

974258350

HOUSE BILL NO. 2630

Offered January 20, 1997

A BILL to amend and reenact §§ 2.1-342, 58.1-3 and 60.2-114 of the Code of Virginia, relating to the release of tax and employment information to private attorneys acting as agents of the Commonwealth.

Patrons—Howell and Ingram

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-342, 58.1-3 and 60.2-114 of the Code of Virginia are amended and reenacted as follows:

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

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

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

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

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

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

INTRODUCED

HB2630

60 determination.

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

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

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

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

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

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

104 Criminal incident information relating to felony offenses shall not be excluded from the provisions of
105 this chapter; however, where the release of criminal incident information is likely to jeopardize an
106 ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection,
107 or result in the destruction of evidence, such information may be withheld until the above-referenced
108 damage is no longer likely to occur from release of the information.

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

112 3. State income, business, and estate tax returns, personal property tax returns, scholastic records and
113 personnel records containing information concerning identifiable individuals, except that such access
114 shall not be denied to the person who is the subject thereof *or to licensed attorneys acting on behalf of*
115 *the Commonwealth, or its political subdivisions, for the collection of fines, penalties, costs,*
116 *delinquencies, or receivables owed to the Commonwealth or its political subdivisions,* and medical and
117 mental records, except that such records can be personally reviewed by the subject person or a physician
118 of the subject person's choice; however, the subject person's mental records may not be personally
119 reviewed by such person when the subject person's treating physician has made a part of such person's
120 records a written statement that in his opinion a review of such records by the subject person would be
121 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.

- 183 11. Records of active investigations being conducted by the Department of Health Professions or by
184 any health regulatory board in the Commonwealth.
- 185 12. Memoranda, legal opinions, working papers and records recorded in or compiled exclusively for
186 executive or closed meetings lawfully held pursuant to § 2.1-344.
- 187 13. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.
- 188 14. Proprietary information gathered by or for the Virginia Port Authority as provided in
189 § 62.1-132.4 or § 62.1-134.1.
- 190 15. Contract cost estimates prepared for the confidential use of the Department of Transportation in
191 awarding contracts for construction or the purchase of goods or services and records, documents and
192 automated systems prepared for the Department's Bid Analysis and Monitoring Program.
- 193 16. Vendor proprietary information software which may be in the official records of a public body.
194 For the purpose of this section, "vendor proprietary software" means computer programs acquired from a
195 vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.
- 196 17. Data, records or information of a proprietary nature produced or collected by or for faculty or
197 staff of state institutions of higher learning, other than the institutions' financial or administrative
198 records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly
199 issues, whether sponsored by the institution alone or in conjunction with a governmental body or a
200 private concern, where such data, records or information has not been publicly released, published,
201 copyrighted or patented.
- 202 18. Financial statements not publicly available filed with applications for industrial development
203 financings.
- 204 19. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,
205 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by
206 the political subdivision.
- 207 20. Confidential proprietary records, voluntarily provided by private business pursuant to a promise
208 of confidentiality from the Department of Business Assistance, the Virginia Economic Development
209 Partnership or local or regional industrial or economic development authorities or organizations, used by
210 the Department, the Partnership, or such entities for business, trade and tourism development; and
211 memoranda, working papers or other records related to businesses that are considering locating or
212 expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and
213 where, if such records are made public, the financial interest of the governmental unit would be
214 adversely affected.
- 215 21. Information which was filed as confidential under the Toxic Substances Information Act
216 (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
- 217 22. Documents as specified in § 58.1-3.
- 218 23. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis
219 center or a program for battered spouses.
- 220 24. Computer software developed by or for a state agency, state-supported institution of higher
221 education or political subdivision of the Commonwealth.
- 222 25. Investigator notes, and other correspondence and information, furnished in confidence with
223 respect to an active investigation of individual employment discrimination complaints made to the
224 Department of Personnel and Training; however, nothing in this section shall prohibit the disclosure of
225 information taken from inactive reports in a form which does not reveal the identity of charging parties,
226 persons supplying the information or other individuals involved in the investigation.
- 227 26. Fisheries data which would permit identification of any person or vessel, except when required
228 by court order as specified in § 28.2-204.
- 229 27. Records of active investigations being conducted by the Department of Medical Assistance
230 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.
- 231 28. Documents and writings furnished by a member of the General Assembly to a meeting of a
232 standing committee, special committee or subcommittee of his house established solely for the purpose
233 of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or
234 of formulating advisory opinions to members on standards of conduct, or both.
- 235 29. Customer account information of a public utility affiliated with a political subdivision of the
236 Commonwealth, including the customer's name and service address, but excluding the amount of utility
237 service provided and the amount of money paid for such utility service.
- 238 30. Investigative notes and other correspondence and information furnished in confidence with
239 respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice
240 under the Virginia Human Rights Act (§ 2.1-714 et seq.); however, nothing in this section shall prohibit
241 the distribution of information taken from inactive reports in a form which does not reveal the identity
242 of the parties involved or other persons supplying information.
- 243 31. Investigative notes; proprietary information not published, copyrighted or patented; information
244 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.

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

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken or published in the line of duty under the law;
 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or to any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (iii) provide to the Executive Director of the State Education Assistance Authority, upon written request, the names and home addresses of those persons identified by the Authority as having defaulted on loans guaranteed by the Authority; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; ~~and~~ (xi) provide to the Executive Secretary of the Charitable Gaming Commission such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; *and (xii) upon a written or electronic request containing a statement of purpose, provide tax information to licensed attorneys acting on behalf of the Commonwealth, or its political subdivisions, for the collection of fines, penalties, costs, delinquencies, or receivables owed to the Commonwealth or its political subdivisions.*

The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city. The commissioner of revenue is authorized to provide to the

552 Department of Professional and Occupational Regulation for its confidential use the name, address, and
553 amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful
554 practice of a profession or occupation administered by the Department of Professional and Occupational
555 Regulation, only after the Department of Professional and Occupational Regulation exhausts all other
556 means of obtaining such information. Any person to whom tax information is divulged pursuant to this
557 section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax
558 official.

559 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
560 motor vehicle local license decal the year, make, and model and any other legal identification
561 information about the particular motor vehicle for which that local license decal is assigned.

562 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
563 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
564 written request, the name, address, and social security number of a taxpayer, necessary for the
565 performance of the Commissioner's official duties regarding the administration and enforcement of laws
566 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
567 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
568 Commissioner of the obligations under this section.

569 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
570 any confidential tax document which he knows or has reason to know is a confidential tax document. A
571 confidential tax document is any correspondence, document, or tax return that is prohibited from being
572 divulged by subsection A, B, C, or D of this section. This prohibition shall not apply if such
573 confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing
574 disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2
575 misdemeanor.

576 § 60.2-114. Records and reports.

577 A. Each employing unit shall keep true and accurate work records, containing such information as
578 the Commission may prescribe. Such records shall be open to inspection and be subject to being copied
579 by the Commission ~~or~~ , its authorized representatives, *or, upon a written or electronic request*
580 *containing a statement of purpose, by any licensed attorney acting on behalf of the Commonwealth, or*
581 *its political subdivisions, for the collection of fines, penalties, costs, delinquencies, or receivables owed*
582 *to the Commonwealth or its political subdivisions,* at any reasonable time and as often as may be
583 necessary. The Commission may require from any employing unit any sworn or unsworn reports, with
584 respect to persons employed by it, which the Commission deems necessary for the effective
585 administration of this title. Information thus obtained shall not be published, *except as necessary to*
586 *enforce a legal obligation owed to the Commonwealth, or its political subdivisions, by licensed attorneys*
587 *acting on behalf of the Commonwealth or its political subdivisions,* or be open to public inspection,
588 other than to public employees in the performance of their public duties, in any manner revealing the
589 employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such
590 information be used in any judicial or administrative proceeding other than one arising out of the
591 provisions of this title; ~~however,~~ *or one arising out of the collection of fines, penalties, costs,*
592 *delinquencies, or receivables owed to the Commonwealth or its political subdivisions. However,* the
593 Commission shall make its records about a claimant available to the Workers' Compensation
594 Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or
595 the Commission shall be supplied with information from such records to the extent necessary for the
596 proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or
597 his delegate, may, in his discretion, reveal information when such communication is not inconsistent
598 with the proper administration of this title.

599 B. Each employing unit shall report to the Commission the initial employment of any person, as
600 defined in § 60.2-212, within thirty-five days of such employment. Information to be provided shall
601 include (i) the employee's name, address and social security number and (ii) the employer's name,
602 address, and federal or Virginia Employment Commission identification number. This information may
603 be provided by mailing a copy of the employee's W-4 forms, transmitting magnetic tape in a format
604 prescribed by the Commission, or by any other means determined by the Commission to result in timely
605 reporting. Notwithstanding any other provisions of law, the Commission shall transmit this information
606 to the Department of Social Services pursuant to Title 63.1 within twenty-one days of its receipt by the
607 Commission. The Commission shall have the authority to promulgate regulations to administer this
608 provision, including any exemptions which are needed to reduce unnecessary or burdensome reporting.
609 The Department of Social Services shall reimburse the Commission for administrative costs incurred
610 pursuant to this section.

611 C. Any member or employee of the Commission who violates any provision of this section shall be
612 fined not less than \$20 nor more than \$200, or confined in jail for not longer than ninety days, or both.