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SENATE BILL NO. 363
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on General Laws
on February 7, 1996)

(Patron Prior to Substitute—Senator Norment)

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.

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 segregatable 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 determination.

In any case where a public body determines in advance that search and copying charges for

SENATE SUBSTITUTE

SB363S1

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

65 Official records maintained by a public body on a computer or other electronic data processing
66 system which are available to the public under the provisions of this chapter shall be made reasonably
67 accessible to the public at reasonable cost.

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

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

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

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

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

96 2. (Effective until July 1, 1996) Confidential records of all investigations of applications for licenses
97 and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control
98 Board, the State Lottery Department or the Virginia Racing Commission.

99 2. (Effective July 1, 1996) Confidential records of all investigations of applications for licenses and
100 permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control
101 Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming
102 Commission.

103 3. State income, business, and estate tax returns, personal property tax returns, scholastic records and
104 personnel records containing information concerning identifiable individuals, except that such access
105 shall not be denied to the person who is the subject thereof; *or, with the exception of scholastic and*
106 *personnel records, to licensed attorneys acting on behalf of the Commonwealth or its political*
107 *subdivisions for the collection of fines, penalties, costs, delinquencies, or receivables owed to the*
108 *Commonwealth or its political subdivisions; and medical and mental records, except that such records*
109 *can be personally reviewed by the subject person or a physician of the subject person's choice; however,*
110 *the subject person's mental records may not be personally reviewed by such person when the subject*
111 *person's treating physician has made a part of such person's records a written statement that in his*
112 *opinion a review of such records by the subject person would be injurious to the subject person's*
113 *physical or mental health or well-being.*

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

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

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

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

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

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

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

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

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

158 As used in this subdivision 9, "test or examination" shall include (i) any scoring key for any such
 159 test or examination, and (ii) any other document which would jeopardize the security of such test or
 160 examination. Nothing contained in this subdivision 9 shall prohibit the release of test scores or results as
 161 provided by law, or limit access to individual records as is provided by law. However, the subject of
 162 such employment tests shall be entitled to review and inspect all documents relative to his performance
 163 on such employment tests.

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

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

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

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

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

180 14. Proprietary information gathered by or for the Virginia Port Authority as provided in
 181 § 62.1-132.4 or § 62.1-134.1.

182 15. Contract cost estimates prepared for the confidential use of the Department of Transportation in

183 awarding contracts for construction or the purchase of goods or services and records, documents and
184 automated systems prepared for the Department's Bid Analysis and Monitoring Program.

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

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

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

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

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

207 21. Information which was filed as confidential under the Toxic Substances Information Act
208 (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

209 22. Documents as specified in § 58.1-3.

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

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

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

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

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

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

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

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

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

243 32. Reports, manuals, specifications, documents, minutes or recordings of staff meetings or other
244 information or materials of the Virginia Board of Corrections, the Virginia Department of Corrections or

245 any institution thereof to the extent, as determined by the Director of the Department of Corrections or
246 his designee or of the Virginia Board of Youth and Family Services, the Virginia Department of Youth
247 and Family Services or any facility thereof to the extent as determined by the Director of the
248 Department of Youth and Family Services, or his designee, that disclosure or public dissemination of
249 such materials would jeopardize the security of any correctional or juvenile facility or institution, as
250 follows:

- 251 (i) Security manuals, including emergency plans that are a part thereof;
- 252 (ii) Engineering and architectural drawings of correctional and juvenile facilities, and operational
253 specifications of security systems utilized by the Departments, provided the general descriptions of such
254 security systems, cost and quality shall be made available to the public;
- 255 (iii) Training manuals designed for correctional and juvenile facilities to the extent that they address
256 procedures for institutional security, emergency plans and security equipment;
- 257 (iv) Internal security audits of correctional and juvenile facilities, but only to the extent that they
258 specifically disclose matters described in (i), (ii), or (iii) above or other specific operational details the
259 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
- 260 (v) Minutes or recordings of divisional, regional and institutional staff meetings or portions thereof to
261 the extent that such minutes deal with security issues listed in (i), (ii), (iii), and (iv) of this subdivision;
- 262 (vi) Investigative case files by investigators authorized pursuant to § 53.1-16; however, nothing in
263 this section shall prohibit the disclosure of information taken from inactive reports in a form which does
264 not reveal the identity of complainants or charging parties, persons supplying information, confidential
265 sources, or other individuals involved in the investigation, or other specific operational details the
266 disclosure of which would jeopardize the security of a correctional or juvenile facility or institution;
267 nothing herein shall permit the disclosure of materials otherwise exempt as set forth in subdivision 1 of
268 subsection B of this section;
- 269 (vii) Logs or other documents containing information on movement of inmates, juvenile clients or
270 employees; and
- 271 (viii) Documents disclosing contacts between inmates, juvenile clients and law-enforcement
272 personnel.

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

276 33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development
277 Authority concerning individuals who have applied for or received loans or other housing assistance or
278 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
279 the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the
280 waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and
281 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the
282 waiting list for housing assistance programs funded by local governments or by any such authority.
283 However, access to one's own information shall not be denied.

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

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

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

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

304 38. Official records of studies and investigations by the State Lottery Department of (i) lottery
305 agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the

306 law or regulations which cause abuses in the administration and operation of the lottery and any
307 evasions of such provisions, or (v) use of the lottery as a subterfuge for organized crime and illegal
308 gambling where such official records have not been publicly released, published or copyrighted. All
309 studies and investigations referred to under subdivisions (iii), (iv) and (v) shall be subject to public
310 disclosure under this chapter upon completion of the study or investigation.

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

317 40. [Repealed.]

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

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

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

324 44. [Repealed.]

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

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

342 47. Documentation or other information which describes the design, function, operation or access
343 control features of any security system, whether manual or automated, which is used to control access to
344 or use of any automated data processing or telecommunications system.

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

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

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

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

363 52. Patient level data collected by the Virginia Health Services Cost Review Council and not yet
364 processed, verified, and released, pursuant to § 9-166.7, to the Council by the nonprofit organization
365 with which the Executive Director has contracted pursuant to § 9-166.4.

366 53. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and
367 cost projections provided by a private transportation business to the Virginia Department of

368 Transportation and the Department of Rail and Public Transportation for the purpose of conducting
369 transportation studies needed to obtain grants or other financial assistance under the Intermodal Surface
370 Transportation Efficiency Act of 1991 (P.L. 102-240) for transportation projects, provided such
371 information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce
372 Act or other laws administered by the Interstate Commerce Commission or the Federal Rail
373 Administration with respect to data provided in confidence to the Interstate Commerce Commission and
374 the Federal Railroad Administration. However, the exemption provided by this subdivision shall not
375 apply to any wholly owned subsidiary of a public body.

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

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

- 383 a. Operational, procedural or tactical planning documents, including any training manuals to the
- 384 extent they discuss security measures;
- 385 b. Surveillance techniques;
- 386 c. Installation, operation, or utilization of any alarm technology;
- 387 d. Engineering and architectural drawings of the Museum or any warehouse;
- 388 e. Transportation of the Museum's collections, including routes and schedules; or
- 389 f. Operation of the Museum or any warehouse used by the Museum involving the:
 - 390 (1) Number of employees, including security guards, present at any time; or
 - 391 (2) Busiest hours, with the maximum number of visitors in the Museum.

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

- 396 (i) Operational, procedural or tactical planning documents, including any training manuals to the
- 397 extent they discuss security measures;
- 398 (ii) Surveillance techniques;
- 399 (iii) The installation, operation, or utilization of any alarm technology;
- 400 (iv) Engineering and architectural drawings of such government stores or warehouses;
- 401 (v) The transportation of merchandise, including routes and schedules; and
- 402 (vi) The operation of any government store or the central warehouse used by the Department of
- 403 Alcoholic Beverage Control involving the:
 - 404 a. Number of employees present during each shift;
 - 405 b. Busiest hours, with the maximum number of customers in such government store; and
 - 406 c. Banking system used, including time and place of deposits.

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

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

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

413 60. Investigative notes, correspondence, documentation and information provided to or produced by
414 or for the committee or the auditor with respect to an investigation or audit conducted pursuant to
415 § 15.1-765.2. Nothing in this section shall prohibit disclosure of information from the records of
416 completed investigations or audits in a form that does not reveal the identity of complainants or persons
417 supplying information.

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

421 C. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this
422 title shall be construed as denying public access to contracts between a public official and a public
423 body, other than contracts settling public employee employment disputes held confidential as personnel
424 records under subdivision 3 of subsection B of this section, or to records of the position, job
425 classification, official salary or rate of pay of, and to records of the allowances or reimbursements for
426 expenses paid to, any public officer, official or employee at any level of state, local or regional
427 government in the Commonwealth or to the compensation or benefits paid by any corporation organized
428 by the Virginia Retirement System, RF&P Corporation and its wholly owned subsidiaries, to their

429 officers or employees. The provisions of this subsection, however, shall not apply to records of the
430 official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

431 § 58.1-3. Secrecy of information; penalties.

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

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

442 2. Acts performed or words spoken or published in the line of duty under the law;

443 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a
444 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
445 its study, provided that any such information obtained shall be privileged;

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

448 B. Nothing contained in this section shall be construed to prohibit the publication of statistics so
449 classified as to prevent the identification of particular reports or returns and the items thereof or the
450 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together
451 with any relevant information which in the opinion of the Department may assist in the collection of
452 such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing
453 whether a person, firm or corporation is licensed to do business in that locality and divulging, upon
454 written request, the name and address of any person, firm or corporation transacting business under a
455 ~~fictitious~~ fictitious name.

456 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
457 Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director
458 of finance or other similar collector of county, city or town taxes who, for the performance of his
459 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
460 Commissioner of the Department of Social Services, upon written request, information on the amount of
461 income reported by persons on their state income tax returns who have applied for public assistance
462 benefits as defined in § 63.1-87; (iii) provide to the Executive Director of the State Education Assistance
463 Authority, upon written request, the names and home addresses of those persons identified by the
464 Authority as having defaulted on loans guaranteed by the Authority; (iv) provide current address
465 information upon request to state agencies and institutions for their confidential use in facilitating the
466 collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use
467 in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v)
468 provide to the Commissioner of the Virginia Employment Commission, after entering into a written
469 agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes
470 and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a
471 written agreement, such tax information as may be necessary to facilitate the collection of state and local
472 taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the
473 State Lottery Department such tax information as may be necessary to identify those lottery ticket
474 retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential
475 use such tax information as may be necessary to facilitate the location of owners of unclaimed property;
476 (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax
477 information as may be necessary to facilitate the collection of taxes and fees administered by the
478 Commission; ~~and~~ (x) provide to the Executive Director of the Potomac and Rappahannock
479 Transportation Commission for its confidential use such tax information as may be necessary to facilitate
480 the collection of the motor vehicle fuel sales tax; *and (xi) upon a written or electronic request*
481 *containing a statement of purpose, provide tax information to licensed attorneys acting on behalf of the*
482 *Commonwealth or its political subdivisions for the collection of fines, penalties, costs, delinquencies, or*
483 *receivables owed to the Commonwealth or its political subdivisions.* The Tax Commissioner is further
484 authorized to enter into written agreements with duly constituted tax officials of other states and of the
485 United States for the inspection of tax returns, the making of audits, and the exchange of information
486 relating to any tax administered by the Department of Taxation. Any person to whom tax information is
487 divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as
488 though he were a tax official.

489 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
490 commissioner of revenue is authorized to provide, upon written request stating the reason for such

491 request, the chief executive officer of any county or city with information furnished to the commissioner
 492 of revenue by the Tax Commissioner relating to the name and address of any dealer located within the
 493 county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax
 494 revenues payable to the county or city. Any person to whom tax information is divulged pursuant to this
 495 section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax
 496 official.

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

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

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

514 § 60.2-114. Records and reports.

515 A. Each employing unit shall keep true and accurate work records, containing such information as
 516 the Commission may prescribe. Such records shall be open to inspection and be subject to being copied
 517 by the Commission or, its authorized representatives, *or upon a written or electronic request containing*
 518 *a statement of purpose, to any licensed attorney acting on behalf of the Commonwealth or its political*
 519 *subdivisions for the collection of fines, penalties, costs, delinquencies, or receivables owed to the*
 520 *Commonwealth or its political subdivisions, at any reasonable time and as often as may be necessary.*
 521 The Commission may require from any employing unit any sworn or unsworn reports, with respect to
 522 persons employed by it, which the Commission deems necessary for the effective administration of this
 523 title. Information thus obtained shall not be published, *except as necessary to enforce a legal obligation*
 524 *owed to the Commonwealth or its political subdivisions by licensed attorneys acting on behalf of the*
 525 *Commonwealth or its political subdivisions, or be open to public inspection, other than to public*
 526 *employees in the performance of their public duties, in any manner revealing the employing unit's*
 527 *identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be*
 528 *used in any judicial or administrative proceeding other than one arising out of the provisions of this*
 529 *title; however, or one arising out of the collection of fines, penalties, costs, delinquencies, or receivables*
 530 *owed to the Commonwealth or its political subdivisions. However, the Commission shall make its*
 531 *records about a claimant available to the Workers' Compensation Commission if it requests such records.*
 532 However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with
 533 information from such records to the extent necessary for the proper presentation of his claim.
 534 Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his
 535 discretion, reveal information when such communication is not inconsistent with the proper
 536 administration of this title.

537 B. Each employing unit shall report to the Commission the initial employment of any person, as
 538 defined in § 60.2-212, within thirty-five days of such employment. Information to be provided shall
 539 include (i) the employee's name, address and social security number and (ii) the employer's name,
 540 address, and federal or Virginia Employment Commission identification number. This information may
 541 be provided by mailing a copy of the employee's W-4 forms, transmitting magnetic tape in a format
 542 prescribed by the Commission, or by any other means determined by the Commission to result in timely
 543 reporting. Notwithstanding any other provisions of law, the Commission shall transmit this information
 544 to the Department of Social Services pursuant to Title 63.1 within twenty-one days of its receipt by the
 545 Commission. The Commission shall have the authority to promulgate regulations to administer this
 546 provision, including any exemptions which are needed to reduce unnecessary or burdensome reporting.
 547 The Department of Social Services shall reimburse the Commission for administrative costs incurred
 548 pursuant to this section. The provisions of this subsection shall expire on July 1, 1996.

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