commonwealth on behalf of the victim, the court may issue a protective order to the victim pursuant to this chapter to protect the health and safety of the victim. The protective order may be issued for any reasonable period of time, including up to the lifetime of the defendant, that the court deems necessary to protect the health and safety of the victim. The protective order shall expire at 11:59 p.m. on the last day specified in the protective order, if any. Upon a conviction for violation of a protective order issued pursuant to this subsection, the court that issued the original protective order may extend the protective order as the court deems necessary to protect the health and safety of the victim. The extension of the protective order shall expire at 11:59 p.m. on the last day specified, if any. Nothing herein shall limit the number of extensions that may be issued.

D. A copy of the protective order shall be served on the respondent and provided to the petitioner as soon as possible. The court, including a circuit court if the circuit court issued the order, shall forthwith, but in all cases no later than the end of the business day on which the order was issued, enter and transfer electronically to the Virginia Criminal Information Network the respondent's identifying information and the name, date of birth, sex, and race of each protected person provided to the court and shall forthwith forward the attested copy of the protective order and containing any such identifying information to the primary law-enforcement agency responsible for service and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith upon the respondent and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required into the Virginia Criminal Information Network and make due return to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network as described above and the order shall be served forthwith and due return made to the court.

E. Except as otherwise provided, a violation of a protective order issued under this section shall constitute contempt of court.

F. The court may assess costs and attorneys' fees against either party regardless of whether an order of protection has been issued as a result of a full hearing.

G. Any judgment, order or decree, whether permanent or temporary, issued by a court of appropriate jurisdiction in another state, the United States or any of its territories, possessions or Commonwealths, the District of Columbia or by any tribal court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with or physical proximity to another person, including any of the conditions specified in subsection A, shall be accorded full faith

and credit and enforced in the Commonwealth as if it were an order of the Commonwealth, provided reasonable notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights and consistent with federal law. A person entitled to protection under such a foreign order may file the order in any appropriate district court by filing with the court, an attested or exemplified copy of the order. Upon such a filing, the clerk shall forthwith forward an attested copy of the order to the primary law-enforcement agency responsible for service and entry of protective orders which shall, upon receipt, enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Where practical, the court may transfer information electronically to the Virginia Criminal Information Network.

Upon inquiry by any law-enforcement agency of the Commonwealth, the clerk shall make a copy available of any foreign order filed with that court. A law-enforcement officer may, in the performance of his duties, rely upon a copy of a foreign protective order or other suitable evidence which has been provided to him by any source and may also rely upon the statement of any person protected by the order that the order remains in effect.

H. Either party may at any time file a written motion with the court requesting a hearing to dissolve or modify the order. Proceedings to modify or dissolve a protective order shall be given precedence on the docket of the court. Upon petitioner's motion to dissolve the protective order, a dissolution order may be issued ex parte by the court with or without a hearing. If an ex parte hearing is held, it shall be heard by the court as soon as practicable. If a dissolution order is issued ex parte, the court shall serve a copy of such dissolution order on respondent in conformity with §§ 8.01-286.1 and 8.01-296.

I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

J. No fees shall be charged for filing or serving petitions pursuant to this section.

K. As used in this section:

"Copy" includes a facsimile copy; and

"Protective order" includes an initial, modified or extended protective order.

L. Upon issuance of a protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

M. An appeal of a protective order issued pursuant to this section shall be given expedited review by the Court of Appeals.

§ 19.2-165. Recording evidence and incidents of trial in felony cases; cost of recording; cost of transcripts; certified transcript deemed prima facie correct; request for copy of transcript.

In all ~~felony~~ *criminal* cases *in a court of record*, the court or judge trying the case shall by order entered of record provide for the recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or electronic devices approved by the court. The expense of reporting or recording the trial of criminal cases shall be paid by the Commonwealth out of the appropriation for criminal charges, upon approval of the trial judge. However, if the defendant is convicted, the Commonwealth shall be entitled to receive the amount allocated to the court reporter fund under the fixed felony fee. Localities that maintain mechanical or electronic devices for this purpose shall be entitled to retain their reasonable expenses attributable to the cost of operating and maintaining such equipment. The clerk shall receive the evidence at the time of admission of such evidence by the court and shall maintain control over such evidence until the time such evidence is transferred on appeal, or destroyed or returned in accordance with law.

~~In all felony cases where it appears to the court from the affidavit of the defendant and other evidence that the defendant intends to seek an appeal and is financially unable to pay such costs or to bear the expense of a copy~~ *The costs for the preparation* of the transcript of the evidence for an appeal~~, the trial court shall, upon the motion of counsel for the defendant, order the evidence transcribed for such appeal and all costs therefor~~ *shall be* paid by the Commonwealth out of the appropriation for criminal charges. ~~If the conviction is not reversed, all costs paid by the Commonwealth, under the provisions hereof, shall be assessed against the defendant.~~

The reporter or other individual designated to report and record the trial shall file the original shorthand notes or other original records with the clerk of the circuit court who shall preserve them in the public records of the court for not less than five years if an appeal was taken and a transcript was prepared, or ten years if no appeal was taken. The transcript in any case certified by the reporter or other individual designated to report and record the trial shall be deemed prima facie a correct statement

of the evidence and incidents of trial.

Upon the request of any counsel of record, or of any party not represented by counsel, and upon payment of the reasonable cost thereof, the court reporter covering any proceeding shall provide the requesting party with a copy of the transcript of such proceeding or any requested portion thereof.

The court shall not direct the court reporter to cease recording any portion of the proceeding without the consent of all parties or of their counsel of record.

The administration of this section shall be under the direction of the Supreme Court of Virginia.

§ 19.2-321.1. Motion in the Court of Appeals for delayed appeal in criminal cases.

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the circuit court or an officer or employee thereof, an appeal, in whole or in part, in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; or (iii) ~~been denied or the conviction has been~~ affirmed *the conviction*, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Court of Appeals within six months after the appeal has been dismissed ~~or denied~~, the conviction has been affirmed, or the circuit court judgment sought to be appealed has become final, whichever is later. Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth ~~or, if a petition for appeal was granted in the original attempt to appeal, upon~~ *and* the Attorney General, in accordance with the Rules of Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Court of Appeals shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of Supreme Court shall run from the date of the order of the Court of Appeals granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding.

§ 19.2-321.2. Motion in the Supreme Court for delayed appeal in criminal cases.

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the Court of Appeals or the circuit court or an officer or employee of either, an appeal from the Court of Appeals to the Supreme Court in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; (iii) been dismissed in part because at least one assignment of error contained in the petition for appeal did not adhere to proper form or procedures; or (iv) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Supreme Court within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the Court of Appeals judgment sought to be appealed has become final, whichever is later. Such motion shall identify by the style, date, and Court of Appeals record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment to the Supreme Court, shall give the record number assigned in the Supreme Court in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the

Commonwealth ~~or, if a petition for appeal was granted in the Court of Appeals or in the Supreme Court in the original attempt to appeal, upon~~ *and* the Attorney General, in accordance with Rule 5:4 of the Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Supreme Court shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal from the Court of Appeals to the Supreme Court.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of Supreme Court shall run from the date of the order of the Supreme Court granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding, nor shall it apply in cases in which a sentence of death has been imposed.

§ 19.2-322.1. Suspension of execution of judgment on appeal.

Execution of a judgment from which an appeal to the Court of Appeals or the Supreme Court is sought may be suspended during an appeal provided the appeal is timely prosecuted ~~and an appeal bond is filed as provided in § 8.01-676.1~~.

§ 19.2-386.13. Writ of error and supersedeas.

For the purpose of review on a writ of error or supersedeas, a final judgment or order in the cause shall be deemed a final judgment ~~or order within the meaning of subsection A of § 8.01-670~~ *and may be appealed to the Court of Appeals.*

§ 19.2-402. Petition for appeal; brief in opposition; time for filing.

A. When a notice of appeal has been filed pursuant to § 19.2-400, the Commonwealth may petition the Court of Appeals for an appeal pursuant to § 19.2-398. The Commonwealth shall be represented by the *Attorney General or the* attorney for the Commonwealth prosecuting the case *if he filed a notice of appearance pursuant to § 2.2-511*.

B. The provisions of this subsection apply only to pretrial appeals. The petition for a pretrial appeal shall be filed with the clerk of the Court of Appeals not more than 14 days after the notice of transcript or written statement of facts required by § 19.2-405 is filed or, if there are objections thereto, within 14 days after the judge signs the transcript or written statement of facts. The accused may file a brief in opposition with the clerk of the Court of Appeals within 14 days after the filing of the petition for pretrial appeal. If the accused has filed a notice of cross appeal, he shall file a petition for cross appeal to be consolidated with, and filed within the same time period as, his brief in opposition. The Commonwealth may file a brief in opposition to any petition for cross appeal within 10 days after the petition for cross appeal is filed. Except as specifically provided in this section, all other requirements for the petition for pretrial appeal and brief in opposition shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia.

§ 19.2-403. Procedures on petition for pretrial appeal.

The procedures on a pretrial appeal to the Court of Appeals by the Commonwealth pursuant to *subsections A and E of* § 19.2-398, and on a cross appeal of a pretrial appeal by the accused pursuant to § 19.2-401, shall be governed by the provisions of subsections C and D of § 17.1-407. The Court of Appeals, however, shall grant or deny the petition for a pretrial appeal, and the petition for cross appeal, if any, not later than 30 days after the brief in opposition is timely filed or the time for such filing has expired.

No petition for rehearing may be filed in any pretrial appeal pursuant to this chapter. If the petition for a pretrial appeal pursuant to this chapter is denied, the Court's mandate shall immediately issue and the clerk of the Court of Appeals shall return the record forthwith to the clerk of the trial court.

§ 19.2-404. Procedures on awarded pretrial appeal.

This section applies only to pretrial appeals. If the Court of Appeals grants the Commonwealth's petition for a pretrial appeal, the Attorney General shall ~~thereafter~~ represent the Commonwealth during that appeal *unless the attorney for the Commonwealth prosecuting the case has filed a notice of appearance pursuant to § 2.2-511*.

The Commonwealth shall file its opening brief in the office of the clerk of the Court of Appeals within 25 days after the date of the certificate awarding the appeal. The brief of the appellee shall be filed in the office of the clerk of the Court of Appeals within 25 days after the filing of the Commonwealth's opening brief. The Commonwealth may then file a reply brief, including its response to any cross appeal, in the office of the clerk of the Court of Appeals within 15 days after the filing of

the brief of the accused. With the permission of a judge of the Court of Appeals, the time for filing any brief may be extended for good cause shown. Four copies of each brief shall be filed and three copies shall be mailed or delivered to opposing counsel on or before the date of filing. Except as specifically provided in this section, all other requirements of the brief shall conform as nearly as practicable to Part Five A of the Rules of the Supreme Court of Virginia. The Court of Appeals shall accelerate the appeal on its docket and render its decision not later than 60 days after the filing of the appellee's brief or after the time for filing such brief has expired.

When the opinion is rendered by the Court of Appeals, the mandate shall immediately issue and the clerk of the Court of Appeals shall return the record forthwith to the clerk of the trial court. No petition for rehearing may be filed.

§ 22.1-97. Calculation and reporting of required local expenditures; procedure if locality fails to appropriate sufficient educational funds.

A. The Department of Education shall collect annually the data necessary to make calculations and reports required by this subsection.

At the beginning of each school year, the Department shall make calculations to ensure that each school division has appropriated sufficient funds to support its estimated required local expenditure for providing an educational program meeting the prescribed Standards of Quality, required by Article VIII of the Constitution of Virginia and Chapter 13.2 (§ 22.1-253.13:1 et seq.) of this title. At the conclusion of the school year, the Department shall make calculations to verify whether the locality has provided the required expenditure, based on average daily membership as of March 31 of the relevant school year.

The Department shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the results of such calculations and the degree to which each school division has met, failed to meet, or surpassed its required expenditure.

The Joint Legislative Audit and Review Commission shall report annually to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health the state expenditure provided each locality for an educational program meeting the Standards of Quality.

The Department and the Joint Legislative Audit and Review Commission shall coordinate to ensure that their respective reports are based upon comparable data and are delivered together, or as closely following one another as practicable, to the appropriate standing committees.

B. Whenever such calculations indicate that the governing body of a county, city or town fails or refuses to appropriate funds sufficient to provide that portion of the cost apportioned to such county, city or town by law for maintaining an educational program meeting the Standards of Quality, the Board of Education shall notify the Attorney General of such failure or refusal in writing signed by the president of the Board. Upon receipt of such notification, it shall be the duty of the Attorney General to file in the circuit court for the county, city or town a petition for a writ of mandamus directing and requiring such governing body to make forthwith such appropriation as is required by law.

The petition shall be in the name of the Board of Education, and the governing body shall be made a party defendant thereto. The court may, in its discretion, cause such other officers or persons to be made parties defendant as it may deem proper. The court may make such order as may be appropriate respecting the employment and compensation of an attorney or attorneys for any party defendant not otherwise represented by counsel. The petition shall be given first priority on the docket of such court and shall be heard expeditiously in accordance with the procedures prescribed in Article 2 (§ 8.01-644 et seq.) of Chapter 25 of Title 8.01 and the writ of mandamus shall be awarded or denied according to the law and facts of the case and with or without costs, as the court may determine. The order of the court shall be final upon entry. Any appeal therefrom shall be heard and disposed of promptly by the ~~Supreme Court next after habeas corpus cases already on the docket~~ *Court of Appeals*.

§ 22.1-289.024. (Effective July 1, 2021) Appeal from refusal, denial of renewal, or revocation of license.

A. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for a child day program or family day system operated by an agency of the Commonwealth, the provisions of § 22.1-289.025 shall apply. Whenever the Superintendent refuses to issue a license or to renew a license or revokes a license for any child day program or family day system other than a child day program or family day system operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Superintendent's intent to refuse to issue or renew, or revoke a license shall be received in writing from the child day program or family day system operator within 15 days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the ~~Virginia~~ Supreme Court *or the Court of Appeals*.

B. In every appeal to a court of record, the Superintendent shall be named defendant.

C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for operation without a license.

D. When issuance or renewal of a license for a child day program or family day system has been refused by the Superintendent, the applicant shall not thereafter for a period of six months apply again for such license unless the Superintendent in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final decision has been rendered on appeal.

§ 24.2-237. Who to represent Commonwealth; trial by jury; appeal.

The attorney for the Commonwealth shall represent the Commonwealth in any trial under this article. If the proceeding is against the attorney for the Commonwealth, the court shall appoint an attorney to represent the Commonwealth. Any officer proceeded against shall have the right to demand a trial by jury. The Commonwealth and the defendant shall each have the right to ~~apply~~ *appeal* to the ~~Supreme Court for a writ of error and supersedeas~~ *Court of Appeals* upon the record made in the trial court and the ~~Supreme Court may hear~~ *Court of Appeals shall consider* and determine such cases.

§ 24.2-422. Appeal of person denied registration.

A. Within five days after the denial of an application to register, the general registrar shall notify the applicant of the denial. Notice shall be given in writing and by email or telephone if such information was provided by the applicant.

The general registrar shall send a new application for registration to the applicant with the form prescribed in subsection B. If the applicant provided his email address on the application for registration, the general registrar may send information to that email address regarding online voter registration. The general registrar shall advise the applicant that he may complete and submit the new application, in lieu of filing an appeal, if the reason stated for denial is that the applicant has failed to sign the application or failed to provide a required item of information on the application. If the general registrar is able to reach the applicant by telephone, corrections may be made by the applicant by telephone. Any applicant who returns a second application and whose second application is denied shall have the right to appeal provided in subsection B.

B. A person denied registration shall have the right to appeal, without payment of writ tax or giving security for costs, to the circuit court of the county or city in which he offers to register by filing with the clerk of the court, within 10 days of being notified of the denial, a petition in writing to have his right to register determined.

The petitioner may file his petition by completing and filing a form which shall be prescribed by the State Board and which shall be used by the general registrar to notify an applicant of the denial of his application to register and of the reasons for the denial. The form shall (i) state that an applicant denied registration has the right to appeal to the circuit court of the county or city in which he offers to register, (ii) give the name and address of the clerk of the circuit court for such county or city (to be supplied by the general registrar), (iii) state that a filing fee of $10 must be paid when filing the petition, (iv) contain a statement by which the applicant may indicate his desire to petition the court to have his right to register determined, and (v) provide space for the applicant to state the facts in support of his right to register.

On the filing of a petition to have the right to register determined, the clerk of the court shall immediately bring the matter to the attention of the chief judge of the court for the scheduling of a hearing on the petition. The matter shall be heard and determined on the face of the petition, the answer made in writing by the general registrar, and any evidence introduced as part of the proceedings. The proceedings shall take precedence over all other business of the court and shall be heard as soon as possible.

On the filing of the petition, the clerk of the court shall immediately give notice to the attorney for the Commonwealth for his county or city, who shall appear and defend against the petition on behalf of the Commonwealth.

Judgment in favor of the petitioner shall entitle him to registration. From a judgment rendered against the petitioner, an appeal shall lie to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*.

C. The provisions of § 24.2-416, pertaining to the closing of registration records in advance of an election, shall apply to any application submitted pursuant to subsection A or B following a denial of registration.

§ 24.2-433. Appeal from decision of court.

From the judgment of the court, an appeal shall lie, as a matter of right, to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*. The appeal shall be placed on the privileged docket and be heard ~~at~~ *by* the next ~~ensuing session~~ *available panel* of the court.

§ 25.1-239. Finality of order confirming, altering or modifying report; appeal.

A. The order confirming, altering or modifying the report of just compensation shall be final.

B. Any party aggrieved thereby may ~~apply for an~~ appeal to the ~~Supreme~~ Court *of Appeals* and a supersedeas may be granted in the same manner as is now provided by law and the Rules of Court applicable to civil cases. An order setting aside the report and awarding a new trial of the issue of just compensation shall not be a final order for the purposes of appeal.

C. Any party aggrieved by a judgment of the Court of Appeals rendered pursuant to subsection B may apply for an appeal to the Supreme Court and a supersedeas may be granted in the same manner as is now provided by law and the Rules of Court applicable to civil cases. An order setting aside the report and awarding a new trial of the issue of just compensation shall not be a final order for the purposes of appeal.

§ 32.1-48.010. Appeal of any order of quarantine.

A. Any person or persons subject to an order of quarantine or a court-ordered extension of any such order pursuant to this article may file an appeal of the order of quarantine as such order applies to such person or persons in the circuit court for the city or county in which the subject or subjects of the order reside or are located or the circuit court for the jurisdiction or jurisdictions for any affected area. Any petition for appeal shall be in writing, shall set forth the grounds on which the order of quarantine is being challenged vis-a-vis the subject person or persons or affected area, and shall be served upon the State Health Commissioner or his legal representative.

B. A hearing on the appeal of the order of quarantine shall be held within 48 hours of the filing of the petition for appeal or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the hearing shall be held on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

In extraordinary circumstances, for good cause shown, the Commissioner may request a continuance of the hearing, which the court shall only grant after giving due regard to the rights of the affected individuals, the protection of the public health and safety, the severity of the emergency, and the availability of witnesses and evidence.

C. Any person appealing an order of quarantine shall have the burden of proving that he is not properly the subject of the order of quarantine.

D. The filing of an appeal shall not stay any order of quarantine.

E. Upon receiving multiple appeals of an order of quarantine that applies to a group of persons or an affected area, the court may, on the motion of any party or on the court's own motion, consolidate the cases in a single proceeding for all appeals when (i) there are common questions of law or fact relating to the individual claims or rights to be determined; (ii) the claims of the consolidated cases are substantially similar; and (iii) all parties to the appeals will be adequately represented in the consolidation.

F. The circuit court shall not conduct a de novo review of the order of quarantine; however, the court shall consider the existing record and such supplemental evidence as the court shall consider relevant. The court shall conduct the hearing on an appeal of an order of quarantine in a manner that will protect the health and safety of court personnel, counsels, witnesses, and the general public and in accordance with rules of the Supreme Court of Virginia pursuant to subsection C of § 17.1-503. The court may, for good cause shown, hold all or any portion of the hearings in camera upon motion of any party or upon the court's own motion.

G. Upon completion of the hearing, the court may (i) vacate or modify the order of quarantine as such order applies to any person who filed the appeal and who is not, according to the record and the supplemental evidence, appropriately subject to the order of quarantine; (ii) vacate or modify the order of quarantine as such order applies to all persons who filed an appeal and who are not, according to the record and the supplemental evidence, appropriately subject to the order of quarantine; (iii) confirm the order of quarantine as it applies to any person or all appealing parties upon a finding that such person or persons are appropriately subject to the order of quarantine and that quarantine is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat; or (iv) confirm the order of quarantine as it applies to all persons subject to the order upon finding that all such persons are appropriately subject to the order of quarantine and that quarantine is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.

In any case in which the court shall vacate the order of quarantine as it applies to any person who has filed a request for review of such order and who is subject to such order or as it applies to all persons seeking judicial review who are subject to such order, the person or persons shall be immediately released from quarantine unless such order to vacate the quarantine shall be stayed by the filing of an appeal to the Supreme Court ~~of Virginia~~ *or the Court of Appeals*. Any party to the case may file an appeal of the circuit court decisions to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*. Parties to the

case shall include any person who is subject to an order of quarantine and has filed an appeal of such order with the circuit court and the State Health Commissioner.

H. Appeals of any final order of any circuit court regarding the State Health Commissioner's petition for review and confirmation or extension of an order of quarantine or any appeal of an order of quarantine by a person or persons who are subject to such order shall be appealable ~~directly~~ to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*, with an expedited review in accordance with the rules of the court pursuant to subsection C of § 17.1-503.

I. Appeals of any circuit court order relating to an order of quarantine shall not stay any order of quarantine.

J. Persons requesting judicial review of any order of quarantine shall have the right to be represented by an attorney in all proceedings. If the person is unable to afford an attorney, counsel shall be appointed for the person by the circuit court for the jurisdiction in which the person or persons who are subject to the order of quarantine reside or, in the case of an affected area, by the circuit court for the jurisdiction or jurisdictions for the affected area. Counsel so appointed shall be paid at a rate established by the Supreme Court of Virginia from the Commonwealth's criminal fund.

§ 32.1-48.013. Appeal of any order of isolation.

A. Any person or persons subject to an order of isolation or a court-ordered confirmation or extension of any such order pursuant to this article may file an appeal of the order of isolation in the circuit court for the city or county in which such person or persons reside or are located or, in the case of an affected area, in the circuit court for any affected jurisdiction or jurisdictions. Any petition for appeal shall be in writing, shall set forth the grounds on which the order of isolation is being challenged vis-a-vis the subject person or persons or affected area, and shall be served upon the State Health Commissioner or his legal representative.

B. A hearing on the appeal of the order of isolation shall be held within 48 hours of the filing of the petition for appeal or, if the 48-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the hearing shall be held on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is lawfully closed.

In extraordinary circumstances, for good cause shown, the Commissioner may request a continuance of the hearing, which the court shall only grant after giving due regard to the rights of the affected individuals, the protection of the public health and safety, the severity of the emergency, and the availability of witnesses and evidence.

C. Any person appealing an order of isolation shall have the burden of proving that he is not properly the subject of the order of isolation.

D. An appeal shall not stay any order of isolation.

E. Upon receiving multiple appeals of an order of isolation, the court may, on the motion of any party or on the court's own motion, consolidate the cases in a single proceeding for all appeals when (i) there are common questions of law or fact relating to the individual claims or rights to be determined; (ii) the claims of the consolidated cases are substantially similar; and (iii) all parties to the appeals will be adequately represented in the consolidation.

F. The circuit court shall not conduct a de novo review of the order of isolation; however, the court shall consider the existing record and such supplemental evidence as the court shall consider relevant. The court shall conduct the hearing on an appeal of an order of isolation in a manner that will protect the health and safety of court personnel, counsels, witnesses, and the general public and in accordance with rules of the Supreme Court of Virginia pursuant to subsection C of § 17.1-503. The court may, for good cause shown, hold all or any portion of the hearings in camera upon motion of any party or the court's own motion.

G. Upon completion of the hearing, the court may (i) vacate or modify the order of isolation as such order applies to any person who filed the appeal and who is not, according to the record and the supplemental evidence, appropriately subject to the order of isolation; (ii) vacate or modify the order of isolation as such order applies to all persons who filed an appeal and who are not, according to the record and the supplemental evidence, appropriately subject to the order of isolation; (iii) confirm the order of isolation as it applies to any person or all appealing parties upon a finding that such person or persons are appropriately subject to the order of isolation and that isolation is being implemented in the least restrictive environment to address the public health threat effectively, given the reasonably available information on effective infection control measures and the nature of the communicable disease of public health threat; or (iv) confirm the order of isolation as it applies to all persons subject to the order upon finding that all such persons are appropriately subject to the order of isolation and that isolation is being implemented in the least restrictive environment to address the public health threat effectively given the reasonably available information on effective control measures and the nature of the communicable disease of public health threat.

In any case in which the court shall vacate the order of isolation as it applies to any person who has

filed a request for review of such order and who is subject to such order or as it applies to all persons seeking judicial review who are subject to such order, the person or persons shall be immediately released from isolation unless such order to vacate the isolation shall be stayed by the filing of an appeal to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*. Any party to the case may file an appeal of the circuit court decisions to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*. Parties to the case shall include any person who is subject to an order of isolation and has filed an appeal of such order with the circuit court and the State Health Commissioner.

H. Appeals of any final order of any circuit court regarding the State Health Commissioner's petition for review and confirmation or extension of an order of isolation or any appeal of an order of isolation by a person or persons who are subject to such order shall be appealable ~~directly~~ to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*, with an expedited review in accordance with the rules of the court pursuant to subsection C of § 17.1-503.

I. Appeals of any circuit court order relating to an order of isolation shall not stay any order of isolation.

J. Persons appealing any order of isolation shall have the right to be represented by an attorney in all proceedings. If the person is unable to afford an attorney, counsel shall be appointed for the person by the circuit court for the jurisdiction in which the person or persons who are subject to the order of isolation reside or, in the case of an affected area, by the circuit court for the jurisdiction or jurisdictions for the affected area. Counsel so appointed shall be paid at a rate established by the Supreme Court of Virginia from the Commonwealth's criminal fund.

§ 33.2-928. Procedure to secure abandonment of highways to be flooded in connection with municipal water supply projects.

A city or town subject to the provisions of this article shall certify to the governing body of the county within which the highway, or the greater part thereof, lies a copy of the ordinance adopted by the city or town as provided in this article. The governing body of the county, upon receipt, shall within 30 days (i) consider the reasonableness of the action contemplated by the city or town ordinance, (ii) propose and publish an ordinance approving or disapproving the action contemplated by the city or town, and (iii) conduct a hearing thereon. In the event that after such hearing the governing body of the county disapproves the proposed flooding, discontinuance, and abandonment of the highway, the city or town shall have the right to an appeal to the circuit court of the county where the question of the reasonableness of the proposed flooding and abandonment shall be heard de novo by the circuit court and judgment shall be rendered according to its decision. ~~From the~~ *The* judgment ~~a writ of error will lie in the discretion of the Supreme Court of Virginia~~ *of the circuit court may be appealed to the Court of Appeals*.

§ 33.2-2917. Miscellaneous.

A. Any money set aside for the payment of the principal of or interest on any bonds issued by the Authority not claimed within two years from the day the principal of such bonds is due by maturity or by call for redemption shall be paid into the state treasury. No interest shall accrue on such principal or interest from the day the same is due. The Comptroller shall keep an account of all money thus paid into the state treasury, and it shall be paid to the individual partnership, association, or corporation entitled thereto upon satisfactory proof that such individual, partnership, association, or corporation is so entitled to such money. If the claim so presented is rejected by the Comptroller, the claimant may proceed against the Comptroller for recovery in the Circuit Court of the City of Richmond. An appeal from the judgment of the circuit court shall lie to the ~~Supreme~~ Court of ~~Virginia~~ *Appeals* as in actions at law, and all laws and rules relating to practice and procedure in actions at law shall apply to such authorized proceedings. No such proceedings shall be filed after 10 years from the day the principal of or interest on such bonds is due; however, if the individual having such claim is an infant or insane person or is imprisoned at such due date, such proceedings may be filed within five years after the removal of such disability, notwithstanding the fact that such 10-year period has expired.

B. The Authority may contract with the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police for the policing of any Authority facilities, and the City of Richmond, the Counties of Henrico and Chesterfield, and the Department of State Police are hereby authorized to enter into contracts with the Authority for such purpose. Police officers providing police services pursuant to such contracts shall be under the exclusive control and direction of the authority providing such officers and shall be responsible to that authority exclusively for the performance of their duties and the exercise of their powers. The Authority shall reimburse the City of Richmond, the County of Henrico or Chesterfield, or the Commonwealth in such amounts and at such time as shall be mutually agreed upon for providing police service. Such officers shall be responsible for the preservation of the public peace, prevention of crime, apprehension of criminals, protection of the rights of persons and property, and enforcement of the laws of the Commonwealth and all regulations of the Authority made in accordance, and such officers shall have all the rights and duties of police officers as provided by the

general laws of the Commonwealth. The violation of any such regulation shall be punishable as follows: if such a violation would have been a violation of law if committed on any public highway in the City of Richmond or the County of Henrico or Chesterfield, it shall be punishable in the same manner as if it had been committed on such public highway; otherwise it shall be punishable as a Class 1 misdemeanor. All other police officers of the Commonwealth, the City of Richmond, and the Counties of Henrico and Chesterfield shall have the same powers and jurisdiction within the areas of operations agreed upon by the parties that they have beyond such limits and shall have access to all such areas at any time without interference for the purpose of exercising such powers and jurisdiction. For the purpose of enforcing such laws and regulations, the court having jurisdiction for the trial of criminal offenses committed in the City of Richmond or in the Counties of Henrico and Chesterfield within whose boundaries any crime is committed shall have jurisdiction to try any person charged with the violation of any such laws and regulations within such boundaries. A copy of the regulations of the Authority, attested by the secretary or secretary-treasurer of the Authority, may be admitted as evidence in lieu of the original. Any such copy purporting to be sealed and signed by such secretary or secretary-treasurer may be admitted as evidence without any proof of the seal or signature or of the official character of the person whose name is signed to it.

C. All actions at law and suits in equity and other proceedings, actions, and suits against the Authority, or any other person, firm, or corporation, growing out of the construction, maintenance, repair, operation, and use of any Authority facility, or growing out of any other circumstances, events, or causes in connection therewith, unless otherwise provided in this section, shall be brought and conducted in the court having jurisdiction of such actions, suits, and proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the causes of such actions, suits, and proceedings arise, and jurisdiction is hereby conferred on such court for that purpose. All such actions, suits, and proceedings on behalf of the Authority shall be brought and conducted in the Circuit Court of the City of Richmond, except as otherwise provided in this section, and exclusive jurisdiction is hereby conferred on such court for the purpose. Eminent domain proceedings instituted and conducted by the Authority shall be brought and conducted in the court having jurisdiction of such proceedings in the City of Richmond or the County of Henrico or Chesterfield within whose boundaries the land or other property to be so acquired or the major portion thereof is situated, and jurisdiction is hereby conferred on such court for such purpose.

D. On or before September 30 of each year, the Authority shall prepare a report of its activities for the 12-month period ending the preceding July 1 of such year and shall file a copy thereof with the Commonwealth Transportation Board, the City of Richmond, and the Counties of Henrico and Chesterfield. Each such report shall set forth an operating and financial statement covering the Authority's operations during the 12-month period covered by the report. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants to be selected by the Authority, and the cost of such audit shall be treated as a part of the cost of construction and operation of a project.

E. The records, books, and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the Commonwealth Transportation Board, the governing bodies of the City of Richmond and the Counties of Henrico and Chesterfield, and any bondholder at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

F. Any member, agent, or employee of the Authority who contracts with the Authority or is interested in contracting with the Authority or in the sale of any property, either real or personal, to the Authority shall be guilty of a misdemeanor and shall be subject to a fine of not more than $1,000 or imprisonment in jail for not more than one year, either or both. Exclusive jurisdiction for the trial of such misdemeanors is hereby conferred upon the Circuit Court of the City of Richmond, provided that the term "contract," as used in this chapter, shall not be held to include the depositing of funds in, the borrowing of funds from, or the serving as agent or trustee by any bank in which any member, agent, or employee of the Authority may be a director, officer, or employee or have a security interest, nor shall such term include contracts or agreements with the Commonwealth Transportation Board or the purchase of services from, or other transactions in the ordinary course of business with, public service corporations.

§ 37.2-920. Appeal by Attorney General; emergency custody order.

In any case in which the Attorney General successfully appeals the trial court's denial of probable cause, denial of civil commitment or conditional release, or discharge or placement on conditional release after an annual review hearing, upon the issuance of the mandate by the ~~Supreme~~ Court of ~~Virginia~~ *Appeals*, the trial court shall immediately issue an emergency custody order to any local law-enforcement official to have the person taken into custody and held in the local correctional facility, pending further appropriate proceedings.

§ 45.1-161.322. Restoration of property to owner or operator.

A. Whenever the owner or operator of the business of mining, production and marketing coal, whose property has been acquired by the Commission, shall notify the Commission in writing, stating that he is in position to, and can and will resume operation and render normal service, and shall satisfy the Commission of the correctness of such statement or whenever in the judgment of the Governor the emergency declared by him no longer exists, the Commission shall restore the possession of the property so acquired by them to the owner or operator upon his request. In the event the Commission refuses such restoration of possession, the owner or operator shall have the right to have a rule issued requiring the Commission to show cause why such possession should not be restored and the court shall determine the matter as in this section provided.

B. Any such owner or operator shall be entitled to receive reasonable, proper and lawful compensation for the use of the properties so acquired by the Commonwealth and paid the same out of the state treasury. In the event the Commission has acquired such property by purchase, the owners upon reacquisition shall repay the purchase price less fair compensation for use of such property. In the event the Commission and the owner or operator are unable to agree upon the amount of such compensation either party in interest may file a petition in the circuit court for the county or city in which the property is located for the purpose of having the same judicially determined. The court shall, without a jury, hear such evidence and argument of counsel as may be deemed appropriate and render judgment thereon or may refer to a commissioner such questions as are considered proper and act upon the commissioner's report as in other equity proceedings. An appeal shall lie to the ~~Supreme~~ Court *of Appeals* from any final judgment of the court rendered upon the provisions of this chapter.

§ 55.1-1833. Lien for assessments.

A. The association shall have a lien, once perfected, on every lot for unpaid assessments levied against that lot in accordance with the provisions of this chapter and all lawful provisions of the declaration. The lien, once perfected, shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens on that lot, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of such lien. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens. Notice of a memorandum of lien to a holder of a credit line deed of trust under § 55.1-318 shall be given in the same fashion as if the association's lien were a judgment.

B. The association, in order to perfect the lien given by this section, shall file, before the expiration of 12 months from the time the first such assessment became due and payable in the clerk's office of the circuit court in the county or city in which such development is situated, a memorandum, verified by the oath of the principal officer of the association or such other officer or officers as the declaration may specify, which contains the following:

1. The name of the development;

2. A description of the lot;

3. The name or names of the persons constituting the owners of that lot;

4. The amount of unpaid assessments currently due or past due relative to such lot together with the date when each fell due;

5. The date of issuance of the memorandum;

6. The name of the association and the name and current address of the person to contact to arrange for payment or release of the lien; and

7. A statement that the association is obtaining a lien in accordance with the provisions of the Property Owners' Association Act as set forth in Chapter 18 (§ 55.1-1800 et seq.) of Title 55.1.

It shall be the duty of the clerk in whose office such memorandum is filed as provided in this section to record and index the same as provided in subsection D, in the names of the persons identified in such memorandum as well as in the name of the association. The cost of recording and releasing the memorandum shall be taxed against the person found liable in any judgment or order enforcing such lien.

C. Prior to filing a memorandum of lien, a written notice shall be sent to the property owner by certified mail, at the property owner's last known address, informing the property owner that a memorandum of lien will be filed in the circuit court clerk's office of the applicable county or city. The notice shall be sent at least 10 days before the actual filing date of the memorandum of lien.

D. Notwithstanding any other provision of this section or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1989, all memoranda of liens arising under this section shall be recorded in the deed books in the clerk's office. Any memorandum shall be indexed in the general index to deeds, and the general index shall identify the lien as a lien for lot assessments.

E. No action to enforce any lien perfected under subsection B shall be brought or action to foreclose any lien perfected under subsection I shall be initiated after 36 months from the time when the

memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action in which the petition may be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

F. The judgment or order in an action brought pursuant to this section shall include reimbursement for costs and reasonable attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

G. When payment or satisfaction is made of a debt secured by the lien perfected by subsection B, the lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of § 55.1-339, the principal officer of the association, or any other officer or officers as the declaration may specify, shall be deemed the duly authorized agent of the lien creditor.

H. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § 55.1-1828.

I. At any time after perfecting the lien pursuant to this section, the property owners' association may sell the lot at public sale, subject to prior liens. For purposes of this section, the association shall have the power both to sell and convey the lot and shall be deemed the lot owner's statutory agent for the purpose of transferring title to the lot. A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The association shall give notice to the lot owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the lot owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the lot. The notice shall further inform the lot owner of the right to bring a court action in the circuit court of the county or city where the lot is located to assert the nonexistence of a debt or any other defense of the lot owner to the sale.

2. After expiration of the 60-day notice period specified in subdivision 1, the association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which such development is situated. It shall be the duty of the clerk in whose office such appointment is filed to record and index the same as provided in subsection D, in the names of the persons identified in such appointment as well as in the name of the association. The association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If the lot owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the lot owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the lot. Those conditions are that the lot owner (i) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (ii) pay all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, including the name, address, and telephone number of the trustee, by hand delivery or by mail to (i) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the association, (ii) any lienholder who holds a note against the property secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to lienholders and their assigns, at the addresses noted in the memorandum of lien, by United States mail, postage prepaid, no less than 14 days prior to such sale, shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the county or city in which the property to be sold, or any portion of such property, is located pursuant to the following provisions:

a. The association shall advertise once a week for four successive weeks; however, if the property or some portion of such property is located in a city or in a county immediately contiguous to a city, publication of the advertisement on five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in

addition to such other matters as the association finds appropriate, shall set forth a description of the property to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the property by street address, if any, or, if none, shall give the general location of the property with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the association may further advertise as the association finds appropriate.

6. In the event of postponement of sale, which postponement shall be at the discretion of the association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court.

8. The association shall have the following powers and duties upon a sale:

a. Written one-price bids may be made and shall be received by the trustee from the association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the declaration, the association may bid to purchase the lot at a foreclosure sale. The association may own, lease, encumber, exchange, sell, or convey the lot. Whenever the written bid of the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision I 10 and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the association, its agent, or its attorney.

b. The association may require any bidder at any sale to post a cash deposit of as much as 10 percent of the sale price before his bid is received, which shall be refunded to him if the property is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or, if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

c. The property owners' association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the owner or his assigns, provided, however, that, as to the payment of such residue, the association shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the owner's equity, without actual notice thereof prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the lot with special warranty of title. The trustee shall not be required to take possession of the property prior to the sale of such property or to deliver possession of the lot to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-1309, and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall be made available for inspection and copying pursuant to § 55.1-1815 upon the written request of the prior lot owner, the current lot owner, or any holder of a recorded lien against the lot at the time of the sale. The association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a lot is made pursuant to subsection I and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts the sale is set aside by the court or an appeal is ~~allowed by~~ *filed in the Court of Appeals or granted by* the Supreme Court ~~of Virginia~~ and an order is entered requiring such sale to be set aside.

§ 55.1-1966. Lien for assessments.

A. The unit owners' association shall have a lien on each condominium unit for unpaid assessments levied against that condominium unit in accordance with the provisions of this chapter and all lawful provisions of the condominium instruments. The lien, once perfected, shall be prior to all other liens and encumbrances except (i) real estate tax liens on that condominium unit, (ii) liens and encumbrances recorded prior to the recordation of the declaration, and (iii) sums unpaid on any first mortgages or first deeds of trust recorded prior to the perfection of such lien for assessments and securing institutional lenders. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens.

B. Notwithstanding any other provision of this section, or any other provision of law requiring documents to be recorded in the miscellaneous lien books or the deed books in the clerk's office of any court, on or after July 1, 1974, all memoranda of liens arising under this section shall, in the discretion of the clerk, be recorded in the miscellaneous lien books or the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for condominium assessments.

C. In order to perfect the lien given by this section, the unit owners' association shall file a memorandum verified by the oath of the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, before the expiration of 90 days from the time the first such assessment became due and payable. The memorandum shall be filed in the clerk's office of the circuit court in the county or city in which such condominium is situated. The memorandum shall contain the following:

1. A description of the condominium unit in accordance with the provisions of § 55.1-1909.

2. The name or names of the persons constituting the unit owners of that condominium unit.

3. The amount of unpaid assessments currently due or past due together with the date when each fell due.

4. The date of issuance of the memorandum.

The clerk in whose office such memorandum is filed shall record and index the memorandum as provided in subsection B, in the names of the persons identified in such memorandum as well as in the name of the unit owners' association. The cost of recording such memorandum shall be taxed against the person found liable in any judgment enforcing such lien.

D. No action to enforce any lien perfected under subsection C shall be brought or action to foreclose any lien perfected under subsection I shall be initiated after 36 months from the time when the memorandum of lien was recorded; however, the filing of a petition to enforce any such lien in any action in which such petition may be properly filed shall be regarded as the institution of an action under this section. Nothing in this subsection shall extend the time within which any such lien may be perfected.

E. The judgment in an action brought pursuant to this section shall include reimbursement for costs and attorney fees of the prevailing party. If the association prevails, it may also recover interest at the legal rate for the sums secured by the lien from the time each such sum became due and payable.

F. When payment or satisfaction is made of a debt secured by the lien perfected by subsection C, such lien shall be released in accordance with the provisions of § 55.1-339. Any lien that is not so released shall subject the lien creditor to the penalty set forth in subdivision B 1 of § 55.1-339. For the purposes of that section, the principal officer of the unit owners' association, or such other officer as the condominium instruments may specify, shall be deemed the duly authorized agent of the lien creditor.

G. Nothing in this section shall be construed to prohibit actions at law to recover sums for which subsection A creates a lien, maintainable pursuant to § 55.1-1915.

H. Any unit owner or purchaser of a condominium unit, having executed a contract for the disposition of such condominium unit, shall be entitled upon request to a recordable statement setting forth the amount of unpaid assessments currently levied against that unit. Such request shall be in writing, directed to the principal officer of the unit owners' association or to such other officer as the condominium instruments may specify. Failure to furnish or make available such a statement within 10 days of the receipt of such request shall extinguish the lien created by subsection A as to the condominium unit involved. Such statement shall be binding on the unit owners' association, the executive board, and every unit owner. Payment of a fee not exceeding $10 may be required as a prerequisite to the issuance of such a statement if the condominium instruments so provide.

I. At any time after perfecting the lien pursuant to this section, the unit owners' association may sell the unit at public sale, subject to prior liens. For purposes of this section, the unit owners' association shall have the power both to sell and convey the unit and shall be deemed the unit owner's statutory agent for the purpose of transferring title to the unit. A nonjudicial foreclosure sale shall be conducted in compliance with the following:

1. The unit owners' association shall give notice to the unit owner prior to advertisement required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the unit owner, by which the debt secured by the lien must be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the unit. The notice shall further inform the unit owner of the right to bring a court action in the circuit court of the county or city where the condominium is located to assert the nonexistence of a debt or any other defense of the unit owner to the sale.

2. After expiration of the 60-day notice period provided in subdivision 1, the unit owners' association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's

office of the circuit court in the county or city in which the condominium is located. The clerk in whose office such appointment is filed shall record and index the appointment as provided in subsection C, in the names of the persons identified therein as well as in the name of the unit owners' association. The unit owners' association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If the unit owner meets the conditions specified in this subdivision prior to the date of the foreclosure sale, the unit owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the unit. Those conditions are that the unit owner (a) satisfy the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (b) pays all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees.

4. In addition to the advertisement required by subdivision 5, the unit owners' association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, and shall include the name, address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the condominium unit to be sold at his last known address as such owner and address appear in the records of the unit owners' association, (ii) any lienholder who holds a note against the condominium unit secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust provided the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by ordinary mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the unit owners' association shall be in a newspaper having a general circulation in the locality in which the condominium unit to be sold, or any portion of such unit, is located pursuant to the following provisions:

a. The unit owners' association shall advertise once a week for four successive weeks; however, if the condominium unit or some portion of such unit is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30 days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of property being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the unit owners' association finds appropriate, shall set forth a description of the condominium unit to be sold, which description need not be as extensive as that contained in the deed of trust but shall identify the condominium unit by street address, if any, or, if none, shall give the general location of the condominium unit with reference to streets, routes, or known landmarks. Where available, tax map identification may be used but is not required. The advertisement shall also include the date, time, place, and terms of sale and the name of the unit owners' association. The advertisement shall set forth the name, address, and telephone number of the representative, agent, or attorney who may be able to respond to inquiries concerning the sale.

c. In addition to the advertisement required by subdivisions a and b, the unit owners' association may give such other further and different advertisement as the association finds appropriate.

6. In the event of postponement of a sale, which postponement shall be at the discretion of the unit owners' association, advertisement of such postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the condominium unit voidable by the court.

8. In the event of a sale, the unit owners' association shall have the following powers and duties:

a. Written one-price bids may be made and shall be received by the trustee from the unit owners' association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person who has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the condominium instruments, the unit owners' association may bid to purchase the unit at a foreclosure sale. The unit owners' association may own, lease, encumber, exchange, sell, or convey the unit. Whenever the written bid of the unit owners' association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the unit owners' association or its agent or attorney.

b. The unit owners' association may require of any bidder at any sale a cash deposit of as much as 10 percent of the sale price before his bid is received, which shall be refunded to him if the

condominium unit is not sold to him. The deposit of the successful bidder shall be applied to his credit at settlement, or if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the unit owners' association in connection with that sale.

c. The unit owners' association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and apply the same in the following order: first, to the reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the unit owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the unit owner or his assigns, provided, however, that the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit owner's equity, without actual notice of such encumbrance prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the unit with special warranty of title. The trustee shall not be required to take possession of the condominium unit prior to the sale or to deliver possession of the unit to the purchaser at the sale.

10. The trustee shall file an accounting of the sale with the commissioner of accounts pursuant to § 64.2-1309 and every account of a sale shall be recorded pursuant to § 64.2-1310. In addition, the accounting shall be made available for inspection and copying pursuant to § 55.1-1945 upon the written request of the prior unit owner, current unit owner, or any holder of a recorded lien against the unit at the time of the sale. The unit owners' association shall maintain a copy of the accounting for at least 12 months following the foreclosure sale.

11. If the sale of a unit is made pursuant to this subsection and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless within 12 months from the confirmation of the accounting by the commissioner of accounts, the sale is set aside by the court or an appeal is ~~allowed by~~ *filed in the Court of Appeals or granted by* the Supreme Court ~~of Virginia~~ and an order is entered requiring such sale to be set aside.

§ 55.1-2211. Time-share estate owners' association control liens.

A. The board of directors of the association shall have the authority to adopt regular annual assessments and to levy periodic special assessments against each of the time-share estate unit owners and to collect the same from such owners according to law if the purpose in so doing is determined by the board of directors to be in the best interest of the time-share project or time-share program and the proceeds are used to either pay common expenses or fund a reserve. In addition, the board of directors of the association shall have the authority to collect, on behalf of the developer or on its own account, the maintenance fee imposed by the developer pursuant to § 55.1-2210. The authority hereby granted and conferred upon the association shall exist notwithstanding any covenants and restrictions of record applicable to the project stated to the contrary, and any such covenants and restrictions are hereby declared void.

B. The developer may provide that it not be obligated to pay all or a portion of any assessment, dues, or other charges of the association, however denominated, passed, or adopted, pursuant to subsection A, if such developer so provides, in bold type, in the time-share instrument for the time-share estate project. If no such provision exists, the developer shall be responsible to pay the same assessment, dues, or other charges that a time-share estate owner is obligated to pay for each of its unsold time-shares existing at the end of the fiscal year of the association and no more if the board of directors of the association so determines. In no event shall either a time-share expense or the dues, assessment, or charges of the association discriminate against the developer.

C. The association shall have a lien on every time-share estate within its project for unpaid and past due regular or special assessments levied against that estate in accordance with the provisions of this chapter and for all unpaid and past due maintenance fees. The exemption created by § 34-4 shall not be claimed against the debt or lien of the association created by this section.

The association, in order to perfect the lien given by this subsection, shall file, before the expiration of four years from the time such special or regular assessment or maintenance fee became due, in the clerk's office of the county or city in which the project is situated, a memorandum verified by the oath of any officer of the association or its managing agent and containing the following information:

1. The name and location of the project;

2. The name and address of each owner of the time-share on which the lien exists and a description of the unit in which the time-share is situated;

3. The amount of past due special or regular assessments or past due maintenance fees applicable to the time-share, together with the date when each became due;

4. The amount of any other charges owing occasioned by the failure of the owner to pay the assessments or maintenance fees, including late charges, interest, postage and handling, attorney fees, recording costs, and release fees;

5. The name, address, and telephone number of the association's trustee, if known at the time, who will be called upon by the association to foreclose on the lien upon the owner's failure to pay as provided in this subsection; and

6. The date of issuance of the memorandum.

Notwithstanding any other provision of this chapter, or any other provision of law requiring documents to be recorded in the deed books of the clerk's office of any court, from July 1, 1981, all memoranda of liens arising under this subsection shall be recorded in the deed books in such clerk's office. Any such memorandum shall be indexed in the general index to deeds, and such general index shall identify the lien as a lien for time-share estate regular or special assessments or maintenance fees.

The clerk in whose office such memorandum is filed as provided in this subsection shall record and index such memorandum as provided in this subsection, in the names of the persons identified in such memorandum as well as in the name of the time-share estates owners' association. The cost of recording such memorandum shall be taxed against the owner of the time-share on which the lien is placed. The filing with the clerk of one memorandum on which is listed two or more delinquent time-share estate unit owners is permitted in order to perfect the lien hereby allowed, and the cost of filing in this event shall be the clerk's fee as prescribed in subdivision A 2 of § 17.1-275.

D. At any time after perfecting the lien pursuant to this section, the association may sell the time-share estate at a public sale, subject to prior liens. For purposes of this section, the association shall have the power both to sell and convey the time-share estate and shall be deemed the time-share estate owner's statutory agent for the purpose of transferring title to the time-share estate. A nonjudicial foreclosure sale shall be conducted by a trustee and in accordance with the following:

1. The association shall give notice to the time-share estate owner, prior to advertisement, as required by subdivision 4. The notice shall specify (i) the debt secured by the perfected lien; (ii) the action required to satisfy the debt secured by the perfected lien; (iii) the date, not less than 60 days from the date the notice is given to the time-share estate owner, by which the debt secured by the lien shall be satisfied; and (iv) that failure to satisfy the debt secured by the lien on or before the date specified in the notice may result in the sale of the time-share estate. The notice shall further inform the time-share estate owner of the right to bring a court action in the circuit court of the county or city where the time-share project is located to assert the nonexistence of a debt or any other defenses of the time-share estate owner to the sale.

2. After expiration of the 60-day notice period provided in subdivision 1, the association may appoint a trustee to conduct the sale. The appointment of the trustee shall be filed in the clerk's office of the circuit court in the county or city in which the time-share project is located. It shall be the duty of the clerk in whose office such appointment is filed to record and index the same, as provided in this subsection, in the names of the persons identified therein as well as in the name of the association. The association, at its option, may from time to time remove the trustee and appoint a successor trustee.

3. If, prior to the date of the foreclosure sale, the time-share estate owner (i) satisfies the debt secured by lien that is the subject of the nonjudicial foreclosure sale and (ii) pays all expenses and costs incurred in perfecting and enforcing the lien, including advertising costs and reasonable attorney fees, the time-share estate owner shall have the right to have enforcement of the perfected lien discontinued prior to the sale of the time-share estate.

4. In addition to the advertisement required by subdivision 5, the association shall give written notice of the time, date, and place of any proposed sale in execution of the lien, including the name, address, and telephone number of the trustee, by personal delivery or by mail to (i) the present owner of the time-share estate to be sold at his last known address as such owner and address appear in the records of the association, (ii) any lienholder that holds a note against the time-share estate secured by a deed of trust recorded at least 30 days prior to the proposed sale and whose address is recorded with the deed of trust, and (iii) any assignee of such a note secured by a deed of trust, provided that the assignment and address of the assignee are likewise recorded at least 30 days prior to the proposed sale. Mailing a copy of the advertisement or the notice containing the same information to the owner by certified or registered mail no less than 14 days prior to such sale and to the lienholders and their assigns, at the addresses noted in the memorandum of lien, by regular mail no less than 14 days prior to such sale shall be a sufficient compliance with the requirement of notice.

5. The advertisement of sale by the association shall be in a newspaper having a general circulation in the county or city wherein the time-share estate to be sold and the time-share project, or any portion of such project, lies pursuant to the following provisions:

a. The association shall advertise once a week for four successive weeks; however, if the time-share estate and the time-share project or some portion of such project is located in a city or in a county immediately contiguous to a city, publication of the advertisement five different days, which may be consecutive days, shall be deemed adequate. The sale shall be held on any day following the day of the last advertisement that is no earlier than eight days following the first advertisement nor more than 30

days following the last advertisement.

b. Such advertisement shall be placed in that section of the newspaper where legal notices appear or where the type of time-share estate being sold is generally advertised for sale. The advertisement of sale, in addition to such other matters as the association finds appropriate, shall set forth:

(1) A description of the time-share estate to be sold, which description need not be as extensive as that contained in the deed of trust, but shall identify the time-share project by street address, if any, or, if none, shall give the general location of such time-share project with reference to streets, routes, or known landmarks with further identification of the time-share estate to be sold. Where available, tax map identification may be used. The advertisement shall also include the date, time, place, and terms of sale and the name of the association. It shall set forth the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries concerning the sale; or

(2) In lieu of the requirements of subdivision (1), the advertisement shall set forth the date, time, place, and terms of sale and the name of the association; the street address of the time-share estate to be sold, if any, or, if none, the general location of the time-share project; and the name, address, and telephone number of the representative, agent, or attorney who is authorized to respond to inquiries and give additional information concerning the time-share estate to be sold, including providing in hard copy or electronic form a description of the time-share estate to be sold by street address, if any, or, if none, by the general location of the time-share project with reference to streets, routes, or known landmarks, and, where available, tax map identification. The advertisement under this subdivision (2) shall also include a website address where the information contained in subdivision (1) is displayed for the time-share estate to be sold.

c. In addition to the advertisement required by subdivisions 5 a and b, the association may give such other further and different advertisement as the association finds appropriate.

6. In the event of postponement of the sale, which postponement shall be at the discretion of the association, advertisement of the postponed sale shall be in the same manner as the original advertisement of sale.

7. Failure to comply with the requirements for advertisement contained in this section shall, upon petition, render a sale of the property voidable by the court. Such petition shall be filed within 60 days of the sale or the right to do so shall lapse.

8. In the event of a sale, the association shall have the following powers and duties:

a. The association may sell two or more time-share estates at the sale. Written one-price bids may be made and shall be received by the trustee from the association or any person for entry by announcement at the sale. Any person other than the trustee may bid at the foreclosure sale, including a person that has submitted a written one-price bid. Upon request to the trustee, any other bidder in attendance at a foreclosure sale shall be permitted to inspect written bids. Unless otherwise provided in the time-share instrument, the association may bid to purchase the time-share estate at a foreclosure sale. The association may own, lease, encumber, exchange, sell, or convey the time-share estate. Whenever the written bid of the association is the highest bid submitted at the sale, such written bid shall be filed by the trustee with his account of sale required under subdivision 10 of this subsection and § 64.2-1309. The written bid submitted pursuant to this subsection may be prepared by the association, its agent, or its attorney.

b. The association may require of any bidder at any sale a cash deposit of as much as one-third of the sale price before his bid is received, which shall be refunded to him if the time-share estate is not sold to him through action of the trustee. The deposit of the successful bidder shall be applied to his credit at settlement; if such bidder fails to complete his purchase promptly, the deposit shall be applied to pay the costs and expenses of the sale, and the balance, if any, shall be retained by the association in connection with that sale.

c. The association shall receive and receipt for the proceeds of sale, no purchaser being required to see to the application of the proceeds, and shall apply such proceeds in the following order: first, to the reasonable expenses of sale, including reasonable attorney fees; second, to the satisfaction of all taxes, levies, and assessments, with costs and interest; third, to the satisfaction of the lien for the time-share estate owners' assessments; fourth, to the satisfaction in the order of priority of any remaining inferior claims of record; and fifth, to pay the residue of the proceeds to the time-share estate owner or his assigns, provided, however, that the association as to such residue shall not be bound by any inheritance, devise, conveyance, assignment, or lien of or upon the unit owner's equity, without actual notice thereof prior to distribution.

9. The trustee shall deliver to the purchaser a trustee's deed conveying the time-share estate with special warranty of title. The trustee shall not be required to take possession of the time-share estate prior to the sale of such estate or deliver possession of the time-share estate to the purchaser at the sale.

10. If the sale of a time-share estate is made pursuant to this subsection and the accounting is made by the trustee, the title of the purchaser at such sale shall not be disturbed unless, within six months

from the date of foreclosure, the sale is set aside by the court or an appeal is ~~allowed~~ ~~by~~ *filed in the Court of Appeals or granted by* the Supreme Court ~~of~~ ~~Virginia~~ and an order is entered requiring such sale to be set aside.

When payment or satisfaction is made of a debt secured by the lien perfected by this subsection, such lien shall be released in accordance with the provisions of § 55.1-339. For the purposes of § 55.1-339, any officer of the time-share estate owners' association or its managing agent shall be deemed the duly authorized agent of the lien creditor.

E. The commissioner of accounts to whom an account of sale is returned in connection with the foreclosure of either a lien under subsection C or a purchase money deed of trust taken back by the developer in the sale of a time-share in order to satisfy § 64.2-1309 shall be entitled to a fee, not to exceed $70, on each foreclosure of a lien under subsection C and not to exceed $125 on each foreclosure of a purchase money deed of trust taken back by the developer.

F. Any time-share owner within the project having executed a contract for the disposition of the time-share shall be entitled, upon request, to a recordable statement setting forth the amount of unpaid regular or special assessments or maintenance fees currently levied against that time-share. Such request shall be in writing, directed to the president of the time-share estate owners' association, and delivered to the principal office of the association. Failure of the association to furnish or make available such statement within 20 days from the actual receipt of such written request shall extinguish the lien created by subsection C as to the time-share involved. Payment of a fee reflecting the reasonable cost of materials and labor, not to exceed the actual cost of such materials and labor, may be required as a prerequisite to the issuance of such a statement.

§ 57-2.02. Religious freedom preserved; definitions; applicability; construction; remedies.

A. As used in this section:

"Demonstrates" means meets the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence.

"Exercise of religion" means the exercise of religion under Article I, Section 16 of the Constitution of Virginia, the Virginia Act for Religious Freedom (§ 57-1 et seq.), and the First Amendment to the United States Constitution.

"Government entity" means any branch, department, agency, or instrumentality of state government, or any official or other person acting under color of state law, or any political subdivision of the Commonwealth and does not include the Department of Corrections, the Department of Juvenile Justice, and any facility of the Department of Behavioral Health and Developmental Services that treats civilly committed sexually violent predators, or any local, regional or federal correctional facility.

"Prevails" means to obtain "prevailing party" status as defined by courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988.

"Substantially burden" means to inhibit or curtail religiously motivated practice.

B. No government entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability unless it demonstrates that application of the burden to the person is (i) essential to further a compelling governmental interest and (ii) the least restrictive means of furthering that compelling governmental interest.

C. Nothing in this section shall be construed to (i) authorize any government entity to burden any religious belief or (ii) affect, interpret or in any way address those portions of Article 1, Section 16 of the Constitution of Virginia, the Virginia Act for Religious Freedom (§ 57-1 et seq.), and the First Amendment to the United States Constitution that prohibit laws respecting the establishment of religion. Granting government funds, benefits or exemptions, to the extent permissible under clause (ii) of this subsection, shall not constitute a violation of this section. As used in this subsection, "granting" used with respect to government funding, benefits, or exemptions shall not include the denial of government funding, benefits, or exemptions.

D. A person whose religious exercise has been burdened by government in violation of this section may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain declaratory and injunctive relief from a circuit court, but shall not obtain monetary damages. A person who prevails in any proceeding to enforce this section against a government entity may recover his reasonable costs and attorney fees. The provisions of this subsection relating to attorney fees shall not apply to criminal prosecutions.

E. Nothing in this section shall prevent any governmental institution or facility from maintaining health, safety, security or discipline.

F. The decision of the circuit court to grant or deny declaratory and injunctive relief may be appealed ~~by~~ ~~petition~~ to the Court of Appeals ~~of~~ ~~Virginia~~.

§ 58.1-527. Appeals from hearings.

A. Within ~~thirty~~ *30* days after the decision of the claimant agency upon a hearing pursuant to § 58.1-526 has become final, the debtor aggrieved thereby may secure judicial review thereof by

commencing an action in the circuit court of the county or of the city, or if the city has no circuit court, then in the circuit court of the county in which such city is geographically located, in which the debtor resides or in which the principal office of the claimant agency is geographically located. In such action against the claimant agency for review of its decision, the claimant agency shall be named a defendant in a petition for judicial review. This section shall not be construed to confer jurisdiction on the circuit court to review questions of federal income tax law when the claimant agency is the Internal Revenue Service.

B. Such petition shall also state the grounds upon which review is sought and shall be served upon the head of the claimant agency or upon such person as the claimant agency may designate. With its answer, the claimant agency shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. In any judicial proceedings under this article, the findings of the claimant agency as to the facts shall be sustained if supported by the evidence. Such actions and the questions so certified shall be heard in a summary manner at the earliest possible date. An appeal may be taken from the decision of such court to the ~~Supreme~~ Court *of Appeals* in conformity with the general law governing appeals in equity cases.

C. It shall not be necessary in any proceeding under this section to enter exceptions to the rulings of the claimant agency, and no bond shall be required upon an appeal to any court.

D. Notwithstanding the other provisions of this section, if the claimant agency is otherwise subject to the Administrative Process Act (§ 2.2-4000 et seq.), appeals of such agency's decision as it relates to the debtor shall be held in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 58.1-1828. Appeal.

The Tax Commissioner or the taxpayer may take an appeal from any final order of the court to the ~~Supreme~~ Court *of Appeals.*

§ 58.1-2282. Appeal of Commissioner's decisions.

A. Any person against whom an assessment, order or decision of the Commissioner has been adversely rendered, which assessment, order, or decision relates to the collection of unreported, incorrectly or fraudulently reported taxes, the granting or canceling of a license, the filing of a bond, an increase in the amount of a bond, a change of surety on a bond, the filing of reports, the examination of records, or any other matter wherein the findings are in the discretion of the Commissioner, may, within ~~thirty~~ *30* days from the date thereof, file a petition of appeal from such assessment, order, or decision, in the circuit court in the city or county wherein such person resides, provided that any petition for a refund for taxes timely paid shall be filed within one year of the date of payment. A copy of the petition shall be sent to the Commissioner at the time of the filing with the court. The original shall show, by certificate, the date of mailing such copy to the Commissioner.

B. In any proceeding under this section, the assessments by the Commissioner shall be presumed correct. The burden of proof shall be upon the petitioner to show that the assessment was incorrect and contrary to law. The circuit court is authorized to enter judgment against such person for the taxes, penalty, and interest due. The failure by any such person to appeal under the provisions of this section within the time period specified shall render the assessment, order, or decision of the Commissioner conclusively valid and binding upon such person. Such person or the Commissioner may ~~petition the Court of Appeals~~ *appeal* from the final decision of the circuit court *to the Court of Appeals*.

§ 58.1-3147. Appeal.

An appeal may be ~~allowed~~ *taken* to the ~~Supreme~~ Court *of Appeals* from any order entered either discharging or declining to discharge any treasurer.

§ 58.1-3992. Appeal.

Any locality or taxpayer aggrieved by the action of a court of record under this article may appeal to the ~~Supreme~~ Court *of Appeals.*

§ 63.2-1710. Appeal from refusal, denial of renewal, or revocation of license.

A. Whenever the Commissioner refuses to issue a license or to renew a license or revokes a license for an assisted living facility, adult day care center, or child welfare agency operated by an agency of the Commonwealth, the provisions of § 63.2-1710.2 shall apply. Whenever the Commissioner refuses to issue a license or to renew a license or revokes a license for an assisted living facility, adult day care center, or child welfare agency other than an assisted living facility, adult day care center, or child welfare agency operated by an agency of the Commonwealth, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Commissioner's intent to refuse to issue or renew, or revoke a license shall be received in writing from the assisted living facility, adult day care center or child welfare agency operator within ~~fifteen~~ *15* days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the ~~Virginia Supreme~~ Court *of Appeals.*

B. In every appeal to a court of record, the Commissioner shall be named defendant.

C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for operation without a license.

D. When issuance or renewal of a license as an assisted living facility or adult day care center has been refused by the Commissioner, the applicant shall not thereafter for a period of one year apply again for such license unless the Commissioner in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the one-year period shall be extended until a final decision has been rendered on appeal.

E. When issuance or renewal of a license for a child welfare agency has been refused by the Commissioner, the applicant shall not thereafter for a period of six months apply again for such license unless the Commissioner in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final decision has been rendered on appeal.

2. That §§ 8.01-670.1 and 8.01-672 of the Code of Virginia are repealed.

3. That any case for which a notice of appeal to the Supreme Court has been filed prior to January 1, 2022, shall continue in the Supreme Court of Virginia and shall not be affected by the provisions of this act.

4. That any case for which a petition for appeal in a criminal case to the Court of Appeals has been filed prior to January 1, 2022, and a decision on such petition remains pending, such petition for appeal shall be deemed granted and the clerk of the Court of Appeals shall certify the granting of such petition to the trial court and all counsel. Such case shall be considered mature for purposes of further proceedings from the date of such certificate.

5. That the Office of the Executive Secretary of the Supreme Court of Virginia shall report to the House Committee for Courts of Justice and the Senate Committee on the Judiciary detailing the expanded workload of the Court of Appeals of Virginia pursuant to the first enactment of this act each year following the enactment of the first enactment clause of this act for three years by January 1 of such year. The first such report shall be made by January 1, 2023.

6. That the provisions of this act amending § 17.1-400 of the Code of Virginia shall become effective in due course and that the remaining provisions of this act shall become effective on January 1, 2022.