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SENATE BILL NO. 1036

Offered January 11, 2017

Prefiled January 4, 2017

A BILL to amend and reenact §§ 2.2-2905, 2.2-3705.4, 2.2-3711, and 2.2-4006 and to amend the Code of Virginia by adding in Title 23.1 a chapter numbered 7.1, consisting of sections numbered 23.1-713.1 through 23.1-713.10, relating to the establishment of the Virginia Student Loan Refinancing Authority.

Patrons—Howell and McClellan

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2905, 2.2-3705.4, 2.2-3711, and 2.2-4006 are amended and reenacted and that the Code of Virginia is amended by adding in Title 23.1 a chapter numbered 7.1, consisting of sections numbered 23.1-713.1 through 23.1-713.10, as follows:

§ 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;
- 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 as requiring specialized and professional training;
- 16. Employees of the Virginia Lottery;
- 17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;
- 18. Employees of the Virginia Commonwealth University Health System Authority;
- 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
- 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
- 22. Officers and employees of the Virginia Port Authority;

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59 23. Employees of the Virginia College Savings Plan;
60 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
61 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to
62 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure
63 (§ 2.2-3000 et seq.);

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

67 26. Employees of the Virginia Indigent Defense Commission;

68 27. Any chief of a campus police department that has been designated by the governing body of a
69 public institution of higher education as exempt, pursuant to § 23.1-809; and

70 28. (Effective July 1, 2018) The Chief Executive Officer, agents, officers, and employees of the
71 Virginia Alcoholic Beverage Control Authority; and

72 29. *Employees of the Virginia Student Loan Refinancing Authority.*

73 **§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of**
74 **educational institutions.**

75 The following information contained in a public record is excluded from the mandatory disclosure
76 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
77 disclosure is prohibited by law. Redaction of information excluded under this section from a public
78 record shall be conducted in accordance with § 2.2-3704.01.

79 1. Scholastic records containing information concerning identifiable individuals, except that such
80 access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the
81 student. However, no student shall have access to (i) financial records of a parent or guardian or (ii)
82 records of instructional, supervisory, and administrative personnel and educational personnel ancillary
83 thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to
84 any other person except a substitute.

85 The parent or legal guardian of a student may prohibit, by written request, the release of any
86 individual information regarding that student until the student reaches the age of 18 years. For scholastic
87 records of students under the age of 18 years, the right of access may be asserted only by his legal
88 guardian or parent, including a noncustodial parent, unless such parent's parental rights have been
89 terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic
90 records of students who are emancipated or attending a state-supported institution of higher education,
91 the right of access may be asserted by the student.

92 Any person who is the subject of any scholastic record and who is 18 years of age or older may
93 waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such
94 records shall be disclosed.

95 2. Confidential letters and statements of recommendation placed in the records of educational
96 agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an
97 application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

98 3. Information held by the Brown v. Board of Education Scholarship Awards Committee that would
99 reveal personally identifiable information, including scholarship applications, personal financial
100 information, and confidential correspondence and letters of recommendation.

101 4. Information of a proprietary nature produced or collected by or for faculty or staff of public
102 institutions of higher education, other than the institutions' financial or administrative records, in the
103 conduct of or as a result of study or research on medical, scientific, technical or scholarly issues,
104 whether sponsored by the institution alone or in conjunction with a governmental body or a private
105 concern, where such information has not been publicly released, published, copyrighted or patented.

106 5. Information held by the University of Virginia or the University of Virginia Medical Center or
107 Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related
108 information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia
109 Medical School, as the case may be, including business development or marketing strategies and
110 activities with existing or future joint venturers, partners, or other parties with whom the University of
111 Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms,
112 any arrangement for the delivery of health care, if disclosure of such information would be harmful to
113 the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical
114 School, as the case may be.

115 6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College
116 Savings Plan or its employees by or on behalf of individuals who have requested information about,
117 applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to
118 Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. However, information in a statistical or other form that does
119 not identify individuals or provide personal information shall be disclosed and may be published by the
120 Board. Individuals shall be provided access to their own personal information.

121 7. Information maintained in connection with fundraising activities by or for a public institution of
 122 higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or
 123 prospective donors or (ii) wealth assessments; estate, financial, or tax planning information;
 124 health-related information; employment, familial, or marital status information; electronic mail addresses,
 125 facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or
 126 prospective donors. Nothing in this subdivision, however, shall be construed to authorize the withholding
 127 of information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity
 128 of the donor unless the donor has requested anonymity in connection with or as a condition of making a
 129 pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure
 130 (i) the identities of sponsors providing grants to or contracting with the institution for the performance
 131 of research services or other work or (ii) the terms and conditions of such grants or contracts.

132 8. Information held by a threat assessment team established by a local school board pursuant to
 133 § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the
 134 assessment or intervention with a specific individual. However, in the event an individual who has been
 135 under assessment commits an act, or is prosecuted for the commission of an act that has caused the
 136 death of, or caused serious bodily injury, including any felony sexual assault, to another person, such
 137 information of the threat assessment team concerning the individual under assessment shall be made
 138 available as provided by this chapter, with the exception of any criminal history records obtained
 139 pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic
 140 records as defined in § 22.1-289. The public body providing such information shall remove personally
 141 identifying information of any person who provided information to the threat assessment team under a
 142 promise of confidentiality.

143 9. *Personal information, as defined in § 2.2-3801, provided to the board of the Virginia Student Loan*
 144 *Refinancing Authority or its employees by or on behalf of individuals who have requested information*
 145 *about, applied for, or entered into agreements for qualified education loan refinancing pursuant to*
 146 *Chapter 7.1 (§ 23.1-713.1 et seq.) of Title 23.1. Nothing in this subdivision shall be construed to*
 147 *prohibit disclosure or publication of information in a statistical or other form that does not identify*
 148 *individuals or provide personal information. Individuals shall be provided access to their own personal*
 149 *information.*

150 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

152 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 153 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 154 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 155 schools of public institutions of higher education where such evaluation will necessarily involve
 156 discussion of the performance of specific individuals. Any teacher shall be permitted to be present
 157 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that
 158 involves the teacher and some student and the student involved in the matter is present, provided the
 159 teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing
 160 in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body
 161 or an elected school board to discuss compensation matters that affect the membership of such body or
 162 board collectively.

163 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
 164 involve the disclosure of information contained in a scholastic record concerning any student of any
 165 Virginia public institution of higher education or any state school system. However, any such student,
 166 legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to
 167 be present during the taking of testimony or presentation of evidence at a closed meeting, if such
 168 student, parents, or guardians so request in writing and such request is submitted to the presiding officer
 169 of the appropriate board.

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

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

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

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

180 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
 181 or probable litigation, where such consultation or briefing in open meeting would adversely affect the

182 negotiating or litigating posture of the public body; and consultation with legal counsel employed or
183 retained by a public body regarding specific legal matters requiring the provision of legal advice by such
184 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been
185 specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe
186 will be commenced by or against a known party. Nothing in this subdivision shall be construed to
187 permit the closure of a meeting merely because an attorney representing the public body is in attendance
188 or is consulted on a matter.

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

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

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

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

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

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

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

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

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

227 17. Those portions of meetings by local government crime commissions where the identity of, or
228 information tending to identify, individuals providing information about crimes or criminal activities
229 under a promise of anonymity is discussed or disclosed.

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

235 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
236 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
237 or emergency service officials concerning actions taken to respond to such matters or a related threat to
238 public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of
239 § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the
240 security of any facility, building, structure, information technology system, or software program; or
241 discussion of reports or plans related to the security of any governmental facility, building or structure,
242 or the safety of persons using such facility, building or structure.

243 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or

244 of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the
 245 University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings
 246 Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or
 247 other ownership interest in an entity, where such security or ownership interest is not traded on a
 248 governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential
 249 analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement
 250 system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia
 251 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest
 252 or the future financial performance of the entity, and (ii) would have an adverse effect on the value of
 253 the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of
 254 the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be
 255 construed to prevent the disclosure of information relating to the identity of any investment held, the
 256 amount invested or the present value of such investment.

257 21. Those portions of meetings in which individual child death cases are discussed by the State Child
 258 Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which
 259 individual child death cases are discussed by a regional or local child fatality review team established
 260 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
 261 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
 262 which individual adult death cases are discussed by the state Adult Fatality Review Team established
 263 pursuant to § 32.1-283.5, and those portions of meetings in which individual adult death cases are
 264 discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6.

265 22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern
 266 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
 267 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
 268 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
 269 proprietary, business-related information pertaining to the operations of the University of Virginia
 270 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
 271 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
 272 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
 273 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
 274 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
 275 Medical School, as the case may be.

276 23. In the case of the Virginia Commonwealth University Health System Authority, discussion or
 277 consideration of any of the following: the acquisition or disposition of real or personal property where
 278 disclosure would adversely affect the bargaining position or negotiating strategy of the Authority;
 279 operational plans that could affect the value of such property, real or personal, owned or desirable for
 280 ownership by the Authority; matters relating to gifts, bequests and fund-raising activities; grants and
 281 contracts for services or work to be performed by the Authority; marketing or operational strategies
 282 where disclosure of such strategies would adversely affect the competitive position of the Authority;
 283 members of its medical and teaching staffs and qualifications for appointments thereto; and qualifications
 284 or evaluations of other employees. This exclusion shall also apply when the foregoing discussions occur
 285 at a meeting of the Virginia Commonwealth University Board of Visitors.

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

289 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
 290 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
 291 by or on behalf of individuals who have requested information about, applied for, or entered into
 292 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
 293 of Title 23.1 is discussed.

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

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

304 28. Discussion or consideration of information excluded from this chapter pursuant to subdivision 11

305 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
306 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
307 responsible public entity concerning such records.

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

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

316 31. Discussion or consideration by the Commitment Review Committee of information excluded from
317 this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as
318 sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

319 32. [Expired.]

320 33. Discussion or consideration of confidential proprietary information and trade secrets excluded
321 from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
322 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
323 seq.).

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

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

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

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

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

339 39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
340 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
341 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
342 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment
343 Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter
344 pursuant to subdivision 25 of § 2.2-3705.7.

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

347 41. Discussion or consideration by the Board of Education of information relating to the denial,
348 suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of
349 § 2.2-3705.3.

350 42. Those portions of meetings of the Virginia Military Advisory Council or any commission created
351 by executive order for the purpose of studying and making recommendations regarding preventing
352 closure or realignment of federal military and national security installations and facilities located in
353 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
354 appointed by a local governing body, during which there is discussion of information excluded from this
355 chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

358 44. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
359 information excluded from this chapter pursuant to subdivision 23 of § 2.2-3705.6.

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

362 46. Discussion or consideration of personal and proprietary information that are excluded from the
363 provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of
364 § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain
365 information that has been certified for release by the person who is the subject of the information or
366 transformed into a statistical or aggregate form that does not allow identification of the person who

367 supplied, or is the subject of, the information.

368 47. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia
369 Alcoholic Beverage Control Authority of information excluded from this chapter pursuant to subdivision
370 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7.

371 48. Discussion or consideration of grant or loan application records excluded from this chapter
372 pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from
373 the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title
374 23.1.

375 49. Discussion or development of grant proposals by a regional council established pursuant to
376 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth
377 and Opportunity Board.

378 50. *Discussion or consideration by the board of the Virginia Student Loan Refinancing Authority of*
379 *personal information, as defined in § 2.2-3801, that has been provided to the board or its employees by*
380 *or on behalf of individuals who have requested information about, applied for, or entered into*
381 *agreements for qualified education loan refinancing pursuant to Chapter 7.1 (§ 23.1-713.1 et seq.) of*
382 *Title 23.1.*

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

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

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

393 E. This section shall not be construed to (i) require the disclosure of any contract between the
394 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
395 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
396 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
397 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
398 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
399 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
400 of such bonds.

401 **§ 2.2-4006. Exemptions from requirements of this article.**

402 A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia
403 Register Act shall be exempted from the operation of this article:

404 1. Agency orders or regulations fixing rates or prices.

405 2. Regulations that establish or prescribe agency organization, internal practice or procedures,
406 including delegations of authority.

407 3. Regulations that consist only of changes in style or form or corrections of technical errors. Each
408 promulgating agency shall review all references to sections of the Code of Virginia within their
409 regulations each time a new supplement or replacement volume to the Code of Virginia is published to
410 ensure the accuracy of each section or section subdivision identification listed.

411 4. Regulations that are:

412 a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no
413 agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days
414 of the law's effective date;

415 b. Required by order of any state or federal court of competent jurisdiction where no agency
416 discretion is involved; or

417 c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not
418 differ materially from those required by federal law or regulation, and the Registrar has so determined in
419 writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be
420 published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

421 5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B
422 of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or
423 more Board meetings and one public hearing.

424 6. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant
425 to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of
426 Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and
427 applicants.

428 7. The development and issuance of procedural policy relating to risk-based mine inspections by the
429 Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

430 8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13
431 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control
432 Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et
433 seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act
434 (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine
435 Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission
436 (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of
437 § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended
438 Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including
439 potentially affected citizens groups, to assist in the development of the general permit, (iii) provides
440 notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least
441 one public hearing on the proposed general permit.

442 9. The development and issuance by the Board of Education of guidelines on constitutional rights
443 and restrictions relating to the recitation of the pledge of allegiance to the American flag in public
444 schools pursuant to § 22.1-202.

445 10. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23.1-704.

446 11. Regulations of the Marine Resources Commission.

447 12. Regulations adopted by the Board of Housing and Community Development pursuant to (i)
448 Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et
449 seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the
450 Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of
451 § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written
452 comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§
453 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions
454 of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of
455 § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the
456 Governor and General Assembly.

457 13. Amendments to regulations of the Board to schedule a substance in Schedule I or II pursuant to
458 subsection D of § 54.1-3443.

459 14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant
460 to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01
461 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the
462 Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period,
463 forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary
464 response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the
465 provisions of this subdivision, any such waste load allocations adopted, amended, or repealed by the
466 Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the Governor
467 and General Assembly.

468 15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including
469 regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the
470 Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in
471 subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an
472 opportunity for public comment on the regulations prior to adoption.

473 16. *Regulations of the Virginia Student Loan Refinancing Authority adopted pursuant to Chapter 7.1*
474 *(§ 23.1-713.1 et seq.) of Title 23.1.*

475 B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it
476 will receive, consider and respond to petitions by any interested person at any time with respect to
477 reconsideration or revision. The effective date of regulations adopted under this section shall be in
478 accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall
479 become effective as provided in subsection B of § 2.2-4012.

480 C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and
481 that is placed before a board or commission for consideration shall be provided at least two days in
482 advance of the board or commission meeting to members of the public that request a copy of that
483 regulation. A copy of that regulation shall be made available to the public attending such meeting.

484 CHAPTER 7.1.

485 VIRGINIA STUDENT LOAN REFINANCING AUTHORITY.

486 § 23.1-713.1. *Definitions.*

487 *As used in this chapter, unless the context requires a different meaning:*

488 *"Authority" means the Virginia Student Loan Refinancing Authority.*

489 *"Board" means the governing board of the Authority.*

490 "Bonds" means bonds, notes, or other evidences of indebtedness or obligations of the Authority
491 pursuant to this chapter.

492 "Qualified education loan" has the same meaning as provided in 20 U.S.C. § 221(d).

493 "Eligible student" means any individual who is the borrower on a qualified education loan that the
494 individual obtained to finance his own education.

495 "Lender" means any federally chartered or state-chartered bank, federal land bank, production credit
496 association, federally-chartered or state-chartered credit union, federally-chartered or state-chartered
497 savings institution, building and loan association, small business investment company, or any other
498 financial institution qualified within the Commonwealth to originate and service refinancing loans.

499 "Refinancing loan" means a loan made by a lender to refinance an eligible student's qualified
500 education loan.

501 "Revenues" means any and all fees, profits, and receipts collected by, payable to, or otherwise
502 derived by, the Authority, and all other moneys and income of whatsoever kind or character collected
503 by, payable to, or otherwise derived by, the Authority in connection with guarantees of refinancing loans
504 in furtherance of the purposes of this article.

505 **§ 23.1-713.2. Virginia Student Loan Refinancing Authority established; purposes.**

506 The Virginia Student Loan Refinancing Authority is established as a political subdivision of the
507 Commonwealth to facilitate the education of residents of the Commonwealth and promote the economic
508 development of the Commonwealth. The Authority's exercise of the powers conferred by this chapter
509 constitutes the exercise of an essential governmental function.

510 **§ 23.1-713.3. Governing board of the Authority.**

511 A. The Authority shall be governed by a board composed of 10 members, consisting of (i) nine
512 nonlegislative citizen members appointed by the Governor and (ii) the State Treasurer, who shall serve
513 ex officio with voting privileges.

514 B. At least two members of the board shall have at least 10 years of experience in making qualified
515 education loans or loan refinancing, but no member shall have a financial interest in, be engaged in, or
516 be employed by an employer that is engaged in making qualified education loans.

517 C. Members appointed by the Governor to the board shall serve terms of four years. Vacancies
518 occurring other than by expiration of a term shall be filled for the unexpired term. No member
519 appointed by the Governor to the board shall serve more than two consecutive four-year terms;
520 however, a member appointed by the Governor to serve an unexpired term shall be eligible to serve two
521 consecutive four-year terms immediately succeeding such unexpired term. All appointments shall be
522 subject to confirmation by the General Assembly. Members appointed by the Governor to the board
523 shall continue to hold office until their successors have been appointed and confirmed. Ex officio
524 members shall serve a term coincident with their term of office.

525 D. The board shall annually elect a chairman from among its members and may elect such other
526 officers as it deems appropriate.

527 E. A majority of the members of the board constitutes a quorum.

528 F. No member shall be compensated for his service on the board but each member shall be
529 reimbursed for all reasonable and necessary expenses incurred in the performance of his duties.
530 Funding for the expenses of members shall be provided by the Authority.

531 **§ 23.1-713.4. Powers of the Authority.**

532 A. The board may:

533 1. Adopt, amend, and repeal any bylaws, policies, and procedures for the regulation of its affairs
534 and the conduct of its business.

535 2. Have a seal and alter such seal at its pleasure.

536 3. Sue and be sued.

537 4. Maintain an office.

538 5. Accept gifts, grants, loans, or other contributions from private or public sources.

539 6. Establish the Authority's annual budget and monitor the fiscal management of the Authority.

540 7. Execute contracts and other instruments required for the operation of the Authority.

541 8. Employ any officers, agents, and employees that it may require and determine their qualifications,
542 duties, and compensation.

543 9. Issue bonds in furtherance of any of its powers or purposes to be payable solely from the
544 revenues and property pledged for the payment of such bonds and refund such obligations.

545 10. Borrow money in anticipation of the issuance of bonds to be payable first from the proceeds of
546 any obligations to be subsequently issued under this chapter and solely from the revenues and property
547 pledged for the payment of such bonds.

548 11. Contract for and obtain letters of credit, bond insurance, investment contracts, and other
549 instruments, agreements, and arrangements in connection with the issuance of bonds.

550 12. Invest and reinvest the funds and assets of the Authority in accordance with all applicable law

551 *and agreements.*

552 13. *Provide retirement, deferred compensation, employee benefit, and other plans for personnel of*
553 *the Authority and pay, deposit, and invest Authority funds in accordance with the provisions of such*
554 *plans.*

555 14. *Acquire title to, hold, and dispose of real and personal property in the name of the Authority.*

556 15. *Accept contributions, grants, and other things of value to be expended to accomplish the*
557 *purposes of the Authority and to be held, used, and applied only for the purposes for which such*
558 *contributions, grants, and other things of value are made.*

559 16. *Procure liability insurance.*

560 17. *Guarantee, in full or in part, the obligations of eligible students to repay refinancing loans,*
561 *which may include payment to the lender of sums owed by an eligible student under the terms of a*
562 *refinancing loan utilizing funds raised through the issuance by the Authority of bonds as authorized by*
563 *this chapter.*

564 18. *Enter into agreements with eligible students whose refinancing loans are guaranteed by the*
565 *Authority providing for the Authority to recover, from an eligible student whose default under a*
566 *refinancing loan results in the payment of sums by the Authority to the lender, all sums paid by the*
567 *Authority to such lender and any costs or expenses incurred by the Authority in connection with*
568 *performing its obligations thereunder.*

569 19. *Fix, revise, charge, and collect fees for guaranteeing to lenders the obligations of eligible*
570 *students to repay their refinancing loans.*

571 20. *Do all other acts necessary or convenient to carry out the purposes of this chapter except (i)*
572 *engaging in the business of banking or insurance or (ii) directly making qualified education loans or*
573 *refinancing loans to eligible students.*

574 **§ 23.1-713.5. Duties of the Authority.**

575 *The board shall:*

576 1. *Develop and implement a program by which each individual who incurred qualified education*
577 *loan debt as a Virginia student at an institution of higher education in the Commonwealth and who*
578 *seeks to refinance all or part of his qualified education loans by obtaining a refinancing loan from a*
579 *lender, may obtain the guarantee of the Authority to perform the individual's obligations to repay the*
580 *amounts due to the lender under the terms of the refinancing loan.*

581 2. *Set fees and charges for guaranteeing refinancing loans made under the program established*
582 *pursuant to subdivision 1 at the lowest rate that is still sufficient to pay all necessary expenses of the*
583 *program and provide reserves that the board determines necessary.*

584 3. *Prescribe the terms, conditions, and limitations upon which it guarantees the performance of the*
585 *individual's obligations to repay the amounts due to the lender under the terms of a refinancing loan,*
586 *including requirements for insurance and the safekeeping of assets pledged to secure such guarantees.*

587 4. *Appoint a chief executive officer of the Authority and determine his salary.*

588 5. *Submit an annual report to the Governor and the General Assembly no later than November 1*
589 *that contains the annual financial statements of the Authority for the fiscal year ending the preceding*
590 *June 30. The annual report shall be submitted as provided in the procedures of the Division of*
591 *Legislative Automated Systems for the processing of legislative documents and reports and shall be*
592 *posted on the General Assembly's website.*

593 **§ 23.1-713.6. Bonds.**

594 A. *Each issue of bonds shall be dated, bear interest at such rate as the Authority fixes, and mature*
595 *at such time as the Authority determines but not to exceed 40 years from the bonds' date.*

596 B. *Each issue of bonds may be made redeemable before maturity, at the option of the Authority, at*
597 *such price and under such terms and conditions as the Authority determines prior to the issuance of*
598 *such bonds.*

599 C. *The Authority shall determine the form, manner of execution, and denomination of bonds and the*
600 *place of payment of principal and interest on bonds, which may be any bank or trust company within or*
601 *outside the Commonwealth.*

602 D. *Bonds shall be signed by either the chairman of the board or the chief executive officer of the*
603 *Authority. Such signature shall be valid and sufficient for all purposes regardless of whether such*
604 *individual remains in his office or position.*

605 E. *The Authority may (i) issue bonds in coupon or registered form and (ii) make provision for (a)*
606 *the registration of any coupon bonds as to principal alone or as to both principal and interest, (b) the*
607 *reconversion into coupon bonds of any bonds registered as to both principal and interest, and (c) the*
608 *interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either*
609 *at public or private sale, and for such price as it determines.*

610 F. *The proceeds of the bonds of each issue shall be used solely for such purposes and in furtherance*
611 *of such powers of the Authority as are set forth in the resolution authorizing the issuance of such bonds*
612 *or in the trust agreement securing such bonds, as set forth in subsection G.*

613 G. The Authority may secure bonds by a trust agreement between the Authority and a corporate
 614 trustee, which may be any trust company or bank that has the powers of a trust company within or
 615 outside the Commonwealth. Such trust agreement or the resolution providing for the issuance of bonds
 616 may pledge or assign the revenues and property of the Authority as security for the repayment and other
 617 performance of the Authority's bonds. Any bank or trust company incorporated under the laws of the
 618 Commonwealth that is authorized to act as depository of the proceeds of such bonds or of revenues may
 619 furnish such indemnifying bonds or pledge such securities as may be required by the Authority. Any
 620 such trust agreement may (i) set forth the rights and remedies of the holders of such bonds and the
 621 trustee, (ii) restrict the individual right of action by the holders of such bonds, and (iii) contain such
 622 other provisions as the Authority deems reasonable and proper for the security of the holders of such
 623 bonds. The Authority may treat all expenses incurred in the carrying out the provisions of such trust
 624 agreement or resolution as part of the cost of the operation of the Authority.

625 H. All moneys received pursuant to the provisions of this chapter, whether as proceeds from the sale
 626 of bonds or as revenues, are trust funds that shall be held and applied solely as provided in this
 627 chapter. The Authority shall, in the resolution authorizing the issuance of bonds or in the trust
 628 agreement securing such obligations, provide for the payment of the proceeds of the sale of the bonds
 629 and the revenues to be received by a trustee, which shall be any trust company or bank having the
 630 powers of a trust company within or outside the Commonwealth or the State Treasurer acting as trustee
 631 of the funds, and hold and apply such proceeds and revenues in accordance with this chapter and the
 632 resolution or trust agreement.

633 I. Except as may be otherwise provided in the trust agreement, any holder of bonds issued pursuant
 634 to this chapter or any coupons appertaining to such bonds and the trustee under any trust agreement
 635 may protect and enforce all rights under the laws of the Commonwealth or the trust agreement and
 636 enforce and compel the performance of all duties required by this chapter or by such resolution or trust
 637 agreement to be performed by the Authority or any officer or agent of the Authority.

638 J. Bonds issued by the Authority pursuant to this chapter are securities (i) in which all public
 639 officers and bodies of the Commonwealth and all localities, loan associations, trust companies,
 640 beneficial and benevolent associations, administrators, guardians, executors, trustees, and other
 641 fiduciaries in the Commonwealth may legally invest funds under their control and (ii) which may be
 642 legally deposited with and received by any state or local officer or agency or political subdivision of the
 643 Commonwealth for any purpose authorized or required by law.

644 K. No bond of the Authority shall constitute a debt or pledge of the full faith and credit of the
 645 Commonwealth or any political subdivision of the Commonwealth and each bond shall be payable solely
 646 from the revenues and other property pledged for such payment. All such bonds shall state on their face
 647 that neither the Commonwealth nor any political subdivision of the Commonwealth is obligated to make
 648 payment of principal or interest on such bonds and that neither the faith and credit nor the taxing
 649 power of the Commonwealth or any political subdivision of the Commonwealth is pledged to the
 650 payment of principal or interest on such bonds.

651 **§ 23.1-713.7. Security interest in guaranty agreements.**

652 Any pledge by the Authority of its interest in any guaranty agreement shall be valid and binding
 653 from the time the pledge is made. The Authority's interest in such guaranty agreement shall immediately
 654 be subject to the lien of such pledge. Notwithstanding any other provision of law to the contrary, a
 655 security interest in the pledged interest in the guaranty agreement is perfected without physical delivery
 656 or filing or any further act at the time of the agreement by which the pledge is created.

657 **§ 23.1-713.8. Annual audit.**

658 The Auditor of Public Accounts or his legally authorized representative shall annually audit the
 659 accounts of the Authority. The Authority shall bear the cost of such audits.

660 **§ 23.1-713.9. Exemption from taxation.**

661 The Authority is not required to pay any taxes or assessments upon any property it acquires or uses
 662 pursuant to this chapter or income from such property or any bonds issued pursuant to this chapter or
 663 income or profits from the sale or transfer of such bonds.

664 **§ 23.1-713.10. Liability limited.**

665 Neither the Commonwealth nor any political subdivision of the Commonwealth, nor any officer,
 666 employee, or agent of the Commonwealth or any political subdivision of the Commonwealth, is liable
 667 for any debt, obligation, act, or omission of the Authority that is made within the scope of employment
 668 or agency.