

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 2.2-4020.2, relating to the Virginia*
3 *Administrative Process Act; default by nonappearing party.*

4 [S 928]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 2.2-4020.2 as follows:**8 **§ 2.2-4020.2. Default.**

9 *A. Unless otherwise provided by law, if a party without good cause fails to attend or appear at a*
10 *formal hearing conducted in accordance with § 2.2-4020, or at an informal fact-finding proceeding*
11 *conducted pursuant to § 2.2-4019, the presiding officer may issue a default order.*

12 *B. A default order shall not be issued by the presiding officer unless the party against whom the*
13 *default order is entered has been sent the notice that contains a notification that a default order may be*
14 *issued against that party if that party fails without good cause to attend or appear at the hearing or*
15 *informal fact-finding proceeding that is the subject of the notice.*

16 *C. If a default order is issued, the presiding officer may conduct all further proceedings necessary to*
17 *complete the adjudication without the defaulting party and shall determine all issues in the adjudication,*
18 *including those affecting the defaulting party.*

19 *D. A recommended, initial, or final order issued against a defaulting party may be based on the*
20 *defaulting party's admissions or other evidence that may be used without notice to the defaulting party.*
21 *If the burden of proof is on the defaulting party to establish that the party is entitled to the agency*
22 *action sought, the presiding officer may issue a recommended, initial, or final order without taking*
23 *evidence.*

24 *E. Not later than 15 days after notice to a party subject to a default order that a recommended,*
25 *initial, or final order has been rendered against the party, the party may petition the presiding officer to*
26 *vacate the recommended, initial, or final order. If good cause is shown for the party's failure to appear,*
27 *the presiding officer shall vacate the decision and, after proper service of notice, conduct another*
28 *evidentiary hearing. If good cause is not shown for the party's failure to appear, the presiding officer*
29 *shall deny the motion to vacate.*

30 *F. The provisions of this section shall not apply to any administrative hearings process that is*
31 *governed by § 32.1-325.1 relating to provider appeals.*

ENROLLED

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