

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 2.2-2715 and 2.2-3705.7 of the Code of Virginia, relating to the Veterans Services Foundation.*

[H 1967]

Approved

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

**1. That §§ 2.2-2715 and 2.2-3705.7 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2715. Veterans Services Foundation; purpose; membership; terms; compensation; staff.**

A. The Veterans Services Foundation (the Foundation) is established as an independent body politic and corporate agency supporting the Department of Veterans Services in the executive branch of state government. The Foundation shall be governed and administered by a board of trustees. The Foundation shall (i) administer the Veterans Services Fund (the Fund), (ii) provide funding for veterans services and programs in the Commonwealth through the Fund, and (iii) *accept and* raise revenue from all sources, including private source fundraising, to support the Fund. The Foundation shall submit a quarterly report to the Commissioner of Veterans Services on the Foundation's funding levels and services and an annual report to the Secretary of Veterans and Defense Affairs on or before November 30 of each year. The quarterly report and the annual report shall be submitted electronically.

B. The board of trustees of the Foundation shall consist of the Commissioner of Veterans Services and the Chairmen of the Board of Veterans Services and the Joint Leadership Council of Veterans Service Organizations or their designees, who shall serve as ex officio voting members, and 16 members to be appointed as follows: eight nonlegislative citizens appointed by the Governor; five nonlegislative citizens appointed by the Speaker of the House of Delegates; and three nonlegislative citizens appointed by the Senate Committee on Rules. A majority of the trustees shall be active or retired chairmen, chief executive officers, or chief financial officers for large private corporations or nonprofit organizations or individuals who have extensive fundraising experience in the private sector. Trustees appointed shall, insofar as possible, be veterans. Each appointing authority shall endeavor to ensure a balanced geographical representation on the Board to facilitate fundraising efforts across the state.

After initial appointments, members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments. Any member of the Board of Trustees may be removed at the pleasure of the appointing authority.

C. Trustees shall be reimbursed for their actual expenses incurred while attending meetings of the trustees or performing other duties. However, such reimbursement shall not exceed the per diem rate established for members of the General Assembly pursuant to § 30-19.12.

D. The Secretary of Veterans and Defense Affairs shall designate a state agency to provide the Foundation with administrative and other services.

E. The trustees shall adopt bylaws governing their organization and procedures and may amend the same. The trustees shall elect from their number a chairman and such other officers as their bylaws may provide. Ex officio members shall not be eligible to serve as chairman. The trustees shall meet four times a year at such times as they deem appropriate or on call of the chairman. A majority of the voting members of the board of trustees shall constitute a quorum.

F. Any person designated by the board of trustees to handle the funds of the Foundation or the Fund shall give bond, with corporate surety, in a penalty fixed by the Governor, conditioned upon the faithful discharge of his duties. Any premium on the bond shall be paid from funds available to the Foundation.

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

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

2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any

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HB1967ER

political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:

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

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

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

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

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

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

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

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 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 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

179 to the extent such records contain information identifying a person under the age of 18 years. However,  
 180 nothing in this subdivision shall operate to prohibit the disclosure of information defined as directory  
 181 information under regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C.  
 182 § 1232g, unless the public body has undertaken the parental notification and opt-out requirements  
 183 provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent,  
 184 or guardian of such person, unless the parent's parental rights have been terminated or a court of  
 185 competent jurisdiction has restricted or denied such access. For records of such persons who are  
 186 emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated  
 187 person who is the subject of the record may waive, in writing, the protections afforded by this  
 188 subdivision. If the protections are so waived, the public body shall open such records for inspection and  
 189 copying.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

226 29. Records maintained in connection with fundraising activities by the Veterans Services Foundation  
 227 pursuant to § 2.2-2716 to the extent that such records reveal the address, electronic mail address,  
 228 facsimile or telephone number, social security number or other identification number appearing on a  
 229 driver's license, or credit card or bank account data of identifiable donors, except that access shall not be  
 230 denied to the person who is the subject of the record. Nothing in this subdivision, however, shall be  
 231 construed to authorize the withholding of records relating to the amount, date, purpose, and terms of the  
 232 pledge or donation or the identity of the donor, *unless the donor has requested anonymity in connection*  
 233 *with or as a condition of making a pledge or donation.* The exclusion provided by this subdivision shall  
 234 not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with  
 235 the foundation for the performance of services or other work or (ii) the terms and conditions of such  
 236 grants or contracts.

237 30. Names, physical addresses, telephone numbers, and email addresses contained in correspondence  
 238 between an individual and a member of the governing body, school board, or other public body of the  
 239 locality in which the individual is a resident, unless the correspondence relates to the transaction of

public business. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any such correspondence.

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

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

33. Records created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

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HB1967ER