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**HOUSE BILL NO. 1079**

Offered January 9, 2014

A *BILL to amend and reenact §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308, 18.2-340.22, 19.2-389, 58.1-3, 58.1-322, 58.1-460, 58.1-4002 through 58.1-4005, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4020, 58.2-4021, 58.1-4022, 58.1-4025, and 59.1-148.3 of the Code of Virginia, relating to the Virginia Lottery.*

Patron—Rush

Referred to Committee on General Laws

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

1. That §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308, 18.2-340.22, 19.2-389, 58.1-3, 58.1-322, 58.1-460, 58.1-4002 through 58.1-4005, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4020, 58.2-4021, 58.1-4022, 58.1-4025, and 59.1-148.3 of the Code of Virginia are amended and reenacted as follows:

**§ 2.2-419. Definitions.**

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

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
  2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
  3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
  4. A stock, bond, note, or other investment interest in an entity;
  5. A receipt given for the payment of money or other property;
  6. A right in action;
  7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
  8. A loan or forgiveness of indebtedness;
  9. A work of art, antique, or collectible;
  10. An automobile or other means of personal transportation;
  11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
  12. An honorarium or compensation for services;
  13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
  14. A promise or offer of employment; or
  15. Any other thing of value that is pecuniary or compensatory in value to a person.
- "Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

"Compensation" means:

1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.

"Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

"Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor.

"Executive agency" means an agency, board, commission, or other body in the executive branch of state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers' Compensation Commission, and the ~~State Lottery Department~~ *Virginia Lottery*.

"Executive official" means:

1. The Governor;

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59 2. The Lieutenant Governor;  
60 3. The Attorney General;  
61 4. Any officer or employee of the office of the Governor or Lieutenant Governor other than a  
62 clerical or secretarial employee;  
63 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each  
64 executive agency; or  
65 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,  
66 however selected.

67 "Expenditure" means:  
68 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third  
69 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything  
70 of value for any purpose;  
71 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person  
72 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other  
73 persons;  
74 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct  
75 payment of expenses incurred at the request or suggestion of the lobbyist;  
76 4. A payment that directly benefits an executive or legislative official or a member of the official's  
77 immediate family;  
78 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses  
79 of an employee for or in connection with direct communication with an executive or legislative official;  
80 6. A payment for or in connection with soliciting or urging other persons to enter into direct  
81 communication with an executive or legislative official; or  
82 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to  
83 this chapter.

84 "Expenditure" does not mean a campaign contribution properly received and reported pursuant to  
85 Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

86 "Fair market value" means the price that a good or service would bring between a willing seller and  
87 a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the  
88 actual price paid for the good or service shall be given consideration.

89 "Gift" means anything of value to the extent that a consideration of equal or greater value is not  
90 received.

91 "Gift" does not mean:  
92 1. Printed informational or promotional material;  
93 2. A gift that is not used and, no later than ~~sixty~~ 60 days after receipt, is returned to the donor or  
94 delivered to a charitable organization and is not claimed as a charitable contribution for federal income  
95 tax purposes;  
96 3. A gift, devise, or inheritance from an individual's spouse, child, parent, grandparent, brother, sister,  
97 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of  
98 that individual, if the donor is not acting as the agent or intermediary for someone other than a person  
99 covered by this subdivision; or  
100 4. A gift of a value of \$25 or less.

101 "Immediate family" means (i) the spouse and (ii) any other person who resides in the same  
102 household as the executive or legislative official and is the dependent of the official.

103 "Legislative action" means:  
104 1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval,  
105 passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion,  
106 report, nomination, appointment, or other matter by the General Assembly or a legislative official;  
107 2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by  
108 the General Assembly; or  
109 3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering  
110 amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of  
111 the Governor.

112 "Legislative official" means:  
113 1. A member or member-elect of the General Assembly;  
114 2. A member of a committee, subcommittee, commission, or other entity established by and  
115 responsible to the General Assembly or either house of the General Assembly; or  
116 3. Persons employed by the General Assembly or an entity established by and responsible to the  
117 General Assembly.

118 "Lobbying" means:  
119 1. Influencing or attempting to influence executive or legislative action through oral or written  
120 communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.
- "Lobbying" does not mean:
1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;
  2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;
  3. The solicitation of an association by its members to influence legislative or executive action; or
  4. Communications between an association and its members and communications between a principal and its lobbyists.
- "Lobbyist" means:
1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;
  2. An individual who represents an organization, association, or other group for the purpose of lobbying; or
  3. A local government employee who lobbies.
- "Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.
- "Local government" means:
1. Any county, city, town, or other local or regional political subdivision;
  2. Any school division;
  3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or
  4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.
- "Local government employee" means a public employee of a local government.
- "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.
- "Value" means the actual cost or fair market value of an item or items, whichever is greater. If the fair market value cannot be determined, the actual amount paid for the item or items shall be given consideration.
- § 2.2-2905. Certain officers and employees exempt from chapter.**
- The provisions of this chapter shall not apply to:
1. Officers and employees for whom the Constitution specifically directs the manner of selection;
  2. Officers and employees of the Supreme Court and the Court of Appeals;
  3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
  4. Officers elected by popular vote or by the General Assembly or either house thereof;
  5. Members of boards and commissions however selected;
  6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
  7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
  8. The presidents and teaching and research staffs of state educational institutions;
  9. Commissioned officers and enlisted personnel of the National Guard and the naval militia;
  10. Student employees in institutions of learning and patient or inmate help in other state institutions;
  11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees compensated on an hourly or daily basis;
  12. County, city, town, and district officers, deputies, assistants, and employees;
  13. The employees of the Virginia Workers' Compensation Commission;
  14. The officers and employees of the Virginia Retirement System;
  15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of the Department of Human Resource Management

182 as requiring specialized and professional training;

183 16. Employees of the ~~State Lottery Department~~ *Virginia Lottery*;

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

185 18. Employees of the Virginia Commonwealth University Health System Authority;

186 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for  
187 such employees shall be subject to the review and approval of the Board of Visitors of the University of  
188 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia  
189 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the  
190 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

191 20. In executive branch agencies the employee who has accepted serving in the capacity of chief  
192 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential  
193 assistant for policy or administration. An employee serving in either one of these two positions shall be  
194 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve  
195 in this exempt capacity;

196 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
197 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

198 22. Officers and employees of the Virginia Port Authority;

199 23. Employees of the Virginia College Savings Plan;

200 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental  
201 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to  
202 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure  
203 (§ 2.2-3000 et seq.);

204 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as  
205 state employees for purposes of participation in the Virginia Retirement System, health insurance, and  
206 all other employee benefits offered by the Commonwealth to its classified employees;

207 26. Employees of the Virginia Indigent Defense Commission; and

208 27. Any chief of a campus police department that has been designated by the governing body of a  
209 public institution of higher education as exempt, pursuant to § 23-232.

210 **§ 2.2-3114. Disclosure by state officers and employees.**

211 A. The Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of  
212 the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court,  
213 members of the State Corporation Commission, members of the Virginia Workers' Compensation  
214 Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees  
215 of the Virginia Retirement System, and members of the ~~State~~ *Virginia* Lottery Board and other persons  
216 occupying such offices or positions of trust or employment in state government, including members of  
217 the governing bodies of authorities, as may be designated by the Governor or, in the case of officers or  
218 employees of the legislative branch, by the Joint Rules Committee of the General Assembly, shall file,  
219 as a condition to assuming office or employment, a disclosure statement of their personal interests and  
220 such other information as is specified on the form set forth in § 2.2-3117 and thereafter shall file such a  
221 statement annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or  
222 legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or  
223 legal holiday.

224 B. Nonsalaried citizen members of all policy and supervisory boards, commissions and councils in  
225 the executive branch of state government, other than the Commonwealth Transportation Board, members  
226 of the Board of Trustees of the Virginia Retirement System, and the ~~State~~ *Virginia* Lottery Board, shall  
227 file, as a condition to assuming office, a disclosure form of their personal interests and such other  
228 information as is specified on the form set forth in § 2.2-3118 and thereafter shall file such form  
229 annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or legal  
230 holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal  
231 holiday. Nonsalaried citizen members of other boards, commissions and councils, including advisory  
232 boards and authorities, may be required to file a disclosure form if so designated by the Governor, in  
233 which case the form shall be that set forth in § 2.2-3118.

234 C. The disclosure forms required by subsections A and B shall be provided by the Secretary of the  
235 Commonwealth to each officer and employee so designated, including officers appointed by legislative  
236 authorities, not later than November 30 of each year. Disclosure forms shall be filed and maintained as  
237 public records for five years in the Office of the Secretary of the Commonwealth.

238 D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a  
239 disclosure statement of their personal interests as required by § 24.2-502.

240 E. Any officer or employee of state government who has a personal interest in any transaction before  
241 the governmental or advisory agency of which he is an officer or employee and who is disqualified  
242 from participating in that transaction pursuant to subdivision A 1 of § 2.2-3112, or otherwise elects to  
243 disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full

name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision A 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision A 3 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

**§ 2.2-3202. Eligibility for transitional severance benefit.**

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the ~~State Lottery Department~~ *Virginia Lottery*, (vii) who is employed by the Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is employed at a state educational institution as faculty (including, but not limited to, presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia Personnel Act pursuant to subdivision 3 or 20 of § 2.2-2905; and (a) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility therefor in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular vote shall not be eligible for the transitional severance benefit conferred by this chapter.

D. Eligibility shall commence on the date of involuntary separation.

E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the administrative head of an agency shall adhere to the same criteria for eligibility for transitional severance benefits as is required for gubernatorial appointees pursuant to subsection A.

**§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.**

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

1. Confidential records of all investigations of applications for licenses and permits, and of all licensees and permittees, made by or submitted to the Alcoholic Beverage Control Board, the State

305 ~~Lottery Department~~ *Virginia Lottery*, the Virginia Racing Commission, the Department of Agriculture  
306 and Consumer Services relating to investigations and applications pursuant to Article 1.1:1  
307 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the  
308 Department of Criminal Justice Services.

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

311 3. Investigator notes, and other correspondence and information, furnished in confidence with respect  
312 to an active investigation of individual employment discrimination complaints made to the Department  
313 of Human Resource Management or to such personnel of any local public body, including local school  
314 boards as are responsible for conducting such investigations in confidence. However, nothing in this  
315 section shall prohibit the disclosure of information taken from inactive reports in a form that does not  
316 reveal the identity of charging parties, persons supplying the information or other individuals involved in  
317 the investigation.

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

320 5. Investigative notes and other correspondence and information furnished in confidence with respect  
321 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under  
322 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance  
323 with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,  
324 1987, in accordance with applicable law, relating to local human rights or human relations commissions.  
325 However, nothing in this section shall prohibit the distribution of information taken from inactive reports  
326 in a form that does not reveal the identity of the parties involved or other persons supplying  
327 information.

328 6. Records of studies and investigations by the ~~State Lottery Department~~ *Virginia Lottery* of (i)  
329 lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv)  
330 defects in the law or regulations that cause abuses in the administration and operation of the lottery and  
331 any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and  
332 illegal gambling where such official records have not been publicly released, published or copyrighted.  
333 All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and  
334 copying upon completion of the study or investigation.

335 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise  
336 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of  
337 Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority  
338 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and  
339 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General  
340 with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation  
341 initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) the committee or the auditor with respect to an  
342 investigation or audit conducted pursuant to § 15.2-825; or (vi) the auditors, appointed by the local  
343 governing body of any county, city or town or a school board, who by charter, ordinance, or statute  
344 have responsibility for conducting an investigation of any officer, department or program of such body.  
345 Records of completed investigations shall be disclosed in a form that does not reveal the identity of the  
346 complainants or persons supplying information to investigators. Unless disclosure is prohibited by this  
347 section, the records disclosed shall include, but not be limited to, the agency involved, the identity of  
348 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to  
349 resolve the complaint. If an investigation does not lead to corrective action, the identity of the person  
350 who is the subject of the complaint may be released only with the consent of the subject person. Local  
351 governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

352 8. Information furnished in confidence to the Department of Human Resource Management with  
353 respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda,  
354 correspondence and other records resulting from any such investigation, consultation or mediation.  
355 However, nothing in this section shall prohibit the distribution of information taken from inactive reports  
356 in a form that does not reveal the identity of the parties involved or other persons supplying  
357 information.

358 9. The names, addresses and telephone numbers of complainants furnished in confidence with respect  
359 to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform  
360 Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made  
361 to a local governing body.

362 10. Records of active investigations being conducted by the Department of Criminal Justice Services  
363 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.),  
364 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

365 11. Records furnished to or prepared by the Board of Education pursuant to subsection D of  
366 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,

367 unauthorized alteration, or improper administration of tests by local school board employees responsible  
 368 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure  
 369 of records to (i) a local school board or division superintendent for the purpose of permitting such board  
 370 or superintendent to consider or to take personnel action with regard to an employee or (ii) any  
 371 requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity  
 372 of any person making a complaint or supplying information to the Board on a confidential basis and (b)  
 373 does not compromise the security of any test mandated by the Board.

374 12. Investigator notes, and other correspondence and information, furnished in confidence with  
 375 respect to an active investigation conducted by or for the Board of Education related to the denial,  
 376 suspension, or revocation of teacher licenses. However, this subdivision shall not prohibit the disclosure  
 377 of records to a local school board or division superintendent for the purpose of permitting such board or  
 378 superintendent to consider or to take personnel action with regard to an employee. Records of completed  
 379 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person  
 380 supplying information to investigators. The records disclosed shall include information regarding the  
 381 school or facility involved, the identity of the person who was the subject of the complaint, the nature  
 382 of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a  
 383 complaint or does not lead to corrective action, the identity of the person who was the subject of the  
 384 complaint may be released only with the consent of the subject person. No personally identifiable  
 385 information in the records regarding a current or former student shall be released except as permitted by  
 386 state or federal law.

387 13. Records, notes and information provided in confidence and related to an investigation by the  
 388 Attorney General under Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of  
 389 Title 3.2, Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2,  
 390 or Article 1 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, records related to an investigation that  
 391 has been inactive for more than six months shall, upon request, be disclosed provided such disclosure is  
 392 not otherwise prohibited by law and does not reveal the identity of charging parties, complainants,  
 393 persons supplying information, witnesses or other individuals involved in the investigation.

394 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**  
 395 **other limited exemptions.**

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

398 1. State income, business, and estate tax returns, personal property tax returns, scholastic and  
 399 confidential records held pursuant to § 58.1-3.

400 2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the  
 401 Attorney General; the members of the General Assembly, the Division of Legislative Services, or the  
 402 Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any  
 403 political subdivision of the Commonwealth; or the president or other chief executive officer of any  
 404 public institution of higher education in Virginia. However, no record, which is otherwise open to  
 405 inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to  
 406 or incorporated within any working paper or correspondence.

407 As used in this subdivision:

408 "Members of the General Assembly" means each member of the Senate of Virginia and the House of  
 409 Delegates and their legislative aides when working on behalf of such member.

410 "Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet  
 411 Secretaries, and the Assistant to the Governor for Intergovernmental Affairs; and those individuals to  
 412 whom the Governor has delegated his authority pursuant to § 2.2-104.

413 "Working papers" means those records prepared by or for an above-named public official for his  
 414 personal or deliberative use.

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

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

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

423 6. Records and writings furnished by a member of the General Assembly to a meeting of a standing  
 424 committee, special committee or subcommittee of his house established solely for the purpose of  
 425 reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of  
 426 formulating advisory opinions to members on standards of conduct, or both.

427 7. Customer account information of a public utility affiliated with a political subdivision of the

Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (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; (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; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Records 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.

10. 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 that 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.

11. 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~~ *Virginia Lottery* 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.

12. Records of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of a local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23-76.1, or of the Virginia College Savings Plan, acting pursuant to § 23-38.77, relating to the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that: (i) such records contain confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity; and (ii) disclosure of such confidential analyses would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of records relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. 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.

14. 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.

15. Records of the Virginia Commonwealth University Health System Authority pertaining to any of the following: 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; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and 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.

16. Records of the Department of Environmental Quality, the State Water Control Board, State Air Pollution Control Board or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such records shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prohibit the disclosure of records related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17. As it pertains to any person, records related to the operation of toll facilities that identify an individual, vehicle, or travel itinerary including, but not limited to, vehicle identification data, vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

18. Records of the ~~State Lottery Department~~ *Virginia Lottery* pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations; and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed.

19. Records of the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

20. Records, investigative notes, correspondence, and information pertaining to the planning, scheduling and performance of examinations of holder records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by or for the State Treasurer, his agents, employees or persons employed to perform an audit or examination of holder records.

21. Records of the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body, to the extent that such records reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

22. Records of state or local park and recreation departments and local and regional park authorities to the extent such records contain information identifying a person under the age of 18 years. However, nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For records of such persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the record may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

23. Records submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management, to the extent that they reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

24. Records of the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. Records of the Virginia Retirement System acting pursuant to § 51.1-124.30, of a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or of the Virginia College Savings Plan, acting pursuant to § 23-38.77 relating to:

a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings Plan on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, to the extent that disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan; and

551 b. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a  
552 private entity to the retirement system or the Virginia College Savings Plan, to the extent disclosure of  
553 such records would have an adverse impact on the financial interest of the retirement system or the  
554 Virginia College Savings Plan.

555 For the records specified in subdivision b to be excluded from the provisions of this chapter, the  
556 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

557 (1) Invoking such exclusion prior to or upon submission of the data or other materials for which  
558 protection from disclosure is sought;

559 (2) Identifying with specificity the data or other materials for which protection is sought; and

560 (3) Stating the reasons why protection is necessary.

561 The retirement system or the Virginia College Savings Plan shall determine whether the requested  
562 exclusion from disclosure meets the requirements set forth in subdivision b.

563 Nothing in this subdivision shall be construed to authorize the withholding of the identity or amount  
564 of any investment held or the present value and performance of all asset classes and subclasses.

565 26. Records of the Department of Corrections made confidential by § 53.1-233.

566 27. Records maintained by the Department of the Treasury or participants in the Local Government  
567 Investment Pool (§ 2.2-4600 et seq.), to the extent such records relate to information required to be  
568 provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

569 28. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident  
570 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers,  
571 except that access shall not be denied to the person who is the subject of the record.

572 29. Records maintained in connection with fundraising activities by the Veterans Services Foundation  
573 pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail address,  
574 facsimile or telephone number, social security number or other identification number appearing on a  
575 driver's license, or credit card or bank account data of identifiable donors, except that access shall not be  
576 denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be  
577 construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the  
578 pledge or donation or the identity of the donor. The exclusion provided by this subdivision shall not  
579 apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the  
580 foundation for the performance of services or other work or (ii) the terms and conditions of such grants  
581 or contracts.

582 30. Names, physical addresses, telephone numbers, and email addresses contained in correspondence  
583 between an individual and a member of the governing body, school board, or other public body of the  
584 locality in which the individual is a resident, unless the correspondence relates to the transaction of  
585 public business. However, no record that is otherwise open to inspection under this chapter shall be  
586 deemed exempt by virtue of the fact that it has been attached to or incorporated within any such  
587 correspondence.

588 31. Records of the Commonwealth's Attorneys' Services Council, to the extent such records are  
589 prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state  
590 prosecutors or law-enforcement personnel, where such records are not otherwise available to the public  
591 and the release of such records would reveal confidential strategies, methods or procedures to be  
592 employed in law-enforcement activities, or materials created for the investigation and prosecution of a  
593 criminal case.

594 32. Records provided to the Department of Aviation by other entities of the Commonwealth in  
595 connection with the operation of aircraft, where the records would not be subject to disclosure by the  
596 entity providing the records. The entity providing the records to the Department of Aviation shall  
597 identify the specific portion of the records to be protected and the applicable provision of this chapter  
598 that exempts the record or portions thereof from mandatory disclosure.

599 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

600 A. Public bodies may hold closed meetings only for the following purposes:

601 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
602 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
603 officers, appointees, or employees of any public body; and evaluation of performance of departments or  
604 schools of public institutions of higher education where such evaluation will necessarily involve  
605 discussion of the performance of specific individuals. Any teacher shall be permitted to be present  
606 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that  
607 involves the teacher and some student and the student involved in the matter is present, provided the  
608 teacher makes a written request to be present to the presiding officer of the appropriate board.

609 2. Discussion or consideration of admission or disciplinary matters or any other matters that would  
610 involve the disclosure of information contained in a scholastic record concerning any student of any  
611 Virginia public institution of higher education or any state school system. However, any such student,  
612 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to

be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

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

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

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

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

9. In the case of the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia, discussion or consideration of matters relating to specific gifts, bequests, and grants.

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

11. Discussion or consideration of tests, examinations, or other records excluded from this chapter pursuant to subdivision 4 of § 2.2-3705.1.

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

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

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

15. Discussion or consideration of medical and mental health records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.5.

16. Deliberations of the ~~State~~ Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of ~~State Lottery Department~~ Virginia Lottery matters related to proprietary lottery game information and studies or investigations exempted from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

17. Those portions of meetings by local government crime commissions where the identity of, or

674 information tending to identify, individuals providing information about crimes or criminal activities  
675 under a promise of anonymity is discussed or disclosed.

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

681 19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff  
682 members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to  
683 respond to such activity or a related threat to public safety; or discussion of reports or plans related to  
684 the security of any governmental facility, building or structure, or the safety of persons using such  
685 facility, building or structure.

686 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or  
687 of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the  
688 University of Virginia, acting pursuant to § 23-76.1, or by the Board of the Virginia College Savings  
689 Plan, acting pursuant to § 23-38.80, regarding the acquisition, holding or disposition of a security or  
690 other ownership interest in an entity, where such security or ownership interest is not traded on a  
691 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential  
692 analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement  
693 system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia  
694 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest  
695 or the future financial performance of the entity, and (ii) would have an adverse effect on the value of  
696 the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of  
697 the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be  
698 construed to prevent the disclosure of information relating to the identity of any investment held, the  
699 amount invested or the present value of such investment.

700 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
701 Fatality Review team established pursuant to § 32.1-283.1, and those portions of meetings in which  
702 individual child death cases are discussed by a regional or local child fatality review team established  
703 pursuant to § 32.1-283.2, and those portions of meetings in which individual death cases are discussed  
704 by family violence fatality review teams established pursuant to § 32.1-283.3.

705 22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern  
706 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any  
707 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern  
708 Virginia Medical School, as the case may be, have been delegated, in which there is discussed  
709 proprietary, business-related information pertaining to the operations of the University of Virginia  
710 Medical Center or Eastern Virginia Medical School, as the case may be, including business development  
711 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
712 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
713 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such  
714 information would adversely affect the competitive position of the Medical Center or Eastern Virginia  
715 Medical School, as the case may be.

716 23. In the case of the Virginia Commonwealth University Health System Authority, discussion or  
717 consideration of any of the following: the acquisition or disposition of real or personal property where  
718 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;  
719 operational plans that could affect the value of such property, real or personal, owned or desirable for  
720 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and  
721 contracts for services or work to be performed by the Authority; marketing or operational strategies  
722 where disclosure of such strategies would adversely affect the competitive position of the Authority;  
723 members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications  
724 or evaluations of other employees.

725 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within  
726 the Department of Health Professions to the extent such discussions identify any practitioner who may  
727 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

728 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein  
729 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees  
730 by or on behalf of individuals who have requested information about, applied for, or entered into  
731 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.)  
732 of Title 23 is discussed.

733 26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created  
734 pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et  
735 seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless

E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in § 56-557, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of records excluded from this chapter pursuant to subdivision 9 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.

34. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 19 of § 2.2-3705.6.

35. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of records or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of records excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23-38.80, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23-38.79:1 of records excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6.

41. Discussion or consideration by the Board of Education of records relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of records excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.2.

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of records excluded from this chapter pursuant to subdivision 29 of § 2.2-3705.7.

44. Discussion or consideration by the Virginia Tobacco Indemnification and Community Revitalization Commission of records excluded from this chapter pursuant to subdivision 23 of

797 § 2.2-3705.6.

798 45. Discussion or consideration by the board of directors of the Commercial Space Flight Authority  
799 of records excluded from this chapter pursuant to subdivision 24 of § 2.2-3705.6.

800 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
801 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
802 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or  
803 motion that shall have its substance reasonably identified in the open meeting.

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

807 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
808 more public bodies, or their representatives, but these conferences shall be subject to the same  
809 procedures for holding closed meetings as are applicable to any other public body.

810 E. This section shall not be construed to (i) require the disclosure of any contract between the  
811 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1  
812 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant  
813 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body  
814 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry  
815 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of  
816 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance  
817 of such bonds.

818 **§ 2.2-4002. Exemptions from chapter generally.**

819 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.),  
820 the following agencies shall be exempted from the provisions of this chapter, except to the extent that  
821 they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

822 1. The General Assembly.

823 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly  
824 granted any of the powers of a court of record.

825 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the  
826 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2  
827 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§  
828 29.1-700 et seq.) of Title 29.1.

829 4. The Virginia Housing Development Authority.

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

832 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031,  
833 such educational institutions shall be exempt from the publication requirements only with respect to  
834 regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining  
835 of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of  
836 students.

837 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii)  
838 classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for  
839 producers' milk, time and method of payment, butterfat testing and differential.

840 8. The Virginia Resources Authority.

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

842 10. The Department of General Services in promulgating standards for the inspection of buildings for  
843 asbestos pursuant to § 2.2-1164.

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

846 12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to  
847 subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

848 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and  
849 Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601,  
850 subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206,  
851 and subsection A of § 3.2-5406.

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

855 15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to  
856 § 2.2-2001.3

857 16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to  
858 § 22.1-203.2.

17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

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

21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

23. (Expires January 1, 2015) The Commissioner of the Marine Resources Commission in setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2.

24. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7.

26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

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

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

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

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

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, militia, naval or police functions.

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

8. The conduct of elections or eligibility to vote.

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

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

11. Traffic signs, markers or control devices.

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

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

14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).

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

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

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

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

**§ 8.01-195.11. Compensation for wrongful incarceration.**

A. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony may be awarded compensation in an amount equal to 90 percent of the inflation adjusted Virginia per capita personal income as reported by the Bureau of Economic Analysis of the United States Department of Commerce for each year of incarceration, or portion thereof.

B. Any compensation computed pursuant to subsection A and approved by the General Assembly shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum equal to 20 percent of the compensation award with the remaining 80 percent of the principal of the compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated company, including any A+ rated company from which the ~~State Lottery Department~~ *Virginia Lottery* may purchase an annuity, to provide equal monthly payments to such person for a period certain of 25 years commencing no later than one year after the effective date of the appropriation. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages by the person awarded compensation. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of the person awarded compensation. All payments or costs of annuities under this section shall be made by check issued by the State Treasurer on warrant of the Comptroller.

C. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to subsection B. In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career and technical training within the Virginia community college system contingent upon successful completion of the training. Reimbursement for tuition shall be provided by the community college at which the career or technical training was completed.

**§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.



"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the ~~State Lottery Department~~ *Virginia Lottery*; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632; or (ix) campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

#### **§ 9.1-801. Public safety officer defined.**

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of this Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or rescue squad that has been recognized by an ordinance or resolution of the governing body of any county, city or town of this Commonwealth as an integral part of the official safety program of such county, city or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the ~~State Lottery Department~~ *Virginia Lottery*; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

#### **§ 18.2-308. Carrying concealed weapons; exceptions; penalty.**

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this

subsection, he is guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature. It shall be an affirmative defense to a violation of clause (i) regarding a handgun, that a person had been issued, at the time of the offense, a valid concealed handgun permit.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

C. Except as provided in subsection A of § 18.2-308.012, this section shall not apply to:

1. Any person while in his own place of business;

2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;

3. Any person who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;

6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;

7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any conservation police officer retired from the Department of Game and Inland Fisheries, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23 retired from a campus police department, and any retired investigator of the security division of the ~~State Lottery Department~~ *Virginia Lottery*, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation. A retired law-enforcement officer who receives proof of consultation and favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2.

7a. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from such law-enforcement agency or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Board or Commission to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall

not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

For purposes of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

8. Any State Police officer who is a member of the organized reserve forces of any of the armed services of the United States, national guard, or naval militia, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

For purposes of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit;

9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such attorney may travel in the Commonwealth;

10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel; and

11. Any enrolled participant of a firearms training course who is at, or going to or from, a training location, provided that the weapons are unloaded and securely wrapped while being transported.

D. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail;

2. Officers or guards of any state correctional institution;

3. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision C 9. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in this article: (i) notaries public; (ii) registrars; (iii) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or (iv) commissioners in chancery;

4. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and

5. Harbormaster of the City of Hopewell.

**§ 18.2-340.22. Only raffles, bingo, network bingo, and instant bingo games permitted; prizes not gaming contracts.**

A. This article permits qualified organizations to conduct raffles, bingo, network bingo, and instant bingo games. All games not explicitly authorized by this article or Board regulations adopted in accordance with § 18.2-340.18 are prohibited.

B. The award of any prize money for any charitable game shall not be deemed to be part of any gaming contract within the purview of § 11-14.

C. Nothing in this article shall prohibit an organization from using the ~~State Lottery Department's~~ Virginia Lottery's Pick-3 number or any number or other designation selected by the ~~State Lottery Department~~ Virginia Lottery in connection with any lottery, as the basis for determining the winner of a raffle.

**§ 19.2-389. Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for

1166 purposes of the administration of criminal justice and the screening of an employment application or  
1167 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
1168 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
1169 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
1170 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

1171 2. Such other individuals and agencies that require criminal history record information to implement  
1172 a state or federal statute or executive order of the President of the United States or Governor that  
1173 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such  
1174 conduct, except that information concerning the arrest of an individual may not be disseminated to a  
1175 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the  
1176 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is  
1177 pending;

1178 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide  
1179 services required for the administration of criminal justice pursuant to that agreement which shall  
1180 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the  
1181 security and confidentiality of the data;

1182 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities  
1183 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,  
1184 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and  
1185 security of the data;

1186 5. Agencies of state or federal government that are authorized by state or federal statute or executive  
1187 order of the President of the United States or Governor to conduct investigations determining  
1188 employment suitability or eligibility for security clearances allowing access to classified information;

1189 6. Individuals and agencies where authorized by court order or court rule;

1190 7. Agencies of any political subdivision of the Commonwealth, public transportation companies  
1191 owned, operated or controlled by any political subdivision, and any public service corporation that  
1192 operates a public transit system owned by a local government for the conduct of investigations of  
1193 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is  
1194 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a  
1195 conviction record would be compatible with the nature of the employment, permit, or license under  
1196 consideration;

1197 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 15.2-4500 et seq.)  
1198 and their contractors, for the conduct of investigations of individuals who have been offered a position  
1199 of employment whenever, in the interest of public welfare or safety and as authorized in the  
1200 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
1201 with a conviction record would be compatible with the nature of the employment under consideration;

1202 8. Public or private agencies when authorized or required by federal or state law or interstate  
1203 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the  
1204 adult members of that individual's household, with whom the agency is considering placing a child or  
1205 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,  
1206 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that  
1207 the data shall not be further disseminated to any party other than a federal or state authority or court as  
1208 may be required to comply with an express requirement of law;

1209 9. To the extent permitted by federal law or regulation, public service companies as defined in  
1210 § 56-1, for the conduct of investigations of applicants for employment when such employment involves  
1211 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
1212 with the nature of the employment under consideration;

1213 10. The appropriate authority for purposes of granting citizenship and for purposes of international  
1214 travel, including, but not limited to, issuing visas and passports;

1215 11. A person requesting a copy of his own criminal history record information as defined in  
1216 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a  
1217 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of  
1218 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any  
1219 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board  
1220 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime  
1221 Solvers or Crime Line program as defined in § 15.2-1713.1;

1222 12. Administrators and board presidents of and applicants for licensure or registration as a child  
1223 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'  
1224 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and  
1225 volunteers at such facilities, caretakers, and other adults living in family day care homes or homes  
1226 approved by family day care systems, and foster and adoptive parent applicants of private child-placing  
1227 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data

shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The ~~State Lottery Department~~ *Virginia Lottery* for the conduct of investigations as set forth in the State Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed homes for adults, licensed district homes for adults, and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § 63.2-1720, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or religious elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a public institution of higher education pursuant to § 23-9.2:10 or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of

1289 individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416,  
1290 37.2-506, and 37.2-607;

1291 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
1292 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
1293 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1294 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates  
1295 for the purpose of determining if any person being considered for election to any judgeship has been  
1296 convicted of a crime;

1297 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of  
1298 determining an individual's fitness for employment in positions designated as sensitive under Department  
1299 of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal  
1300 history record information to the agencies shall be limited to those positions generally described as  
1301 directly responsible for the health, safety and welfare of the general populace or protection of critical  
1302 infrastructures;

1303 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under  
1304 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually  
1305 Violent Predators Act (§ 37.2-900 et seq.);

1306 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,  
1307 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary  
1308 companies, for the conduct of investigations of applications for employment or for access to facilities,  
1309 by contractors, leased laborers, and other visitors;

1310 35. Any employer of individuals whose employment requires that they enter the homes of others, for  
1311 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

1312 36. Public agencies when and as required by federal or state law to investigate (i) applicants as  
1313 providers of adult foster care and home-based services or (ii) any individual with whom the agency is  
1314 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,  
1315 subject to the restriction that the data shall not be further disseminated by the agency to any party other  
1316 than a federal or state authority or court as may be required to comply with an express requirement of  
1317 law for such further dissemination, subject to limitations set out in subsection G;

1318 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
1319 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
1320 or have accepted a position related to the provision of transportation services to enrollees in the  
1321 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other  
1322 program administered by the Department of Medical Assistance Services;

1323 38. The State Corporation Commission for the purpose of investigating individuals who are current  
1324 or proposed members, senior officers, directors, and principals of an applicant or person licensed under  
1325 Chapter 16 (§ 6.2-1600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an  
1326 application is denied based in whole or in part on information obtained from the Central Criminal  
1327 Records Exchange pursuant to § 6.2-1605, the Commissioner of Financial Institutions or his designee  
1328 may disclose such information to the applicant or its designee;

1329 39. The Department of Professional and Occupational Regulation for the purpose of investigating  
1330 individuals for initial licensure pursuant to § 54.1-2106.1;

1331 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
1332 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment  
1333 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11  
1334 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

1335 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

1336 42. The State Treasurer for the purpose of determining whether a person receiving compensation for  
1337 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

1338 43. The Department of Social Services and directors of local departments of social services for the  
1339 purpose of screening individuals seeking to enter into a contract with the Department of Social Services  
1340 or a local department of social services for the provision of child care services for which child care  
1341 subsidy payments may be provided; and

1342 44. Other entities as otherwise provided by law.

1343 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records  
1344 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal  
1345 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons  
1346 designated in the order on whom a report has been made under the provisions of this chapter.

1347 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to  
1348 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the  
1349 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a  
1350 copy of conviction data covering the person named in the request to the person making the request;

however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities, licensed district homes for adults, and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

### **§ 58.1-3. Secrecy of information; penalties.**

A. Except in accordance with a 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 person to whom tax information is divulged pursuant to § 58.1-512 or 58.1-2712.2, 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. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. 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, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state 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 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;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the

1412 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the  
1413 Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow  
1414 fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the  
1415 Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two  
1416 calendar years or in any year in which the Attorney General receives Stamping Agent information that  
1417 potentially alters the required escrow deposit of the manufacturer. The information shall only be  
1418 provided in the following manner: the manufacturer may make a written request, on a quarterly or  
1419 yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the  
1420 amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who  
1421 reported stamping or selling its products and the amount reported. The Attorney General shall provide  
1422 the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the  
1423 reports the Stamping Agents filed with the Attorney General, it must first request them from the  
1424 Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the  
1425 reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the  
1426 Attorney General, including a copy of the prior written request to the Stamping Agent and any response  
1427 received, for copies of any reports not received. The Attorney General shall provide copies of the  
1428 reports within 45 days of receipt of the request.

1429 B. Nothing contained in this section shall be construed to prohibit the publication of statistics so  
1430 classified as to prevent the identification of particular reports or returns and the items thereof or the  
1431 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together  
1432 with any relevant information which in the opinion of the Department may assist in the collection of  
1433 such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing  
1434 whether a person, firm or corporation is licensed to do business in that locality and divulging, upon  
1435 written request, the name and address of any person, firm or corporation transacting business under a  
1436 fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue  
1437 is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner  
1438 with information obtained from local tax returns and other information pertaining to the income, sales  
1439 and property of any person, firm or corporation licensed to do business in that locality.

1440 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax  
1441 Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director  
1442 of finance or other similar collector of county, city or town taxes who, for the performance of his  
1443 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the  
1444 Commissioner of the Department of Social Services, upon written request, information on the amount of  
1445 income, filing status, number and type of dependents, and whether a federal earned income tax credit  
1446 has been claimed as reported by persons on their state income tax returns who have applied for public  
1447 assistance or social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer  
1448 of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the  
1449 names and home addresses of those persons identified by the designated guarantor as having delinquent  
1450 loans guaranteed by the designated guarantor; (iv) provide current address information upon request to  
1451 state agencies and institutions for their confidential use in facilitating the collection of accounts  
1452 receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the  
1453 collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the  
1454 Commissioner of the Virginia Employment Commission, after entering into a written agreement, such  
1455 tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid  
1456 benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement,  
1457 such tax information as may be necessary to facilitate the collection of state and local taxes and the  
1458 administration of the alcoholic beverage control laws; (vii) provide to the Director of the ~~State Lottery~~  
1459 ~~Department~~ *Virginia Lottery* such tax information as may be necessary to identify those lottery ticket  
1460 retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential  
1461 use such tax information as may be necessary to facilitate the location of owners and holders of  
1462 unclaimed property, as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon  
1463 entering into a written agreement, such tax information as may be necessary to facilitate the collection  
1464 of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac  
1465 and Rappahannock Transportation Commission for his confidential use such tax information as may be  
1466 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the  
1467 Commissioner of the Department of Agriculture and Consumer Services such tax information as may be  
1468 necessary to identify those applicants for registration as a supplier of charitable gaming supplies who  
1469 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing  
1470 and Community Development for its confidential use such tax information as may be necessary to  
1471 facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270  
1472 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and  
1473 address information to private collectors entering into a written agreement with the Tax Commissioner,



for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; and (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130. 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 or other assessing official is authorized to (i) 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; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

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

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

1535 Commissioner of the obligations under this section.

1536 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published  
1537 any confidential tax document which he knows or has reason to know is a confidential tax document. A  
1538 confidential tax document is any correspondence, document, or tax return that is prohibited from being  
1539 divulged by subsection A, B, C, or D and includes any document containing information on the  
1540 transactions, property, income, or business of any person, firm, or corporation that is required to be filed  
1541 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document  
1542 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person  
1543 violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

1544 **§ 58.1-322. Virginia taxable income of residents.**

1545 A. The Virginia taxable income of a resident individual means his federal adjusted gross income for  
1546 the taxable year, which excludes combat pay for certain members of the Armed Forces of the United  
1547 States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications  
1548 specified in this section.

1549 B. To the extent excluded from federal adjusted gross income, there shall be added:

1550 1. Interest, less related expenses to the extent not deducted in determining federal income, on  
1551 obligations of any state other than Virginia, or of a political subdivision of any such other state unless  
1552 created by compact or agreement to which Virginia is a party;

1553 2. Interest or dividends, less related expenses to the extent not deducted in determining federal  
1554 taxable income, on obligations or securities of any authority, commission or instrumentality of the  
1555 United States, which the laws of the United States exempt from federal income tax but not from state  
1556 income taxes;

1557 3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

1558 4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum  
1559 distribution allowance and any amount excludable for federal income tax purposes that is excluded from  
1560 federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions  
1561 under § 402 of the Internal Revenue Code; and

1562 5 through 8. [Repealed.]

1563 9. The amount required to be included in income for the purpose of computing the partial tax on an  
1564 accumulation distribution pursuant to § 667 of the Internal Revenue Code.

1565 C. To the extent included in federal adjusted gross income, there shall be subtracted:

1566 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States  
1567 and on obligations or securities of any authority, commission or instrumentality of the United States to  
1568 the extent exempt from state income taxes under the laws of the United States including, but not limited  
1569 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,  
1570 interest on equipment purchase contracts, or interest on other normal business transactions.

1571 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth  
1572 or of any political subdivision or instrumentality of the Commonwealth.

1573 3. [Repealed.]

1574 4. Benefits received under Title II of the Social Security Act and other benefits subject to federal  
1575 income taxation solely pursuant to § 86 of the Internal Revenue Code.

1576 4a. Through December 31, 2000, the same amount used in computing the federal credit allowed  
1577 under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on  
1578 the basis of permanent and total disability and who is a qualified individual as defined in § 22(b)(2) of  
1579 the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not  
1580 also claim a subtraction under this subdivision.

1581 4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as  
1582 defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction  
1583 under subdivision D 5 may not also claim a subtraction under this subdivision.

1584 5. The amount of any refund or credit for overpayment of income taxes imposed by the  
1585 Commonwealth or any other taxing jurisdiction.

1586 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not  
1587 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

1588 7, 8. [Repealed.]

1589 9. [Expired.]

1590 10. Any amount included therein less than \$600 from a prize awarded by the ~~State Lottery~~  
1591 ~~Department Virginia Lottery~~.

1592 11. The wages or salaries received by any person for active and inactive service in the National  
1593 Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar  
1594 days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of  
1595 O3 and below shall be entitled to the deductions specified herein.

1596 12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for

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

13. [Repealed.]

14. [Expired.]

15, 16. [Repealed.]

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

18. [Repealed.]

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

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

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

22. For taxable years beginning on or after January 1, 2000, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

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

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farmers; (b) any person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

28. For taxable years beginning on and after January 1, 2000, items of income attributable to, derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with

1658 the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II  
1659 and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this  
1660 subdivision shall only apply to an individual who was the first recipient of such items of income and  
1661 who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of  
1662 such victim.

1663 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by  
1664 the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or  
1665 omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct  
1666 aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi  
1667 persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during  
1668 World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include  
1669 any individual forced into labor against his will, under the threat of death, during World War II and its  
1670 prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi  
1671 Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any  
1672 other neutral European country or area in Europe under the influence or threat of Nazi invasion.

1673 29, 30. [Repealed.]

1674 31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity  
1675 payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line  
1676 of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount  
1677 shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross  
1678 income in accordance with § 134 of the Internal Revenue Code.

1679 32. Effective for all taxable years beginning on or after January 1, 2007, the death benefit payments  
1680 from an annuity contract that are received by a beneficiary of such contract provided that (i) the death  
1681 benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death  
1682 benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed  
1683 only for that portion of the death benefit payment that is included in federal adjusted gross income.

1684 33. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of  
1685 launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended  
1686 to provide individuals the training or experience of a launch, without performing an actual launch. To  
1687 qualify for a deduction under this subdivision, launch services must be performed in Virginia or  
1688 originate from an airport or spaceport in Virginia.

1689 34. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of  
1690 resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the  
1691 Commercial Orbital Transportation Services division of the National Aeronautics and Space  
1692 Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or  
1693 spaceport in Virginia.

1694 35. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital  
1695 gain for federal income tax purposes, or any income taxed as investment services partnership interest  
1696 income (otherwise known as investment partnership carried interest income) for federal income tax  
1697 purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an  
1698 investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business  
1699 approved by the Secretary of Technology, provided the business has its principal office or facility in the  
1700 Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To  
1701 qualify for a subtraction under this subdivision, the investment shall be made between the dates of April  
1702 1, 2010, and June 30, 2015. No taxpayer who has claimed a tax credit for an investment in a "qualified  
1703 business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an  
1704 investment in the same business.

1705 D. In computing Virginia taxable income there shall be deducted from Virginia adjusted gross  
1706 income as defined in § 58.1-321:

1707 1. a. The amount allowable for itemized deductions for federal income tax purposes where the  
1708 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the  
1709 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted  
1710 on such federal return and increased by an amount which, when added to the amount deducted under  
1711 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for  
1712 such purposes at a rate of 18 cents per mile; or

1713 b. Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such  
1714 amounts in the case of a married individual filing a separate return) for taxable years beginning on and  
1715 after January 1, 2005; provided that the taxpayer has not itemized deductions for the taxable year on his  
1716 federal income tax return. For purposes of this section, any person who may be claimed as a dependent  
1717 on another taxpayer's return for the taxable year may compute the deduction only with respect to earned  
1718 income.

1719 2. a. A deduction in the amount of \$900 for taxable years beginning on and after January 1, 2005,

but before January 1, 2008; and \$930 for taxable years beginning on and after January 1, 2008, for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

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

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Except as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or savings trust account. No deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or savings trust account, including, but not limited to, carryover and recapture of deductions.

b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1, 1998, and shall be subject to the limitations set out in subdivision 7 a.

c. A purchaser of a prepaid tuition contract or contributor to a savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a savings trust account, less any amounts previously deducted.

8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

1781 9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the  
1782 tuition costs incurred by an individual employed as a primary or secondary school teacher licensed  
1783 pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses  
1784 that are required as a condition of employment; however, the deduction provided by this subsection shall  
1785 be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has  
1786 not claimed a deduction for the payment of such tuition costs on his federal income tax return.

1787 10. For taxable years beginning on or after January 1, 2000, the amount an individual pays annually  
1788 in premiums for long-term health care insurance, provided the individual has not claimed a deduction for  
1789 federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under  
1790 § 58.1-339.11. For taxable years beginning on or after January 1, 2014, no such deduction for long-term  
1791 health care insurance premiums paid by the individual during the taxable year shall be allowed if the  
1792 individual has claimed a federal income tax deduction for such taxable year for long-term health care  
1793 insurance premiums paid by him.

1794 11. For taxable years beginning on and after January 1, 2006, contract payments to a producer of  
1795 quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation  
1796 Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant  
1797 to subsection D of § 58.1-402, as follows:

1798 a. If the payment is received in installment payments, then the recognized gain, including any gain  
1799 recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year  
1800 in which the installment payment is received.

1801 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be  
1802 subtracted in the taxable year immediately following the year in which the single payment is received.  
1803 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

1804 12. For taxable years beginning on and after January 1, 2007, an amount equal to 20 percent of the  
1805 sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable  
1806 year, in purchasing for his own use the following items of tangible personal property: (i) any clothes  
1807 washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the  
1808 applicable energy star efficiency requirements developed by the United States Environmental Protection  
1809 Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates electricity using  
1810 an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and  
1811 (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of  
1812 performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot  
1813 water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating  
1814 system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0;  
1815 (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii)  
1816 any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced  
1817 oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace  
1818 with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

1819 13. For taxable years beginning on or after January 1, 2007, the lesser of \$5,000 or the amount  
1820 actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket  
1821 expenses directly related to the donation that arose within 12 months of such donation, provided the  
1822 donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal  
1823 Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation  
1824 is made or the taxable year in which the 12-month period expires.

1825 14. For taxable years beginning on or after January 1, 2013, the amount an individual age 66 or  
1826 older with earned income of at least \$20,000 for the year and federal adjusted gross income not in  
1827 excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy  
1828 covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers  
1829 may claim a deduction for such premiums under federal income tax laws. "Earned income" means the  
1830 same as that term is defined in § 32(c) of the Internal Revenue Code of 1954, as amended or  
1831 renumbered. The deduction shall not be allowed for any portion of such premiums paid for which the  
1832 individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed  
1833 a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax  
1834 credit or any income tax credit pursuant to this chapter.

1835 E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the  
1836 individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined  
1837 under § 58.1-361.

1838 F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as  
1839 transitional modifications.

1840 G. Effective for all taxable years beginning on or after January 1, 2007, to the extent included in  
1841 federal adjusted gross income, there shall be (i) subtracted from federal adjusted gross income by a  
1842 shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise

tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the income or gain of such electing small business corporation (S corporation), and (ii) added back to federal adjusted gross income such that, federal adjusted gross income shall be increased, by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the losses or deductions of such electing small business corporation (S corporation).

Effective for all taxable years beginning on or after January 1, 2007, to the extent excluded from federal adjusted gross income, there shall be added to federal adjusted gross income by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the value of any distribution paid or distributed to the shareholder by such electing small business corporation (S corporation).

H. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

#### **§ 58.1-460. Definitions.**

For the purposes of this article:

"Wages" means wages as defined under § 3401 (a) of the Internal Revenue Code, as well as any other amounts from which federal income tax is withheld under the provisions of §§ 3402 and 3405 of the Internal Revenue Code and also includes all prizes in excess of \$5,001 paid by the ~~State Lottery Department~~ *Virginia Lottery*; however, such term shall not include amounts paid pursuant to individual retirement plans and simplified employee pension plans as defined in §§ 7701 (a) (37) and 408 (c) of the Internal Revenue Code and shall not include remuneration paid for acting in or service as a member of the crew of a (i) motion picture feature film, (ii) television series or commercial, or (iii) promotional film filmed totally or partially in the Commonwealth by an individual or corporation which conducts business in the Commonwealth for less than ~~ninety~~ 90 days of the tax year and when such film, series or commercial is processed, edited and marketed outside the Commonwealth. Every such individual or corporation shall, immediately subsequent to the filming of such portion of the film, series or commercial filmed in the Commonwealth, file with the Commissioner on forms furnished the Department, a list of the names and social security account numbers of each actor or crew member who is a resident of the Commonwealth and is compensated by such individual or corporation.

"Payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer.

"Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

"Employee" includes an individual, whether a resident or a nonresident of the Commonwealth, who performs or performed any service in the Commonwealth for wages, or a resident of the Commonwealth who performs or performed any service in the service outside the Commonwealth for wages. The word "employee" also includes an officer, employee, or elected official of the United States, the Commonwealth, or any other state or any territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing or an officer of a corporation. The term shall not include the beneficial owner of an individual retirement account (IRA) or simplified employee pension plan (SEPP).

"Employer" means the Commonwealth, or any political subdivision thereof, the United States, or any agency or instrumentality of any one or more of the foregoing, or the person, whether a resident or a nonresident of the Commonwealth, for whom an individual performs or performed any service as an employee or from whom a person receives a prize in excess of \$5,001 pursuant to the ~~State~~ *Virginia* Lottery Law (§ 58.1-4000 et seq.), except that:

1. If the person, governmental unit, or agency thereof, for whom the individual performs or performed the service does not have control of the payment of the wages for such services, the term "employer" (except as used in the definition of "wages" herein) means the person having control of the

1904 payment of such wages, and

1905 2. In the case of a person paying wages on behalf of a nonresident person not engaged in trade or  
1906 business within the Commonwealth or on behalf of any governmental unit or agency thereof not located  
1907 within the Commonwealth, the term, "employer" (except as used in the definition of "wages" herein)  
1908 means such person. The term shall not include a financial institution, corporation, partnership or other  
1909 person or entity with respect to benefits paid as custodian, trustee or depository for an individual  
1910 retirement account (IRA) or simplified employee pension plan (SEPP). **Chapter 40. State Virginia**

1911 **Lottery Law.**

1912 **§ 58.1-4002. Definitions.**

1913 For the purposes of this chapter:

1914 "Board" means the ~~State Virginia~~ Lottery Board established by this chapter.

1915 "Department" means the ~~State Lottery Department~~ *independent agency responsible for the*  
1916 *administration of the Virginia Lottery* created in this chapter.

1917 "Director" means the Director of the ~~State Lottery Department~~ *Virginia Lottery*.

1918 "Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this  
1919 chapter.

1920 **§ 58.1-4003. Virginia Lottery established.**

1921 Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any  
1922 other provision of law, there is hereby established as an independent agency of the Commonwealth,  
1923 exclusive of the legislative, executive or judicial branches of government, a ~~State the Virginia~~ Lottery  
1924 ~~Department~~, which shall include a Director and a ~~State Virginia~~ Lottery Board for the purpose of  
1925 operating a state lottery.

1926 **§ 58.1-4004. Membership of Board; appointment; terms; vacancies; removal; expenses.**

1927 A. The Board shall consist of five members, all of whom shall be citizens and residents of this  
1928 Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor,  
1929 subject to confirmation by a majority of the members elected to each house of the General Assembly if  
1930 in session when the appointment is made, and if not in session, then at its next succeeding session. Prior  
1931 to the appointment of any Board members, the Governor shall consider the political affiliation and the  
1932 geographic residence of the Board members. The members shall be appointed for terms of five years.  
1933 The members shall annually elect one member as chairman of the Board.

1934 B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be  
1935 filled for the unexpired term in the same manner as the original term.

1936 C. The members of the Board shall receive such compensation as provided in § 2.2-2813, shall be  
1937 subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the  
1938 performance of their official duties.

1939 D. Before entering upon the discharge of their duties, the members of the Board shall take an oath  
1940 that they will faithfully and honestly execute the duties of the office during their continuance therein and  
1941 they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful  
1942 discharge of their duties. The premium on such bond shall be paid out of the ~~State Virginia~~ Lottery  
1943 Fund.

1944 **§ 58.1-4005. Appointment, qualifications and salary of Director.**

1945 A. The Department shall be under the immediate supervision and direction of a Director, who shall  
1946 be a person of good reputation, particularly as to honesty and integrity, and shall be subject to a  
1947 thorough background investigation conducted by the Department of State Police prior to appointment.  
1948 The Director shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by  
1949 a majority of the members elected to each house of the General Assembly if in session when the  
1950 appointment is made, and if not in session, then at its next succeeding session. The Director shall  
1951 receive a salary as provided in the general appropriations act.

1952 B. The Director shall devote his full time to the performance of his official duties and shall not be  
1953 engaged in any other profession or occupation.

1954 C. Before entering upon the discharge of his duties, the Director shall take an oath that he will  
1955 faithfully and honestly execute the duties of his office during his continuance therein and shall give  
1956 bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of his  
1957 duties. The premium on such bond shall be paid out of the ~~State Virginia~~ Lottery Fund.

1958 **§ 58.1-4008. Employees of the Department; background investigations of employees.**

1959 All persons employed by the Department shall be fingerprinted before, and as a condition of,  
1960 employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National  
1961 Criminal Records search and to the Department of State Police for a Virginia Criminal History Records  
1962 search. All board members, officers and employees of any vendor to the ~~State Lottery~~ Department of  
1963 lottery on-line or instant ticket goods or services working directly on a contract with the ~~Lottery~~  
1964 Department for such goods or services shall be fingerprinted, and such fingerprints shall be submitted to  
1965 the Federal Bureau of Investigation for a National Criminal Records search conducted by the chief



security officer of the ~~State Lottery Department~~ *Virginia Lottery*. A background investigation shall be conducted by the chief security officer of the ~~State Lottery Department~~ *Virginia Lottery* on every applicant prior to employment by the Department. However, all division directors of the ~~State Lottery Department~~ *Virginia Lottery* and employees of the ~~State Lottery Department~~ *Virginia Lottery* performing duties primarily related to security matters shall be subject to a background investigation report conducted by the Department of State Police prior to employment by the Department. The Department of State Police shall be reimbursed by the ~~State Lottery Department~~ *Virginia Lottery* for the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department or on contracts with vendors described in this section.

**§ 58.1-4009. Licensing of lottery sales agents; penalty.**

A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business primarily as a lottery sales agent. Before issuing such license, the Director shall consider such factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to serve the public convenience; and (iv) the volume of expected sales.

B. For the purposes of this section, the term "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies, and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies, and instrumentalities thereof.

C. The chief security officer of the ~~State Lottery Department~~ *Virginia Lottery* shall conduct a background investigation, to include a Virginia Criminal History Records search, and fingerprints that shall be submitted to the Federal Bureau of Investigation if the Director deems a National Criminal Records search necessary, on applicants for licensure as lottery sales agents. The Director may refuse to issue a license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) engaged in conduct prejudicial to public confidence in the Lottery. The Director may refuse to grant a license or may suspend, revoke or refuse to renew a license issued pursuant to this chapter to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) engaged in conduct prejudicial to public confidence in the Lottery. Whoever knowingly and willfully falsifies, conceals, or misrepresents a material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any application for licensure to the ~~State Lottery Department~~ *Virginia Lottery* for lottery sales agent, ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

D. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory to the Director, payable to the ~~State Lottery Department~~ *Virginia Lottery* and conditioned upon the faithful performance of his duties.

E. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the regulations of the Department.

**§ 58.1-4011. Meaning of "gross receipts."**

A. Notwithstanding the provisions of Chapter 37 of ~~this title~~ (§ 58.1-3700 *et seq.*) or § 58.1-4025 of ~~this chapter~~ relating to local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent with the provisions of subdivision A 11 of ~~subsection A~~ of § 58.1-4007.

B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental payments for the business premises on which state lottery tickets are sold on the basis of retail sales shall have that portion of rental payment based on sales of state lottery tickets or shares computed on the basis of the compensation received as a lottery agent from the ~~State Lottery Department~~ *Virginia Lottery*.

**§ 58.1-4020. Unclaimed prizes.**

A. Unclaimed prizes for a winning ticket or share shall be retained by the Director for the person entitled thereto for 180 days after the drawing in which the prize was won in the case of a drawing prize and for 180 days after the announced end of the lottery game in the case of a prize determined in any manner other than by means of a drawing. If no claim is made for the prize within the 180 days,

2027 the Director shall deem such prize forfeited by the person entitled to claim such winnings.

2028 B. All prizes deemed forfeited pursuant to subsection A shall be paid into the Literary Fund. The  
2029 Director may develop procedures, to be approved by the Auditor of Public Accounts, for estimating the  
2030 cumulative total of such unclaimed prizes in any lottery game in lieu of specifically identifying  
2031 unclaimed prizes where such specific identification would not be cost effective. The Director, within  
2032 ~~sixty~~ 60 days after the end of each 180-day retention period, shall report the total value of prizes  
2033 forfeited at the end of such period to the Comptroller, who shall promptly transfer the total of such  
2034 prizes to the Literary Fund. The total value of prizes forfeited during the fiscal year shall be audited by  
2035 the Auditor of Public Accounts in accordance with § 58.1-4023. In the case of a prize payable over time  
2036 on one or more winning tickets, if one or more winning tickets is not claimed within the 180-day  
2037 redemption period, the Department shall transfer the then current monetary value of such portion of the  
2038 prize remaining unclaimed to the Literary Fund in accordance with procedures approved by the State  
2039 Treasurer. "Current monetary value" shall be determined by the net proceeds from the sale of that  
2040 portion of jackpot securities allocated to the unclaimed winner plus the amount of the initial cash  
2041 payment.

2042 C. Subsection B of this section shall not apply to prizes of ~~twenty-five dollars~~ \$25 or less resulting  
2043 from any lottery game other than a lottery game in which a drawing determined the prize. The Board  
2044 shall adopt regulations for the disposition of all such unclaimed prizes of ~~twenty-five dollars~~ \$25 or less  
2045 not resulting from a drawing. Such disposition shall be directed in whole or in part to either the State  
2046 Virginia Lottery Fund or to other forms of compensation to licensed sales agents.

2047 D. For purposes of this section, "prize" refers to a cash prize. In the case of a prize payable over  
2048 time and not as a lump sum payment, "prize" means the present cash value of the prize, not the value  
2049 paid over time.

2050 E. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App.  
2051 U.S.C.A. § 525), any person whose unclaimed prize was deemed forfeited pursuant to subsection A  
2052 while he was in active military service may claim such forfeited prize by presenting his winning ticket  
2053 to the Director no later than 180 days after his discharge from active military service. Within ~~thirty~~ 30  
2054 days of such presentation, the Director shall verify the claim and report the verification to the  
2055 Comptroller. The Comptroller shall promptly pay the verified claim first from funds available in the  
2056 Unclaimed Property Trust Fund in § 3-2.00 of the general appropriations act; if such funds are  
2057 insufficient, then, from any undesignated, unreserved year-end balance of the general fund. All verified  
2058 claims shall be paid in accordance with the Board's rules and regulations then in effect regarding the  
2059 manner of payment of prizes to the holders of winning tickets or shares.

2060 **§ 58.1-4021. Deposit of moneys received by agents; performance of functions, etc., in connection**  
2061 **with operation of lottery; compensation of agents.**

2062 A. The Director shall require all lottery sales agents to deposit to the credit of the State Virginia  
2063 Lottery Fund in banks, designated by the State Treasurer, all moneys received by such agents from the  
2064 sale of lottery tickets or shares, less any amount paid as prizes or retained as compensation to agents for  
2065 the sale of the tickets or shares, and to file with the Director, or his designated agents, reports of their  
2066 receipts, transactions and disbursements pertaining to the sale of lottery tickets in such form and  
2067 containing such information as he may require. Such deposits and reports shall be submitted at such  
2068 times and within such intervals as shall be prescribed by rule and regulation of the Department. The  
2069 Director may arrange for any person, including a bank, to perform such functions, activities or services  
2070 in connection with the operation of the lottery as he may deem advisable pursuant to this chapter and  
2071 the rules and regulations of the Department, and such functions, activities and services shall constitute  
2072 lawful functions, activities and services of the person.

2073 B. The rules and regulations of the Department shall provide for a service charge to the licensed  
2074 agent if any payor bank dishonors a check or draft tendered for deposit to the credit of the State  
2075 Virginia Lottery Fund by a licensed agent or for an electronic transfer of funds to the State Virginia  
2076 Lottery Fund from the account of a licensed agent for money received from the sale of lottery tickets.

2077 The regulations of the Department shall provide for a service charge and penalty to a licensed agent  
2078 if any payor bank dishonors a check or draft from the account of a licensed agent tendered for payment  
2079 of any prize by a licensed agent to any claimant. Any such charge or penalty so collected by the  
2080 Department shall be used first to reimburse the claimant for any charges or penalties incurred by him as  
2081 a result of the licensed agent's dishonored check tendered as payment of any prize and the remainder to  
2082 offset the Department's administrative costs.

2083 C. A licensed agent shall be charged interest as provided in § 58.1-15 on the money that is not  
2084 timely paid to the State Virginia Lottery Fund in accordance with the rules and regulations of the  
2085 Department and shall in addition thereto pay penalties as provided by rules and regulations of the  
2086 Department.

2087 D. Should the Department refer the debt of any licensed agent to the Attorney General, the  
2088 Department of Taxation as provided in § 58.1-520 et seq., or any other central collection unit of the

Commonwealth, an additional service charge shall be imposed in the amount necessary to cover the administrative costs of the Department and agencies to which such debt is referred.

E. Notwithstanding the provisions of Chapter 5 (§ 8.01-257 et seq.) of Title 8.01, in any action for the collection of a debt owed by any licensed agent to the lottery, venue shall lie in the City of Richmond.

F. All proceeds from the sale of lottery tickets or shares received by a person in the capacity of a sales agent shall constitute a trust fund until deposited into the ~~State~~ Virginia Lottery Fund either directly or through the Department's authorized collection representative. Proceeds shall include cash proceeds of the sale of any lottery products, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares. Sales agents shall be personally liable for all proceeds.

G. If the Director determines that the deposit or collection from any sales agent of any moneys or proceeds under this section is or will be jeopardized or will otherwise be delayed, he may adjust either the time or the interval or both for such deposits or collections of any sales agent; require that all such moneys or proceeds shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets prior to their deposit or collection under this section; and require such other security of any sales agent as he may deem advisable to ensure the timely deposit or collection of moneys or proceeds to the credit of the ~~State~~ Virginia Lottery Fund.

Collection of moneys or proceeds "is or will be jeopardized or will otherwise be delayed" when (i) a check, draft, or electronic funds transfer to the credit of the ~~State~~ Virginia Lottery Fund is dishonored as described in subsection B; (ii) an independent auditor states that the lottery sales agent's financial condition raises substantial doubt about its ability to continue as a going concern; or (iii) the lottery sales agent (a) closes for business or fails to maintain normal business hours without reasonable explanation, (b) has a credit record reflecting recent actions which cast doubt as to its creditworthiness, (c) states it has or may have cash flow problems or may be unable to meet its financial obligations, (d) states it may seek the protection of the federal bankruptcy or state insolvency law, (e) refuses to purchase additional lottery tickets or returns tickets ordered without good cause, or (f) does any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect moneys or proceeds which are or will become due and payable to the ~~State~~ Virginia Lottery Fund.

#### **§ 58.1-4022. Virginia Lottery Fund.**

A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and compensation of agents as authorized by regulation and any other revenues received under this chapter, shall be placed in a special fund known as the "~~State~~ Virginia Lottery Fund." Notwithstanding any other provisions of law, interest earned from moneys in the ~~State~~ Virginia Lottery Fund shall accrue to the benefit of such Fund.

B. The total costs for the operation and administration of the lottery shall be funded from the ~~State~~ Virginia Lottery Fund and shall be in such amount as provided in the general appropriation act. Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive of agent compensation, shall at no time exceed ~~ten~~ 10 percent of the total annual estimated gross revenues to be generated from lottery sales. However, should it be anticipated at any time by the Director that such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the Director shall immediately report such information to the Board, the Governor and the Chairmen of Senate Finance and House Appropriations Committees. From the moneys in the Fund, the Comptroller shall establish a special reserve fund in such amount as shall be provided by regulation of the Department for (i) operation of the lottery, (ii) use if the game's pay-out liabilities exceed its cash on hand, or (iii) enhancement of the prize pool with income derived from lending securities held for payment of prize installments, which lending of securities shall be conducted in accordance with lending programs approved by the Department of the Treasury.

C. The Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 58.1-4022.1, less the special reserve fund, the audited balances of the ~~State~~ Virginia Lottery Fund at the close of each fiscal year. The transfer for each year shall be made in two parts: (i) on or before June 30, the Comptroller shall transfer balances of the ~~State~~ Virginia Lottery Fund for the fiscal year, based on an estimate determined by the ~~State Lottery Department~~ Virginia Lottery, and (ii) no later than ~~ten~~ 10 days after receipt of the annual audit report required by § 58.1-4023, the Comptroller shall transfer to the Lottery Proceeds Fund the remaining audited balances of the ~~State~~ Virginia Lottery Fund for the fiscal year. If such annual audit discloses that the actual revenue is less than the estimate on which the transfer was based, the State Comptroller shall transfer the difference between the actual revenue and the estimate from the Lottery Proceeds Fund to the ~~State~~ Virginia Lottery Fund.

D. In addition to such other funds as may be appropriated, 100 percent of the lottery revenues transferred to the Lottery Proceeds Fund shall be appropriated entirely and solely for the purpose of public education in the Commonwealth unless otherwise redirected pursuant to Article X, Section 7-A of the Constitution of Virginia. The additional appropriation of lottery revenues to local school divisions

2150 for public education purposes consistent with this provision shall be used for operating, capital outlay, or  
2151 debt service expenses, as determined by the appropriation act. The additional appropriation of lottery  
2152 revenues shall not be used by any local school division to reduce its total local expenditures for public  
2153 education in accordance with the provisions of the general appropriation act.

2154 E. As a function of the administration of this chapter, funds may be expended for the purposes of  
2155 reasonably informing the public concerning (i) the facts embraced in the subjects contained in  
2156 subdivisions A 1 through 7 of ~~subsection A~~ of § 58.1-4007 and (ii) the fact that the net proceeds are  
2157 paid into the Lottery Proceeds Fund of the Commonwealth, but no funds shall be expended for the  
2158 primary purpose of inducing persons to participate in the lottery.

2159 **§ 58.1-4025. Exemption of lottery prizes and sales of tickets from state and local taxation.**

2160 Except as provided in Chapter 3 of Title 58.1 and § 58.1-4011, no state or local taxes of any type  
2161 whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant  
2162 to the *State Virginia Lottery Law*.

2163 **§ 59.1-148.3. Purchase of handguns of certain officers.**

2164 A. The Department of State Police, the Department of Game and Inland Fisheries, the Department of  
2165 Alcoholic Beverage Control, the ~~State Lottery Department~~ *Virginia Lottery*, the Marine Resources  
2166 Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of  
2167 Forestry, any sheriff, any regional jail board or authority and any local police department may allow any  
2168 full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may  
2169 allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any  
2170 law-enforcement officer, and any institution of higher learning named in § 23-14 may allow any campus  
2171 police officer appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, retiring on or after July 1,  
2172 1991, who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result  
2173 of a service-incurred disability or who is receiving long-term disability payments for a service-incurred  
2174 disability with no expectation of returning to the employment where he incurred the disability to  
2175 purchase the service handgun issued or previously issued to him by the agency or institution at a price  
2176 of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted  
2177 for that weapon. This privilege shall also extend to any former Superintendent of the Department of  
2178 State Police who leaves service after a minimum of five years. This privilege shall also extend to any  
2179 person listed in this subsection who is eligible for retirement with at least 10 years of service who  
2180 resigns on or after July 1, 1991, in good standing from one of the agencies listed in this section to  
2181 accept a position covered by the Virginia Retirement System. Other weapons issued by the Department  
2182 of State Police for personal duty use of an officer, may, with approval of the Superintendent, be sold to  
2183 the officer subject to the qualifications of this section at a fair market price determined as in subsection  
2184 B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or  
2185 sporting goods store by a private citizen without restrictions other than the instant background check.

2186 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who  
2187 retires with 5 or more years of service, but less than 10, to purchase the service handgun issued to him  
2188 by the agency at a price equivalent to the weapon's fair market value on the date of the officer's  
2189 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in  
2190 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the  
2191 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on  
2192 the date of the officer's retirement. Determinations of fair market value may be made by reference to a  
2193 recognized pricing guide.

2194 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn  
2195 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least  
2196 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

2197 D. The governing board of any institution of higher learning named in § 23-14 may allow any  
2198 campus police officer appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23 who retires on or  
2199 after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's  
2200 fair market value on the date of the officer's retirement. Determinations of fair market value may be  
2201 made by reference to a recognized pricing guide.

2202 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a  
2203 state agency listed in subsection A, when the agency allows purchases of service handguns, and who  
2204 retires after 10 years of state service, even if a portion of his service was with another state agency, may  
2205 purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

2206 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a  
2207 minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to  
2208 him.

2209 G. Any sheriff or local police department, in accordance with written authorization or approval from  
2210 the local governing body, may allow any auxiliary law-enforcement officer with more than 10 years of  
2211 service to purchase the service handgun issued to him by the agency at a price that is equivalent to or

2212 less than the weapon's fair market value on the date of purchase by the officer.

2213 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer  
2214 currently employed by the agency to purchase his service handgun, with the approval of the chief  
2215 law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the  
2216 agency has purchased new service handguns for its officers, and the handgun subject to the sale is no  
2217 longer used by the agency or officer in the course of duty.

2218 **2. That wherever in the Code of Virginia the terms "State Lottery Department," "State Lottery**  
2219 **Fund," or "State Lottery Board" are used, they shall be deemed to mean the "Virginia Lottery,"**  
2220 **the "Virginia Lottery Fund," and the "Virginia Lottery Board," respectively.**