

# 1997 RECONVENED SESSION

ENROLLED

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 2.1-1.5, 2.1-1.6, 2.1-116, 2.1-342, 2.1-344, 9-6.14:4.1, 9-6.25:3, 11-35, 23-38.75, 23-38.76, 23-38.77, 23-38.80, 23-38.81, 34-4, and 58.1-322 of the Code of Virginia and to repeal § 23-38.82 of the Code of Virginia, relating to Virginia Higher Education Tuition Trust Fund.*

[H 2265]

Approved

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

**1. That §§ 2.1-1.5, 2.1-1.6, 2.1-116, 2.1-342, 2.1-344, 9-6.14:4.1, 9-6.25:3, 11-35, 23-38.75, 23-38.76, 23-38.77, 23-38.80, 23-38.81, 34-4, and 58.1-322 of the Code of Virginia are amended and reenacted as follows:**

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or the enabling legislation of the entities:

#### Authorities

Assistive Technology Loan Fund Authority.  
Medical College of Virginia Hospitals Authority.  
Richmond Eye and Ear Hospital Authority.  
Small Business Financing Authority.  
State Education Assistance Authority.  
Virginia Agriculture Development Authority.  
Virginia College Building Authority.  
Virginia Economic Development Partnership.  
Virginia Education Loan Authority.  
Virginia Housing Development Authority.  
Virginia Information Providers Network Authority.  
Virginia Innovative Technology Authority.  
Virginia Port Authority.  
Virginia Public Building Authority.  
Virginia Public School Authority.  
Virginia Resources Authority.  
Virginia Student Assistance Authorities.

#### Boards

Board of Commissioners, Virginia Agriculture Development Authority.  
Board of Commissioners, Virginia Port Authority.  
Board of Directors, Assistive Technology Loan Fund Authority.  
Board of Directors, Medical College of Virginia Hospitals Authority.  
Board of Directors, Richmond Eye and Ear Hospital Authority.  
Board of Directors, Small Business Financing Authority.  
Board of Directors, Virginia Economic Development Partnership.  
Board of Directors, Virginia Student Assistance Authorities.  
Board of Directors, Virginia Innovative Technology Authority.  
Board of Directors, Virginia Resources Authority.  
Board of Regents, Gunston Hall Plantation.  
Board of Regents, James Monroe Memorial Law Office and Library.  
Board of Trustees, Family and Children's Trust Fund.  
Board of Trustees, Frontier Culture Museum of Virginia.  
Board of Trustees, Jamestown-Yorktown Foundation.  
Board of Trustees, Miller School of Albemarle.  
Board of Trustees, Rural Virginia Development Foundation.  
Board of Trustees, The Science Museum of Virginia.  
Board of Trustees, Virginia Museum of Fine Arts.  
Board of Trustees, Virginia Museum of Natural History.  
Board of Trustees, Virginia Outdoor Foundation.  
~~Board of the Virginia Higher Education Tuition Trust Fund.~~  
Board of Visitors, Christopher Newport University.  
Board of Visitors, The College of William and Mary in Virginia.

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57	Board of Visitors, George Mason University.
58	Board of Visitors, Gunston Hall Plantation.
59	Board of Visitors, James Madison University.
60	Board of Visitors, Longwood College.
61	Board of Visitors, Mary Washington College.
62	Board of Visitors to Mount Vernon.
63	Board of Visitors, Norfolk State University.
64	Board of Visitors, Old Dominion University.
65	Board of Visitors, Radford University.
66	Board of Visitors, University of Virginia.
67	Board of Visitors, Virginia Commonwealth University.
68	Board of Visitors, Virginia Military Institute.
69	Board of Visitors, Virginia Polytechnic Institute and State University.
70	Board of Visitors, Virginia State University.
71	Governing Board, Virginia College Building Authority.
72	Governing Board, Virginia Public School Authority.
73	Library Board, The Library of Virginia.
74	Motor Vehicle Dealer Board.
75	State Board for Community Colleges, Virginia Community College System.
76	Virginia-Israel Advisory Board.
77	Center
78	A.L. Philpott Manufacturing Research Center.
79	Commissions
80	Alexandria Historical Restoration and Preservation Commission.
81	Charitable Gaming Commission.
82	Chesapeake Bay Bridge and Tunnel Commission.
83	Hampton Roads Sanitation District Commission.
84	Districts
85	Chesapeake Bay Bridge and Tunnel District.
86	Hampton Roads Sanitation District.
87	Educational Institutions
88	Christopher Newport University.
89	The College of William and Mary in Virginia.
90	Frontier Culture Museum of Virginia.
91	George Mason University.
92	James Madison University.
93	Jamestown-Yorktown Foundation.
94	Longwood College.
95	Mary Washington College.
96	Miller School of Albemarle.
97	Norfolk State University.
98	Old Dominion University.
99	Radford University.
100	The Science Museum of Virginia.
101	University of Virginia.
102	Virginia Commonwealth University.
103	Virginia Community College System.
104	Virginia Military Institute.
105	Virginia Museum of Fine Arts.
106	Virginia Polytechnic Institute and State University.
107	The Library of Virginia.
108	Virginia State University.
109	Foundations
110	Chippokes Plantation Farm Foundation.
111	Rural Virginia Development Foundation.
112	Virginia Conservation and Recreation Foundation.
113	Virginia Historic Preservation Foundation.
114	Virginia Outdoor Foundation.
115	Museum
116	Virginia Museum of Natural History.
117	Plantation

- 118 Gunston Hall Plantation.
- 119 System
- 120 Virginia Retirement System.
- 121 § 2.1-1.6. State boards.
- 122 A. There shall be, in addition to such others as may be established by law, the following permanent
- 123 collegial bodies affiliated with a state agency within the executive branch:
- 124 Accountancy, Board for
- 125 Aging, Advisory Board on the
- 126 Agriculture and Consumer Services, Board of
- 127 Air Pollution, State Advisory Board on
- 128 Alcoholic Beverage Control Board, Virginia
- 129 Apple Board, Virginia State
- 130 Appomattox State Scenic River Advisory Board
- 131 Aquaculture Advisory Board
- 132 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
- 133 Art and Architectural Review Board
- 134 Athletic Board, Virginia
- 135 Auctioneers Board
- 136 Audiology and Speech-Language Pathology, Board of
- 137 Aviation Board, Virginia
- 138 Barbers, Board for
- 139 Branch Pilots, Board for
- 140 Bright Flue-Cured Tobacco Board, Virginia
- 141 Building Code Technical Review Board, State
- 142 Catoctin Creek State Scenic River Advisory Board
- 143 Cattle Industry Board, Virginia
- 144 Cave Board
- 145 Certified Seed Board, State
- 146 Chesapeake Bay Local Assistance Board
- 147 Chickahominy State Scenic River Advisory Board
- 148 Child Abuse and Neglect, Advisory Board on
- 149 Chippokes Plantation Farm Foundation, Board of Trustees
- 150 Clinch Scenic River Advisory Board
- 151 Coal Mining Examiners, Board of
- 152 Coal Research and Development Advisory Board, Virginia
- 153 Coal Surface Mining Reclamation Fund Advisory Board
- 154 Coastal Land Management Advisory Council, Virginia
- 155 Conservation and Development of Public Beaches, Board on
- 156 Conservation and Recreation, Board of
- 157 Contractors, Board for
- 158 Corn Board, Virginia
- 159 Correctional Education, Board of
- 160 Corrections, State Board of
- 161 Cosmetology, Board for
- 162 Criminal Justice Services Board
- 163 Dark-Fired Tobacco Board, Virginia
- 164 Deaf and Hard-of-Hearing, Advisory Board for the Department for the
- 165 Dentistry, Board of
- 166 Design-Build/Construction Management Review Board
- 167 Education, State Board of
- 168 Egg Board, Virginia
- 169 Emergency Medical Services Advisory Board
- 170 Farmers Market Board, Virginia
- 171 Film Office Advisory Board
- 172 Fire Services Board, Virginia
- 173 Forensic Science Advisory Board
- 174 Forestry, Board of
- 175 Funeral Directors and Embalmers, Board of
- 176 Game and Inland Fisheries, Board of
- 177 Geology, Board for
- 178 Goose Creek Scenic River Advisory Board

179 Health Planning Board, Virginia  
180 Health Professions, Board of  
181 Health, State Board of  
182 Hearing Aid Specialists, Board for  
183 Hemophilia Advisory Board  
184 Historic Resources, Board of  
185 Housing and Community Development, Board of  
186 Industrial Development Services Advisory Board  
187 Irish Potato Board, Virginia  
188 Juvenile Justice, State Board of  
189 Litter Control and Recycling Fund Advisory Board  
190 Marine Products Board, Virginia  
191 Medical Advisory Board, Department of Motor Vehicles  
192 Medical Board of the Virginia Retirement System  
193 Medicare and Medicaid, Advisory Board on  
194 Medicine, Board of  
195 Mental Health, Mental Retardation and Substance Abuse Services Board, State  
196 Migrant and Seasonal Farmworkers Board  
197 Military Affairs, Board of  
198 Mineral Mining Examiners, Board of  
199 Minority Business Enterprise, Interdepartmental Board of the Department of  
200 Networking Users Advisory Board, State  
201 Nottoway State Scenic River Advisory Board  
202 Nursing, Board of  
203 Nursing Home Administrators, Board of  
204 Occupational Therapy, Advisory Board on  
205 Oil and Gas Conservation Board, Virginia  
206 Opticians, Board for  
207 Optometry, Board of  
208 Peanut Board, Virginia  
209 Personnel Advisory Board  
210 Pesticide Control Board  
211 Pharmacy, Board of  
212 Physical Therapy to the Board of Medicine, Advisory Board on  
213 Plant Pollination Advisory Board  
214 Polygraph Examiners Advisory Board  
215 Pork Industry Board, Virginia  
216 Poultry Products Board, Virginia  
217 Private College Advisory Board  
218 Private Security Services Advisory Board  
219 Professional and Occupational Regulation, Board for  
220 Professional Counselors, Board of  
221 Professional Soil Scientists, Board for  
222 Psychiatric Advisory Board  
223 Psychology, Board of  
224 Public Buildings Board, Virginia  
225 Public Telecommunications Board, Virginia  
226 Radiation Advisory Board  
227 Real Estate Appraiser Board  
228 Real Estate Board  
229 Reciprocity Board, Department of Motor Vehicles  
230 Recreational Fishing Advisory Board, Virginia  
231 Recreation Specialists, Board of  
232 Reforestation Board  
233 Rehabilitation Providers, Advisory Board on  
234 Rehabilitative Services, Board of  
235 Respiratory Therapy, Advisory Board on  
236 Retirement System Review Board  
237 Rockfish State Scenic River Advisory Board  
238 Safety and Health Codes Board  
239 Seed Potato Board

- 240 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 241 Shenandoah State Scenic River Advisory Board
- 242 Small Business Advisory Board
- 243 Small Business Environmental Compliance Advisory Board
- 244 Small Grains Board, Virginia
- 245 Social Services, Board of
- 246 Social Work, Board of
- 247 Soil and Water Conservation Board, Virginia
- 248 Soybean Board, Virginia
- 249 State Air Pollution Control Board
- 250 Substance Abuse Certification Board
- 251 Surface Mining Review, Board of
- 252 Sweet Potato Board, Virginia
- 253 T & M Vehicle Dealers' Advisory Board
- 254 Teacher Education and Licensure, Advisory Board on
- 255 Tourism and Travel Services Advisory Board
- 256 Transportation Board, Commonwealth
- 257 Transportation Safety, Board of
- 258 Treasury Board, The, Department of the Treasury
- 259 Veterans' Affairs, Board on
- 260 Veterinary Medicine, Board of
- 261 Virginia Board for Asbestos Licensing
- 262 Virginia Coal Mine Safety Board
- 263 Virginia Correctional Enterprises Advisory Board
- 264 Virginia Employment Commission, State Advisory Board for the
- 265 ~~Virginia Higher Education Tuition Trust Fund, Board of the~~
- 266 Virginia Horse Industry Board
- 267 Virginia Manufactured Housing Board
- 268 Virginia Retirement System, Board of Trustees
- 269 Virginia Sheep Industry Board
- 270 Virginia Veterans Cemetery Board
- 271 Virginia Waste Management Board
- 272 Visually Handicapped, Virginia Board for the
- 273 Voluntary Formulary Board, Virginia
- 274 War Memorial Foundation, Virginia, Board of Trustees
- 275 Waste Management Facility Operators, Board for
- 276 Water Resources Research Center Statewide Advisory Board, Virginia
- 277 Waterworks and Wastewater Works Operators, Board for
- 278 Well Review Board, Virginia.
- 279 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 280 referred to as boards:
  - 281 Compensation Board
  - 282 State Board of Elections
  - 283 State Water Control Board
  - 284 Virginia Parole Board
  - 285 Virginia Veterans Care Center Board of Trustees.
- 286 § 2.1-116. Certain officers and employees exempt from chapter.
- 287 The provisions of this chapter shall not apply to:
  - 288 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
  - 289 2. Officers and employees of the Supreme Court and the Court of Appeals;
  - 290 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
  - 291 house thereof is required or not;
  - 292 4. Officers elected by popular vote or by the General Assembly or either house thereof;
  - 293 5. Members of boards and commissions however selected;
  - 294 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
  - 295 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
  - 296 notaries public;
  - 297 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
  - 298 special inquiries, investigations, or examinations on its behalf;
  - 299 8. The presidents, and teaching and research staffs of state educational institutions;
  - 300 9. Commissioned officers and enlisted personnel of the national guard and the naval militia;

301 10. Student employees in institutions of learning, and patient or inmate help in other state  
302 institutions;

303 11. Upon general or special authorization of the Governor, laborers, temporary employees and  
304 employees compensated on an hourly or daily basis;

305 12. County, city, town and district officers, deputies, assistants and employees;

306 13. The employees of the Virginia Workers' Compensation Commission;

307 14. The following officers and employees of the Virginia Retirement System: retirement system chief  
308 investment officer, retirement system investment officer, retirement system assistant investment officer  
309 and investment financial analyst;

310 15. Employees whose positions are identified by the State Council of Higher Education and the  
311 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the  
312 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of  
313 Natural History and The Library of Virginia, and approved by the Director of the Department of  
314 Personnel and Training as requiring specialized and professional training;

315 16. Employees of the State Lottery Department;

316 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;

317 18. [Repealed.]

318 19. Employees of the Medical College of Virginia Hospitals Authority;

319 20. Employees of the University of Virginia Medical Center. Any changes in compensation plans for  
320 such employees shall be subject to the review and approval of the Board of Visitors of the University of  
321 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia  
322 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the  
323 provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1;

324 21. In executive branch agencies the employee who has accepted serving in the capacity of chief  
325 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential  
326 assistant for policy or administration. An employee serving in either one of these two positions shall be  
327 deemed to serve on an employment at will basis. An agency may not exceed two employees who serve  
328 in this exempt capacity; ~~and~~

329 22. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
330 provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1; *and*

331 23. *Employees of the Virginia Higher Education Tuition Trust Fund.*

332 § 2.1-342. Official records to be open to inspection; procedure for requesting records and responding  
333 to request; charges; exceptions to application of chapter.

334 A. Except as otherwise specifically provided by law, all official records shall be open to inspection  
335 and copying by any citizens of the Commonwealth during the regular office hours of the custodian of  
336 such records. Access to such records shall not be denied to citizens of the Commonwealth, and representatives  
337 of radio and television stations broadcasting in or into the Commonwealth. The custodian of such  
338 records shall take all necessary precautions for their preservation and safekeeping. Any public body  
339 covered under the provisions of this chapter shall make an initial response to citizens requesting records  
340 open to inspection within five work days after the receipt of the request by the public body which is the  
341 custodian of the requested records. Such citizen request shall designate the requested records with  
342 reasonable specificity. A specific reference to this chapter by the requesting citizen in his request shall  
343 not be necessary to invoke the provisions of this chapter and the time limits for response by the public  
344 body. The response by the public body within such five work days shall be one of the following  
345 responses:

346 1. The requested records shall be provided to the requesting citizen.

347 2. If the public body determines that an exemption applies to all of the requested records, it may  
348 refuse to release such records and provide to the requesting citizen a written explanation as to why the  
349 records are not available with the explanation making specific reference to the applicable Code sections  
350 which make the requested records exempt.

351 3. If the public body determines that an exemption applies to a portion of the requested records, it  
352 may delete or excise that portion of the records to which an exemption applies, but shall disclose the  
353 remainder of the requested records and provide to the requesting citizen a written explanation as to why  
354 these portions of the record are not available to the requesting citizen with the explanation making  
355 specific reference to the applicable Code sections which make that portion of the requested records  
356 exempt. Any reasonably segregatable portion of an official record shall be provided to any person  
357 requesting the record after the deletion of the exempt portion.

358 4. If the public body determines that it is practically impossible to provide the requested records or  
359 to determine whether they are available within the five-work-day period, the public body shall so inform  
360 the requesting citizen and shall have an additional seven work days in which to provide one of the three  
361

preceding responses.

Nothing in this section shall prohibit any public body from petitioning the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with this petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

The public body may make reasonable charges for the copying, search time and computer time expended in the supplying of such records. The public body may also make a reasonable charge for preparing documents produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records or documents, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than fifty acres. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen. The public body may require the advance payment of charges which are subject to advance determination.

In any case where a public body determines in advance that search and copying charges for producing the requested documents are likely to exceed \$200, the public body may, before continuing to process the request, require the citizen requesting the information to agree to payment of an amount not to exceed the advance determination by five percent. The period within which the public body must respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the citizen requesting the information.

Official records maintained by a public body on a computer or other electronic data processing system which are available to the public under the provisions of this chapter shall be made reasonably accessible to the public at reasonable cost. Beginning July 1, 1997, every public body of state government shall compile, and annually update, an index of computer databases which contains at a minimum those databases created by them on or after July 1, 1997. "Computer database" means a structured collection of data or documents residing in a computer. Such index shall be an official record and shall include, at a minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees for the production of copies in each available form. The form, context, language, and guidelines for the indices and the databases to be indexed shall be developed by the Director of the Department of Information Technology in consultation with the State Librarian and the State Archivist. The public body shall not be required to disclose its software security, including passwords.

Public bodies shall not be required to create or prepare a particular requested record if it does not already exist. Public bodies may, but shall not be required to, abstract or summarize information from official records or convert an official record available in one form into another form at the request of the citizen. The public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

Failure to make any response to a request for records shall be a violation of this chapter and deemed a denial of the request.

B. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Memoranda, correspondence, evidence and complaints related to criminal investigations; adult arrestee photographs when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of such photograph will no longer jeopardize the investigation; reports submitted to the state and local police, to investigators authorized pursuant to § 53.1-16 and to the campus police departments of public institutions of higher education as established by Chapter 17 (§ 23-232 et seq.) of Title 23 in confidence; portions of records of local government crime commissions that would identify individuals providing information about crimes or criminal activities under a promise of anonymity; records of local police departments relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such departments under a promise of confidentiality; and all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment. Information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge or arrest, shall not be excluded from the provisions of this chapter.

Criminal incident information relating to felony offenses shall not be excluded from the provisions of

this chapter; however, where the release of criminal incident information is likely to jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information.

2. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

3. State income, business, and estate tax returns, personal property tax returns, scholastic records and personnel records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; however, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

Where the person who is the subject of medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall be reviewed only and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed to any person except the subject by the administrator or chief medical officer of the facility or except as provided by law.

For the purposes of this chapter such statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and releasable as provided in subsection A of this section. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education, such right of access may be asserted by the subject person.

4. Memoranda, working papers and correspondence (i) held by or requested from members of the General Assembly or the Division of Legislative Services or (ii) held or requested by the Office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any state-supported institution of higher education. This exclusion shall not apply to memoranda, studies or other papers held or requested by the mayor or other chief executive officer of any political subdivision which are specifically concerned with the evaluation of performance of the duties and functions of any locally elected official and were prepared after June 30, 1992, nor shall this exclusion apply to agenda packets prepared and distributed to public bodies for use at a meeting.

Except as provided in § 30-28.18, memoranda, working papers and correspondence of a member of the General Assembly held by the Division of Legislative Services shall not be released by the Division without the prior consent of the member.

5. Written opinions of the city, county and town attorneys of the cities, counties and towns in the Commonwealth and any other writing protected by the attorney-client privilege.

6. Memoranda, working papers and records compiled specifically for use in litigation or as a part of an active administrative investigation concerning a matter which is properly the subject of an executive or closed meeting under § 2.1-344 and material furnished in confidence with respect thereto.

7. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

8. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

9. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or



examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as provided by law, or limit access to individual records as is provided by law. However, the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

10. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

11. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

14. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or § 62.1-134.1.

15. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services and records, documents and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

16. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this section, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

17. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

18. Financial statements not publicly available filed with applications for industrial development financings.

19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

21. Information which was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

22. Documents as specified in § 58.1-3.

23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

24. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

25. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

26. Fisheries data which would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

27. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

28. Documents and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

29. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

30. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

31. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1; however, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or any institution thereof to the extent, as determined by the Director of the Department of Corrections or his designee or of the Virginia Board of Juvenile Justice, the Virginia Department of Juvenile Justice or any facility thereof to the extent as determined by the Director of the Department of Juvenile Justice, or his designee, that disclosure or public dissemination of such materials would jeopardize the security of any correctional or juvenile facility or institution, as follows:

(i) Security manuals, including emergency plans that are a part thereof;

(ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational specifications of security systems utilized by the Departments, provided the general descriptions of such security systems, cost and quality shall be made available to the public;

(iii) Training manuals designed for correctional and juvenile facilities to the extent that they address procedures for institutional security, emergency plans and security equipment;

(iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;

(v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;

(vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of complainants or charging parties, persons supplying information, confidential sources, or other individuals involved in the investigation, or other specific operational details the disclosure of which would jeopardize the security of a correctional or juvenile facility or institution; nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of subsection B of this section;

(vii) Logs or other documents containing information on movement of inmates, juvenile clients or employees; and

(viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement personnel.

Notwithstanding the provisions of this subdivision, reports and information regarding the general operations of the Departments, including notice that an escape has occurred, shall be open to inspection and copying as provided in this section.

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority.

However, access to one's own information shall not be denied.

34. Documents regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body which has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

37. Official records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published, copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

38. Official records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public disclosure under this chapter upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the building code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee; however, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. [Repealed.]

41. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of this title, or by any county, city, or town.

42. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Care System pursuant to § 32.1-112.

43. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

44. [Repealed.]

45. Investigative notes; correspondence and information furnished in confidence with respect to an investigation; and official records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission; or investigative notes, correspondence, documentation and information furnished and provided to or produced by or for the Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline. Nothing in this chapter shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information or other individuals involved in the investigation; however, disclosure, unless such disclosure is prohibited by this section, of information from the records of completed investigations shall include, but is not limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. In the event an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

46. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

47. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to

or use of any automated data processing or telecommunications system.

48. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration.

49. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

50. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

51. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

52. [Repealed.]

53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Interstate Commerce Commission or the Federal Rail Administration with respect to data provided in confidence to the Interstate Commerce Commission and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

55. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Museum of Fine Arts to the extent that disclosure or public dissemination of such materials would jeopardize the security of the Museum or any warehouse controlled by the Museum, as follows:

a. Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

b. Surveillance techniques;

c. Installation, operation, or utilization of any alarm technology;

d. Engineering and architectural drawings of the Museum or any warehouse;

e. Transportation of the Museum's collections, including routes and schedules; or

f. Operation of the Museum or any warehouse used by the Museum involving the:

(1) Number of employees, including security guards, present at any time; or

(2) Busiest hours, with the maximum number of visitors in the Museum.

56. Reports, documents, memoranda or other information or materials which describe any aspect of security used by the Virginia Department of Alcoholic Beverage Control to the extent that disclosure or public dissemination of such materials would jeopardize the security of any government store as defined in Title 4.1, or warehouse controlled by the Department of Alcoholic Beverage Control, as follows:

(i) Operational, procedural or tactical planning documents, including any training manuals to the extent they discuss security measures;

(ii) Surveillance techniques;

(iii) The installation, operation, or utilization of any alarm technology;

(iv) Engineering and architectural drawings of such government stores or warehouses;

(v) The transportation of merchandise, including routes and schedules; and

(vi) The operation of any government store or the central warehouse used by the Department of Alcoholic Beverage Control involving the:

a. Number of employees present during each shift;

b. Busiest hours, with the maximum number of customers in such government store; and

c. Banking system used, including time and place of deposits.

57. Information required to be provided pursuant to § 54.1-2506.1.

58. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

59. All information and records acquired during a review of any child death by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

60. Investigative notes, correspondence, documentation and information provided to or produced by or for the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of completed investigations or audits in a form that does not reveal the identity of complainants or persons supplying information.

61. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

62. Confidential proprietary records which are voluntarily provided by a private entity pursuant to a proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible public entity for purposes related to the development of a qualifying transportation facility; and memoranda, working papers or other records related to proposals filed under the Public-Private Transportation Act of 1995, where, if such records were made public, the financial interest of the public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this subdivision, the terms public entity and private entity shall be defined as they are defined in the Public-Private Transportation Act of 1995.

63. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public; engineering plans, architectural drawings, or operational specifications of governmental law-enforcement facilities, including but not limited to courthouses, jails, and detention facilities, to the extent that disclosure could jeopardize the safety or security of law-enforcement offices; however, general descriptions shall be provided to the public upon request.

64. All records of the University of Virginia or the University of Virginia Medical Center which contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center.

65. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

66. Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: (i) an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and (ii) data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly released, published, copyrighted or patented.

67. *Personal information, as defined in § 2.1-379, provided to the Board of the Virginia Higher Education Tuition Trust Fund or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts pursuant to Chapter 4.9*

829 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit disclosure or  
 830 publication of information in a statistical or other form which does not identify individuals or provide  
 831 personal information. Individuals shall be provided access to their own personal information.

832 C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this  
 833 title shall be construed as denying public access to contracts between a public official and a public  
 834 body, other than contracts settling public employee employment disputes held confidential as personnel  
 835 records under subdivision 3 of subsection B of this section, or to records of the position, job  
 836 classification, official salary or rate of pay of, and to records of the allowances or reimbursements for  
 837 expenses paid to, any public officer, official or employee at any level of state, local or regional  
 838 government in the Commonwealth or to the compensation or benefits paid by any corporation organized  
 839 by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their  
 840 officers or employees. The provisions of this subsection, however, shall not apply to records of the  
 841 official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

842 § 2.1-344. Executive or closed meetings.

843 A. Public bodies are not required to conduct executive or closed meetings. However, should a public  
 844 body determine that an executive or closed meeting is desirable, such meeting shall be held only for the  
 845 following purposes:

846 1. Discussion, consideration or interviews of prospective candidates for employment; assignment,  
 847 appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public  
 848 officers, appointees or employees of any public body; and evaluation of performance of departments or  
 849 schools of state institutions of higher education where such matters regarding such specific individuals  
 850 might be affected by such evaluation. Any teacher shall be permitted to be present during an executive  
 851 session or closed meeting in which there is a discussion or consideration of a disciplinary matter which  
 852 involves the teacher and some student or students and the student or students involved in the matter are  
 853 present, provided the teacher makes a written request to be present to the presiding officer of the  
 854 appropriate board.

855 2. Discussion or consideration of admission or disciplinary matters concerning any student or  
 856 students of any state institution of higher education or any state school system. However, any such  
 857 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be  
 858 permitted to be present during the taking of testimony or presentation of evidence at an executive or  
 859 closed meeting, if such student, parents or guardians so request in writing and such request is submitted  
 860 to the presiding officer of the appropriate board.

861 3. Discussion or consideration of the condition, acquisition or use of real property for public purpose,  
 862 or of the disposition of publicly held property, or of plans for the future of a state institution of higher  
 863 education which could affect the value of property owned or desirable for ownership by such institution.

864 4. The protection of the privacy of individuals in personal matters not related to public business.

865 5. Discussion concerning a prospective business or industry or expansion of an existing business or  
 866 industry where no previous announcement has been made of the business' or industry's interest in  
 867 locating or expanding its facilities in the community.

868 6. The investing of public funds where competition or bargaining is involved, where, if made public  
 869 initially, the financial interest of the governmental unit would be adversely affected.

870 7. Consultation with legal counsel and briefings by staff members, consultants or attorneys,  
 871 pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal  
 872 advice by counsel.

873 8. In the case of boards of visitors of state institutions of higher education, discussion or  
 874 consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts  
 875 for services or work to be performed by such institution. However, the terms and conditions of any such  
 876 gifts, bequests, grants and contracts made by a foreign government, a foreign legal entity or a foreign  
 877 person and accepted by a state institution of higher education shall be subject to public disclosure upon  
 878 written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign  
 879 government" means any government other than the United States government or the government of a  
 880 state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the  
 881 laws of the United States or of any state thereof if a majority of the ownership of the stock of such  
 882 legal entity is owned by foreign governments or foreign persons or if a majority of the membership of  
 883 any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under  
 884 the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen  
 885 or national of the United States or a trust territory or protectorate thereof.

886 9. In the case of the boards of trustees of the Virginia Museum of Fine Arts and The Science  
 887 Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and  
 888 grants.

889 10. Discussion or consideration of honorary degrees or special awards.

11. Discussion or consideration of tests or examinations or other documents excluded from this chapter pursuant to § 2.1-342 B 9.

12. Discussion, consideration or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in executive session.

13. Discussion of strategy with respect to the negotiation of a siting agreement or to consider the terms, conditions, and provisions of a siting agreement if the governing body in open meeting finds that an open meeting will have a detrimental effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting or executive session.

14. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to § 2.1-342 B 3, and those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation or Department of Health Professions conducted pursuant to § 9-6.14:11 or § 9-6.14:12 during which the board deliberates to reach a decision.

16. Discussion, consideration or review of State Lottery Department matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivisions 37 and 38 of subsection B of § 2.1-342.

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Discussion, consideration, review and deliberations by local community corrections resources boards regarding the placement in community diversion programs of individuals previously sentenced to state correctional facilities.

19. [Repealed.]

20. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

21. Discussion of plans to protect public safety as it relates to terrorist activity.

22. In the case of corporations organized by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, discussion or consideration of (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors, and (ii) the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

23. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1.

24. Those portions of meetings of the University of Virginia Board of Visitors and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center.

25. In the case of the Medical College of Virginia Hospitals Authority, discussion or consideration of any of the following: the condition, acquisition, use or disposition of real or personal property; operational plans that could affect the value of property, real or personal, owned or desirable for ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications or evaluations of other employees.

26. *Those meetings or portions of meetings of the Board of the Virginia Higher Education Tuition Trust Fund wherein personal information, as defined in § 2.1-379, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied*

911 *for, or entered into prepaid tuition contracts pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 is*  
 912 *discussed.*

913 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in an  
 914 executive or closed meeting shall become effective unless the public body, following the meeting,  
 915 reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule,  
 916 contract, regulation or motion which shall have its substance reasonably identified in the open meeting.  
 917 Nothing in this section shall be construed to require the board of directors of any authority created  
 918 pursuant to the Industrial Development and Revenue Bond Act (§ 15.1-1373 et seq.), or any public body  
 919 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry  
 920 to which subdivision A 5 of this section applies. However, such business or industry must be identified  
 921 as a matter of public record at least thirty days prior to the actual date of the board's authorization of  
 922 the sale or issuance of such bonds.

923 C. Public officers improperly selected due to the failure of the public body to comply with the other  
 924 provisions of this section shall be de facto officers and, as such, their official actions are valid until they  
 925 obtain notice of the legal defect in their election.

926 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
 927 more public bodies, or their representatives, but these conferences shall be subject to the same  
 928 regulations for holding executive or closed sessions as are applicable to any other public body.

929 § 9-6.14:4.1. Exemptions and exclusions.

930 A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the  
 931 following agencies are exempted from the provisions of this chapter, except to the extent that they are  
 932 specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

933 1. The General Assembly.

934 2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly  
 935 granted any of the powers of a court of record.

936 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the  
 937 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2  
 938 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7  
 939 (§ 29.1-700 et seq.) of Title 29.1.

940 4. The Virginia Housing Development Authority.

941 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created  
 942 under this Code, including those with federal authorities.

943 6. Educational institutions operated by the Commonwealth provided that, with respect to § 9-6.14:22,  
 944 such educational institutions shall be exempt from the publication requirements only with respect to  
 945 regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and  
 946 disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and  
 947 disciplining of students.

948 7. The Milk Commission in promulgating regulations regarding (i) producers' license and base, (ii)  
 949 classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for  
 950 producers' milk, time and method of payment, butterfat testing and differential.

951 8. The Virginia Resources Authority.

952 9. Agencies expressly exempted by any other provision of this Code.

953 10. The Virginia Voluntary Formulary Board in formulating recommendations regarding amendments  
 954 to the Formulary pursuant to § 32.1-81.

955 11. The Council on Information Management.

956 12. The Department of General Services in promulgating standards for the inspection of buildings for  
 957 asbestos pursuant to § 2.1-526.14.

958 13, 14. [Repealed.]

959 15. The State Council of Higher Education for Virginia, in developing, issuing, and revising  
 960 guidelines pursuant to § 23-9.6:2.

961 16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to  
 962 subsection B of § 3.1-726.

963 17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and  
 964 Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4,  
 965 subsection B of § 3.1-126.12:1, § 3.1-271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and  
 966 subsection A of § 3.1-884.21:1.

967 18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,  
 968 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of  
 969 optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

970 19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating  
 971 amendments to the Physician's Assistant Formulary established pursuant to § 54.1-2952.1.



20. The Boards of Medicine and Nursing in promulgating amendments to the Nurse Practitioner Formulary established pursuant to § 54.1-2957.01.

21. The Virginia War Memorial Foundation.

22. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

23. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-280.3.

24. The Virginia Student Assistance Authorities.

25. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in matters related to any specific race meeting.

26. The Virginia Small Business Financing Authority.

27. The Virginia Economic Development Partnership Authority.

28. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to ~~clause~~ *subsection* A (ii) of § 59.1-156.

B. Agency action relating to the following subjects is exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, naval or police functions.

7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.

8. The conduct of elections or eligibility to vote.

9. Inmates of prisons or other such facilities or parolees therefrom.

10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

11. Traffic signs, markers or control devices.

12. Instructions for application or renewal of a license, certificate, or registration required by law.

13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of Chapter 14 of Title 2.1.

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the State Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1.

C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1. Agency orders or regulations fixing rates or prices.

2. Regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations which:

(a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

(b) Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

(c) Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof.

5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public

health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be published within sixty days of the effective date of the emergency regulation, and the proposed replacement regulation shall be published within 180 days after the effective date of the emergency regulation.

6. [Repealed.]

7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

9. Regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 which are limited to reducing fees charged to regulants and applicants.

10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to § 45.1-161.82.

11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.), of Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

12. General permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

13. *Regulations of the Board of the Virginia Higher Education Tuition Trust Fund promulgated pursuant to § 23-38.77.*

Whenever regulations are adopted under this subsection C, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall become effective as provided in subsection A of § 9-6.14:9.

D. The following agency actions otherwise subject to this chapter are excluded from the operation of Article 3 (§ 9-6.14:11 et seq.) of this chapter:

1. The assessment of taxes or penalties and other rulings in individual cases in connection with the administration of the tax laws.

2. The award or denial of claims for workers' compensation.

3. The grant or denial of public assistance.

4. Temporary injunctive or summary orders authorized by law.

5. The determination of claims for unemployment compensation or special unemployment.

6. The suspension of any license, certificate, registration or authority granted any person by the Department of Health Professions or the Department of Professional and Occupational Regulation for the dishonor, by a bank or financial institution named, of any check, money draft or similar instrument used

1094 in payment of a fee required by statute or regulation.

1095 E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject  
1096 to this chapter are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.

1097 F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia  
1098 Register Act, is excluded from the operation of subsection C of this section and of Article 2  
1099 (§ 9-6.14:7.1 et seq.) of this chapter; however, the authorization for any general permit or guidelines for  
1100 activity undertaken pursuant to Title 28.2 by the Marine Resources Commission shall be in accordance  
1101 with the provisions of this chapter.

1102 G. A regulation for which an exemption is claimed under this section and which is placed before a  
1103 board or commission for consideration shall be provided at least two days in advance of the board or  
1104 commission meeting to members of the public that request a copy of that regulation. A copy of that  
1105 regulation shall be made available to the public attending such meeting.

1106 H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of  
1107 exemptions and exclusions authorized by this section. The purpose of this review shall be to assess  
1108 whether there are any exemptions or exclusions which should be discontinued or modified.

1109 I. Minor changes to regulations being published in the Virginia Administrative Code under the  
1110 Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code  
1111 Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

1112 § 9-6.25:3. Supervisory boards.

1113 There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the  
1114 following supervisory boards:

1115 Alcoholic Beverage Control Board  
1116 Board for Branch Pilots  
1117 Board of Commissioners, Virginia Port Authority  
1118 Board of Game and Inland Fisheries  
1119 Board of Regents, Gunston Hall Plantation  
1120 Board of Regents, James Monroe Memorial Law Office and Library  
1121 Board of Trustees, Chippokes Plantation Farm Foundation  
1122 Board of Trustees, Frontier Culture Museum of Virginia  
1123 Board of Trustees, Jamestown-Yorktown Foundation  
1124 Board of Trustees, the Science Museum of Virginia  
1125 Board of Trustees, Virginia Museum of Fine Arts  
1126 Board of Trustees, Virginia Retirement System  
1127 Board of Trustees, Virginia Veterans Care Center  
1128 Board of Trustees, Virginia War Memorial Foundation  
1129 ~~Board of the Virginia Higher Education Tuition Trust Fund~~  
1130 Board of Visitors, Christopher Newport University  
1131 Board of Visitors, George Mason University  
1132 Board of Visitors, James Madison University  
1133 Board of Visitors, Longwood College  
1134 Board of Visitors, Mary Washington College  
1135 Board of Visitors, Norfolk State University  
1136 Board of Visitors, Old Dominion University  
1137 Board of Visitors, Radford University  
1138 Board of Visitors, The College of William and Mary in Virginia  
1139 Board of Visitors, University of Virginia  
1140 Board of Visitors, Virginia Commonwealth University  
1141 Board of Visitors, Virginia Military Institute  
1142 Board of Visitors, Virginia Polytechnic Institute and State University  
1143 Board of Visitors, Virginia State University  
1144 Charitable Gaming Commission  
1145 Commonwealth's Attorneys' Services Council  
1146 Compensation Board  
1147 Governing Board, Virginia College Building Authority  
1148 Governing Board, Virginia Public School Authority  
1149 Motor Vehicle Dealer Board  
1150 State Board for Community Colleges, Virginia Community College System  
1151 State Board of Education  
1152 State Certified Seed Board  
1153 State Council of Higher Education for Virginia  
1154 Virginia Agricultural Council

1155 Virginia Bright Flue-Cured Tobacco Board  
 1156 Virginia Board for People with Disabilities  
 1157 Virginia Cattle Industry Board  
 1158 Virginia Corn Board  
 1159 Virginia Dark-Fired Tobacco Board  
 1160 Virginia Egg Board  
 1161 Virginia Horse Industry Board  
 1162 Virginia Marine Products Board  
 1163 Virginia Peanut Board  
 1164 Virginia Pork Industry Board  
 1165 Virginia Soybean Board  
 1166 Virginia State Apple Board  
 1167 Virginia Sweet Potato Board.

1168 § 11-35. Title; purpose; applicability.

1169 A. This chapter may be cited as the Virginia Public Procurement Act.

1170 B. The purpose of this chapter is to enunciate the public policies pertaining to governmental  
 1171 procurement from nongovernmental sources, to include governmental procurement which may or may  
 1172 not result in monetary consideration for either party. This chapter shall apply whether the consideration  
 1173 is monetary or nonmonetary and regardless of whether the public body, the contractor, or some third  
 1174 party is providing the consideration.

1175 C. The provisions of this chapter, however, shall not apply, except as stipulated in the provisions of  
 1176 §§ 11-41.1, 11-49, 11-51, 11-54, 11-56 through 11-61 and 11-72 through 11-80, to any town with a  
 1177 population of less than 3,500 as determined by the last official United States census.

1178 D. Except to the extent adopted by such governing body, the provisions of this chapter also shall not  
 1179 apply, except as stipulated in subsection E, to any county, city or town whose governing body adopts by  
 1180 ordinance or resolution alternative policies and procedures which are based on competitive principles and  
 1181 which are generally applicable to procurement of goods and services by such governing body and the  
 1182 agencies thereof. This exemption shall be applicable only so long as such policies and procedures, or  
 1183 other policies and procedures meeting the requirements of this section, remain in effect in such county,  
 1184 city or town. Such policies and standards may provide for incentive contracting which offers a  
 1185 contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality  
 1186 when project costs are reduced by such contractor, without affecting project quality, during construction  
 1187 of the project. The fee, if any, charged by the project engineer or architect for determining such cost  
 1188 savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

1189 Except to the extent adopted by such school board, the provisions of this chapter shall not apply,  
 1190 except as stipulated in subsection E, to any school division whose school board adopts by policy or  
 1191 regulation alternative policies and procedures which are based on competitive principles and which are  
 1192 generally applicable to procurement of goods and services by such school board. This exemption shall  
 1193 be applicable only so long as such policies and procedures, or other policies or procedures meeting the  
 1194 requirements of this section, remain in effect in such school division. This provision shall not exempt  
 1195 any school division from any centralized purchasing ordinance duly adopted by a local governing body.

1196 E. Notwithstanding the exemptions set forth in subsection D, the provisions of §§ 11-41 C, 11-41.1,  
 1197 11-46 B, 11-49, 11-51, 11-54, 11-56 through 11-61 and 11-72 through 11-80 shall apply to all counties,  
 1198 cities and school divisions, and to all towns having a population greater than 3,500 in the  
 1199 Commonwealth. The method for procurement of professional services set forth in subdivision 3 a of  
 1200 § 11-37 in the definition of competitive negotiation shall also apply to all counties, cities and school  
 1201 divisions, and to all towns having a population greater than 3,500, where the cost of the professional  
 1202 service is expected to exceed \$20,000.

1203 F. The provisions of this chapter shall not apply to those contracts entered into prior to January 1,  
 1204 1983, which shall continue to be governed by the laws in effect at the time those contracts were  
 1205 executed.

1206 G. To the end that public bodies in the Commonwealth obtain high quality goods and services at  
 1207 reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with  
 1208 avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to  
 1209 public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of the General  
 1210 Assembly that competition be sought to the maximum feasible degree, that individual public bodies  
 1211 enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards  
 1212 be made clear in advance of the competition, that specifications reflect the procurement needs of the  
 1213 purchasing body rather than being drawn to favor a particular vendor, and that purchaser and vendor  
 1214 freely exchange information concerning what is sought to be procured and what is offered.

1215 H. Notwithstanding the foregoing provisions of this section, the selection of services by the Virginia

Retirement System and the Board of the Virginia Higher Education Tuition Trust Fund related to the management, purchase or sale of authorized investments, including but not limited to actuarial services, shall be governed by the ~~standards~~ *standard* set forth in §§ 51.1-124.30 and 23-38.80, respectively, and shall not be subject to the provisions of this chapter.

I. The provisions of this chapter shall apply to procurement of any construction or planning and design services for construction by a Virginia not-for-profit corporation or organization not otherwise specifically exempted when the planning, design or construction is funded by state appropriations greater than \$10,000 unless the Virginia not-for-profit corporation or organization is obligated to conform to procurement procedures which are established by federal statutes or regulations, whether or not those federal procedures are in conformance with the provisions of this chapter.

J. The provisions of this chapter shall not apply to items purchased by public institutions of higher education for resale at retail bookstores and similar retail outlets operated by such institution. However, such purchase procedures shall provide for competition where practicable.

*K. Notwithstanding the foregoing provisions of this section, the selection of services by the Board of the Virginia Higher Education Tuition Trust Fund related to the operation and administration of the Fund, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record-keeping, or consulting services, shall be governed by the standard set forth in § 23-38.80 and shall not be subject to the provisions of this chapter.*

§ 23-38.75. Definitions.

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

"Board" means the Board of the Virginia Higher Education Tuition Trust Fund.

"Fund" means the Virginia Higher Education Tuition Trust Fund.

"Prepaid tuition contract" means the contract entered into by the Board and a purchaser pursuant to this chapter for the advance payment of ~~undergraduate~~ tuition at a fixed, guaranteed level by the purchaser to a qualified beneficiary to attend any two-year or four-year public institution of higher education in the Commonwealth to which the qualified beneficiary is admitted.

"Purchaser" means a person who makes or is obligated to make advance payments in accordance with a prepaid tuition contract.

"Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as determined by the Board or (ii) a beneficiary of a contract purchased by a resident of the Commonwealth, as determined by the Board, who may apply advance tuition payments to ~~undergraduate~~ tuition as set forth in this chapter.

"Tuition" means the quarter, semester, or term charges imposed *for undergraduate tuition* by any two-year or four-year public institution of higher education in the Commonwealth and all mandatory fees required as a condition of enrollment of all students. *A beneficiary may apply benefits under a prepaid tuition contract toward graduate-level tuition.*

§ 23-38.76. Virginia Higher Education Tuition Trust Fund established; governing board; terms.

A. To enhance the accessibility and affordability of higher education for all citizens of the Commonwealth, there is hereby established *as an independent agency of the Commonwealth, the Virginia Higher Education Tuition Trust Fund (the "Fund"). Moneys of the Fund shall be held in the state treasury in a special nonreverting fund known as the Virginia Higher Education Tuition Trust Fund. The Fund*, which shall consist of payments received pursuant to prepaid tuition contracts made pursuant to this chapter, bequests, endowments or grants from the United States government, its agencies and instrumentalities, and any other available sources of funds, public or private. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

B. The Fund shall be administered by an eight-member Board, as follows: the Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System or his designee; the State Treasurer or his designee; the State Comptroller or his designee; and four citizens, to be appointed by the Governor, with significant experience in finance, accounting, and investment management. No person holding a full-time position of employment with the Commonwealth, any county or municipality, any institution of higher education, or any agency, instrumentality, or subdivision of the foregoing shall be eligible for appointment to the Board.

Of the citizen members to be appointed initially, two shall be appointed for four-year terms, and two shall be appointed for two-year and three-year terms, respectively. Thereafter, all appointments shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms. No person shall be appointed to serve for or during more than two successive four-year terms, but after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Should a noncitizen member cease to hold his public office, the vacancy shall be filled for the

remainder of the term by his successor.

C. Members of the Board shall receive no compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties. The Board shall elect from its membership a chairman, vice chairman, and a treasurer for each calendar year. A majority of the members of the Board shall constitute a quorum.

§ 23-38.77. Powers and duties of Board.

The Board shall administer the Fund established by this chapter and shall develop and implement a program for the prepayment of undergraduate tuition, *as defined in § 23-38.75*, at a fixed, guaranteed level for application at a two-year or four-year public institution of higher education in the Commonwealth. In addition, the Board shall have the power and duty to:

1. Invest moneys in the Fund in any instruments, obligations, securities, or property deemed appropriate by the Board;

2. Develop requirements, procedures, and guidelines regarding prepaid tuition contracts, including, but not limited to, residency requirements; the number of participants in the Fund; the termination, withdrawal, or transfer of payments under a prepaid tuition contract; time limitations for the use of tuition benefits; and payment schedules;

3. Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services;

4. Procure insurance against any loss in connection with the Fund's property, assets, or activities and indemnifying Board members from personal loss or accountability from liability arising from any action or inaction as a Board member;

5. Make arrangements with two-year and four-year public institutions in the Commonwealth to fulfill obligations under prepaid tuition contracts, including, but not limited to, payment from the Fund of the then actual in-state undergraduate tuition cost on behalf of a qualified beneficiary to the institution in which the beneficiary is admitted and enrolled *and application of such benefits towards graduate-level tuition*;

6. Apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its objectives; ~~and~~

7. Promulgate regulations and procedures and to perform any act or function consistent with the purposes of this chapter; *and*

8. *Reimburse, at its option, all or part of the cost of employing legal counsel and such other costs as are demonstrated to have been reasonably necessary for the defense of any Board member, officer, or employee of the Fund upon the acquittal, dismissal of charges, nolle prosequi, or any other final disposition concluding the innocence of such member, officer or employee who is brought before any regulatory body, summoned before any grand jury, investigated by any law-enforcement agency, arrested, indicted, or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties which alleges a violation of state or federal securities laws. The Board shall provide for the payment of such legal fees and expenses out of funds appropriated or otherwise available to the Board.*

§ 23-38.80. Standard of care; investment and administration of Fund.

A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of the Fund, the Board, *and any person, investment manager, or committee to whom the Board delegates any of its investment authority*, shall act as trustee and shall exercise the judgment of care under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but to the permanent disposition of funds, considering the probable income as well as the probable safety of their capital. If the annual accounting and audit required by § 23-38.85 reveal that there are insufficient funds to ensure the actuarial soundness of the Fund, the Board shall be authorized to adjust the terms of subsequent prepaid tuition contracts, ~~or~~ arrange refunds for current purchasers to ensure actuarial soundness, *or take such other action the Board deems appropriate.*

B. The assets of the Fund shall be preserved, invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the Commonwealth for any other purpose. Within the standard prescribed in subsection A of this section, the Board, *and any person, investment manager, or committee to whom the Board delegates any of its investment authority*, is authorized to acquire and retain every kind of property and every kind of investment, specifically including but not limited to (i) debentures and other corporate obligations of foreign or domestic corporations; (ii) common or preferred stocks traded on foreign or domestic stock exchanges, limited to sixty percent of total trust fund investments based on cost; (iii) not less than all of the stock of a corporation organized by the Board under the laws of the Commonwealth for the purposes of acquiring and retaining real property that the Board is authorized under this chapter to acquire and retain; and (iv) securities of any open-end or closed-end management type investment company or

investment trust registered under the federal Investment Company Act of 1940, as amended, including such investment companies or investment trusts which, in turn, invest in the securities of such investment companies or investment trusts, which persons of prudence, discretion, and intelligence acquire or retain for their own account. Within the limitations of the foregoing standard, the Board may retain property properly acquired, without time limitation and without regard to its suitability for original purchase. This section shall not be construed to prohibit the investment of the Fund, by purchase or otherwise, in bonds, notes, or other obligations of the Commonwealth or its agencies and instrumentalities.

C. The selection of services related to the *operation and administration of the Fund, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments, including but not limited to or* actuarial, record-keeping, or consulting services, shall be governed by the foregoing standard and shall not be subject to the provisions of the Virginia Public Procurement Act (§ 11-35 et seq.).

D. *No Board member nor any person, investment manager, or committee to whom the Board delegates any of its investment authority who acts within the standard of care set forth in subsection A shall be held personally liable for losses suffered by the Fund on investments made pursuant to this chapter.*

§ 23-38.81. Prepaid tuition contracts; terms; termination; etc.

A. Each prepaid tuition contract made pursuant to this chapter shall include the following terms and provisions:

1. The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;

2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;

3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;

4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;

5. Terms and conditions for a substitution for the qualified beneficiary originally named;

6. Terms and conditions for termination of the contract, including any refunds, withdrawals, or transfers of tuition prepayments, and the name of the person or persons entitled to terminate the contract;

7. The time period during which the qualified beneficiary must claim benefits from the fund;

8. The number of credit hours or quarters, semesters, or terms contracted for by the purchaser;

9. All other rights and obligations of the purchaser and the trust; and

10. Any other terms and conditions which the Board deems necessary or appropriate, *including those necessary to conform the contract with the requirements of Internal Revenue Code § 529, as amended, which specifies the requirements for qualified state tuition programs.*

B. In addition to the provisions required by subsection A of this section, each prepaid tuition contract shall include provisions for the application of tuition prepayments (i) at accredited, nonprofit, independent institutions of higher education located in Virginia, including actual interest and income earned on such prepayments and (ii) at public and *at* accredited, nonprofit, independent institutions of higher education located in other states, including principal and reasonable return on such principal as determined by the Board. Payments authorized for accredited, nonprofit, independent institutions located in Virginia may not exceed the projected highest payment made for tuition at a public institution of higher education in Virginia in the same academic year, less a fee to be determined by the Board. Payments authorized for *public and for* accredited, nonprofit, independent ~~and public~~ institutions of higher education located in other states may not exceed the projected average payment made for tuition at a public institution of higher education in Virginia in the same academic year, less a fee to be determined by the Board.

C. All prepaid tuition contracts shall specifically provide that, if after a specified period of time the contract has not been terminated nor the qualified beneficiary's rights exercised, the Board, after making reasonable effort to contact the purchaser and the qualified beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant to § 55-210.12.

D. *Notwithstanding any provision of law to the contrary, money in the Fund shall be exempt from creditor process and shall not be liable to attachment, garnishment, or other process, nor shall it be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of any purchaser or beneficiary.*

E. *No contract shall be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance or charge.*

F. *The Board's decision on any dispute, claim, or action arising out of or related to a prepaid tuition contract made pursuant to this chapter or benefits thereunder shall be considered a case decision as defined in § 9-6.14:4 and all proceedings related thereto shall be conducted pursuant to Article 3*

1399 (§ 9-6.14:11 *et seq.*) of the Administrative Process Act. Judicial review shall be exclusively provided  
 1400 pursuant to Article 4 (§ 9-6.14:15 *et seq.*) of the Administrative Process Act.

1401 § 34-4. Exemption created.

1402 Every householder shall be entitled, in addition to the property or estate exempt under §§ 23-38.81,  
 1403 34-26, 34-27, 34-29, and 64.1-151.3, to hold exempt from creditor process arising out of a debt, real  
 1404 and personal property, or either, to be selected by the householder, including money and debts due the  
 1405 householder not exceeding \$5,000 in value. In addition, upon a showing that a householder supports  
 1406 dependents, the householder shall be entitled to hold exempt from creditor process real and personal  
 1407 property, or either, selected by the householder, including money or monetary obligations or liabilities  
 1408 due the householder, not exceeding \$500 in value for each dependent.

1409 For the purposes of this section, "dependent" means an individual who derives support primarily  
 1410 from the householder and who does not have assets sufficient to support himself, but in no case shall an  
 1411 individual be the dependent of more than one householder.

1412 § 58.1-322. Virginia taxable income of residents.

1413 A. The Virginia taxable income of a resident individual means his federal adjusted gross income for  
 1414 the taxable year, which excludes combat pay for certain members of the Armed Forces of the United  
 1415 States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications  
 1416 specified in this section.

1417 B. To the extent excluded from federal adjusted gross income, there shall be added:

1418 1. Interest, less related expenses to the extent not deducted in determining federal income, on  
 1419 obligations of any state other than Virginia, or of a political subdivision of any such other state unless  
 1420 created by compact or agreement to which Virginia is a party;

1421 2. Interest or dividends, less related expenses to the extent not deducted in determining federal  
 1422 taxable income, on obligations or securities of any authority, commission or instrumentality of the  
 1423 United States, which the laws of the United States exempt from federal income tax but not from state  
 1424 income taxes;

1425 3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

1426 4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum  
 1427 distribution allowance and any amount excludable for federal income tax purposes which is excluded  
 1428 from federal adjusted gross income solely by virtue of an individual's election to use the averaging  
 1429 provisions under § 402 of the Internal Revenue Code;

1430 5. through 7. [Repealed.]

1431 8. For taxable years beginning on and after January 1, 1990, and before January 1, 1994, any amount  
 1432 of self-employment tax deduction under § 164 (f) of the Internal Revenue Code; and

1433 9. The amount required to be included in income for the purpose of computing the partial tax on an  
 1434 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

1435 C. To the extent included in federal adjusted gross income, there shall be subtracted:

1436 1. Interest or dividends on obligations of the United States and on obligations or securities of any  
 1437 authority, commission or instrumentality of the United States to the extent exempt from state income  
 1438 taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and  
 1439 treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase  
 1440 contracts, or interest on other normal business transactions.

1441 2. Interest on obligations of this Commonwealth or of any political subdivision or instrumentality of  
 1442 this Commonwealth.

1443 3. [Repealed.]

1444 4. Benefits received under Title II of the Social Security Act and other benefits subject to federal  
 1445 income taxation solely pursuant to § 86 of the Internal Revenue Code.

1446 4a. A deduction equal to the amount used in computing the federal credit allowed under § 22 of the  
 1447 Internal Revenue Code by a retiree under age sixty-five who qualified for such retirement on the basis  
 1448 of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of the  
 1449 Internal Revenue Code; however, any person who claims a subtraction under subdivision 5 of subsection  
 1450 D of this section may not also claim a deduction under this subdivision.

1451 5. The amount of any refund or credit for overpayment of income taxes imposed by the  
 1452 Commonwealth or any other taxing jurisdiction.

1453 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not  
 1454 deducted for federal purposes on account of the provisions of § 280 C (a) of the Internal Revenue Code.

1455 7. Any amount included therein which is foreign source income as defined in § 58.1-302.

1456 8. For taxable years beginning after December 31, 1983, the available portion of total excess cost  
 1457 recovery as defined in former § 58.1-323 B and for taxable years beginning after December 31, 1987,  
 1458 the excess cost recovery amount specified in § 58.1-323.1 B.

1459 9. [Expired.]



10. Any amount included therein less than \$600 from a prize awarded by the State Lottery Department.

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

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

13. [Repealed.]

14. (Expires for taxable years beginning on and after January 1, 1999.) The amount of any qualified agricultural contribution as determined in § 58.1-322.2.

15. [Repealed.]

16. The amounts of self-employment tax required to be added in computing Virginia taxable income for taxable years beginning on and after January 1, 1990, but before January 1, 1994, pursuant to subdivision B 8 of this section, as follows:

a. For taxable years beginning on and after January 1, 1994, and before January 1, 1995, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1990, and before January 1, 1991;

b. For taxable years beginning on and after January 1, 1995, and before January 1, 1996, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1991, and before January 1, 1992;

c. For taxable years beginning on and after January 1, 1996, and before January 1, 1997, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1992, and before January 1, 1993;

d. For taxable years beginning on and after January 1, 1997, and before January 1, 1998, the amount of self-employment tax added to federal adjusted gross income in taxable years beginning on and after January 1, 1993, and before January 1, 1994, and any amount of self-employment tax required to be added back for taxable years beginning on and after January 1, 1990, and before January 1, 1994, which was not subtracted in those taxable years.

17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280 C (c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

18. For taxable years beginning on or after January 1, 1995, all military pay and allowances, not otherwise subtracted under this subsection, earned for any month during any part of which such member performed military service in any part of the former Yugoslavia, including the air space above such location or any waters subject to related naval operations, in support of Operation JOINT ENDEAVOR as part of the NATO Peace Keeping Force. Such subtraction shall be available until the taxpayer completes such service.

19. For taxable years beginning on and after January 1, 1996, any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

20. *For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract with the Virginia Higher Education Tuition Trust Fund, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.*

D. In computing Virginia taxable income there shall be deducted from federal adjusted gross income:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted

on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of eighteen cents per mile; or

b. Two thousand dollars for taxable years beginning January 1, 1987, through December 31, 1987; \$2,700 for taxable years beginning January 1, 1988, through December 31, 1988; and \$5,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); and \$3,000 for single individuals for taxable years beginning on and after January 1, 1989; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$700 for taxable years beginning January 1, 1987, through December 31, 1987, and \$800 for taxable years beginning on and after January 1, 1988, for each personal exemption allowable to the taxpayer for federal income tax purposes. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code shall be entitled to an additional personal exemption.

b. An additional deduction of \$200 for taxable years beginning January 1, 1987, through December 31, 1987, for each blind or aged taxpayer as defined under § 63 (f) of the Internal Revenue Code. The additional deduction for blind or aged taxpayers allowed under this subdivision and the additional personal exemption allowed to blind or aged taxpayers under subdivision 2 a of this subsection shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in Chapter 10 (§ 63.1-195 et seq.) of Title 63.1, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. Effective for all taxable years beginning on and after January 1, 1990, a deduction in the amount of \$12,000 for taxpayers age sixty-five or older, or \$6,000 for taxpayers age sixty-two through sixty-four, less any amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement Act and treated for federal income tax purposes as equivalent to social security. Beginning in taxable year 1992 through taxable year 1993, the \$12,000 and \$6,000 deduction amounts shall be indexed annually in each such taxable year by an amount equivalent to the most recent percentage increase in the social security wage base.

Effective for the taxable year beginning January 1, 1994, a deduction in the amount of \$12,944 for taxpayers age sixty-five or older, or \$6,472 for taxpayers age sixty-two through sixty-four. Effective for the taxable year beginning January 1, 1995, a deduction in the amount of \$10,000 for taxpayers age sixty-five or older, or \$5,000 for taxpayers age sixty-two through sixty-four. Effective for all taxable years beginning on or after January 1, 1996, a deduction in the amount of \$12,000 for taxpayers age sixty-five or older, or \$6,000 for taxpayers age sixty-two through sixty-four.

Beginning in taxable year 1995, the deduction under this subdivision shall not be reduced by any amount received pursuant to the (i) Social Security Act or (ii) Railroad Retirement Act and treated for federal income tax purposes as equivalent to social security.

E. There shall be added to or subtracted from federal adjusted gross income (as the case may be) the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

**2. That § 23-38.82 of the Code of Virginia is repealed.**