

20108860D

HOUSE BILL NO. 10

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 25, 2020)

(Patron Prior to Substitute—Delegate Simon)

A BILL to amend and reenact §§ 19.2-389, as it is currently effective and as it shall become effective, and 59.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Title 6.2 a chapter numbered 26, consisting of sections numbered 6.2-2600 through 6.2-2622, relating to student loans; licensing of qualified education loan servicers; civil penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, as it is currently effective and as it shall become effective, and 59.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 6.2 a chapter numbered 26, consisting of sections numbered 6.2-2600 through 6.2-2622, as follows:

CHAPTER 26.

QUALIFIED EDUCATION LOAN SERVICERS.

§ 6.2-2600. *Definitions.*

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

"Licensee" means a person to whom a license has been issued under this chapter.

"Nationwide Multistate Licensing System and Registry" or "Registry" means the nationwide multistate licensing system and registry created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

"Principal" means any person who, directly or indirectly, owns or controls (i) 10 percent or more of the outstanding stock of a stock corporation or (ii) a 10 percent or greater interest in any other type of entity.

"Qualified education loan" means any loan primarily used to finance a postsecondary education and costs of attendance at a postsecondary public or private educational institution, including tuition, fees, books and supplies, room and board, transportation, and miscellaneous personal expenses. "Qualified education loan" includes a loan made to refinance a qualified education loan. "Qualified education loan" does not include an extension of credit under an open-end credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

"Qualified education loan borrower" or "borrower" means (i) any current resident of the Commonwealth who has received or agreed to pay a qualified education loan or (ii) any person who is contractually obligated with such resident for repaying the qualified education loan.

"Qualified education loan servicer" or "loan servicer" means any person, wherever located, that:

1. (i) Receives any scheduled periodic payments from a qualified education loan borrower or notification of such payments or (ii) applies payments to the qualified education loan borrower's account pursuant to the terms of the qualified education loan or the contract governing the servicing;

2. During a period when no payment is required on a qualified education loan, (i) maintains account records for the qualified education loan and (ii) communicates with the qualified education loan borrower regarding the qualified education loan, on behalf of the qualified education loan's holder; or

3. Interacts with a qualified education loan borrower, which includes conducting activities to help prevent default on obligations arising from qualified education loans or to facilitate any activity described in clause (i) or (ii) of subdivision 1.

"Servicing" means:

1. (i) Receiving any scheduled periodic payments from a qualified education loan borrower or notification of such payments or (ii) applying the payments of principal and interest and such other payments, with respect to the amounts received from a qualified education loan borrower, as may be required pursuant to the terms of a qualified education loan;

2. During a period when no payment is required on a qualified education loan, (i) maintaining account records for the loan and (ii) communicating with the qualified education loan borrower regarding the qualified education loan, on behalf of the qualified education loan's holder; or

3. Interacting with a qualified education loan borrower, including conducting activities to help prevent default on obligations arising from qualified education loans or to facilitate any activity described in clause (i) or (ii) of subdivision 1.

§ 6.2-2601. *License requirement; exceptions.*

A. No person shall act as a qualified education loan servicer, directly or indirectly, whether or not the person has an office or any other physical presence in the Commonwealth, except in accordance

60 with the provisions of this chapter and without having first obtained a license under this chapter from
61 the Commission.

62 B. Every qualified education loan servicer required to be licensed under this chapter shall register
63 with the Registry and be subject to such registration and renewal requirements as may be established by
64 the Registry, in addition to any requirements of this chapter. In adopting regulations pursuant to
65 § 6.2-2622, the Commission shall include any terms, conditions, or requirements applicable to such
66 registration and renewal. Any fees required by the Registry shall be separate and apart from any fees
67 imposed by this chapter. The Commission, at its discretion, may collect any registration and renewal
68 fees on behalf of the Registry and remit such fees to the Registry or permit the Registry to collect any
69 fees imposed by this chapter and remit such fees to the Commission.

70 C. In connection with its implementation and administration of this chapter, the Commission may
71 establish agreements or contracts with the Registry or other entities designated by the Registry to
72 collect, distribute, and maintain information and records, and process fees, related to qualified
73 education loan servicers required to be licensed under this chapter. In establishing such agreements or
74 contracts, the Commission shall not be subject to the Virginia Public Procurement Act (§ 2.2-4300 et
75 seq.).

76 D. The provisions of this chapter shall not apply to:

77 1. Any bank, savings institution, credit union, or financial institution subject to regulation under 12
78 U.S.C. § 2002;

79 2. Any wholly owned subsidiary of any bank, savings institution, or credit union, provided that such
80 wholly owned subsidiary is subject to the general supervision or regulation of, or subject to audit or
81 examination by, a regulatory body or agency of the United States or any state; or

82 3. Any public or private nonprofit institution of higher education.

83 **§ 6.2-2602. Licensure of qualified education loan servicers; automatic issuance of license for**
84 **federal student loan servicing contractors.**

85 A. A person seeking to act as a qualified education loan servicer is exempt from the application
86 procedures described in subsections A and B of § 6.2-2603 upon determination by the Commissioner
87 that the person is a party to a contract awarded by the U.S. Secretary of Education under 20 U.S.C.
88 § 1087f. The Commissioner shall prescribe the procedure to document eligibility for this exemption.

89 B. With regard to a person exempted from the application procedures described in subsections A and
90 B of § 6.2-2603 pursuant to subsection A, the Commissioner shall:

91 1. Automatically issue a license upon payment of the fee required by subsection C of § 6.2-2603 and
92 the providing of the bond required by § 6.2-2604;

93 2. Automatically renew a license upon payment of the fees required by subsection E of § 6.2-2607;
94 and

95 3. Deem the person to have met all the requirements set forth in subsections A and B of § 6.2-2603.

96 C. A person issued a license pursuant to subdivision B 1:

97 1. Is exempt from subsections A and B of § 6.2-2603; and

98 2. Shall comply with the record requirements in § 6.2-2608 except to the extent that the requirements
99 are inconsistent with federal law.

100 D. A person issued a license pursuant to subdivision B 1 shall, within seven days after receiving
101 notification of the expiration, revocation, or termination of any contract awarded by the U.S. Secretary
102 of Education under 20 U.S.C. § 1087f, provide the Commissioner with written notice of such expiration,
103 revocation, or termination. Notwithstanding any other provision of this chapter, such person's license
104 shall automatically expire 30 days after the expiration, revocation, or termination of such person's
105 contract. A person seeking to act as a qualified education loan servicer following the expiration of its
106 license may apply for a new license by filing an application that meets the requirements of §§ 6.2-2603
107 and 6.2-2604 and subsection B of § 6.2-2605.

108 E. With respect to qualified education loan servicing not conducted pursuant to a contract awarded
109 by the U.S. Secretary of Education under 20 U.S.C. § 1087f, nothing in this section prevents the
110 Commission from issuing an order to temporarily or permanently prohibit or bar any person from
111 acting as a qualified education loan servicer or violating applicable law.

112 F. In the case of qualified education loan servicing conducted pursuant to a contract awarded by the
113 U.S. Secretary of Education under 20 U.S.C. § 1087f, nothing in this section shall prevent the
114 Commission from issuing a cease and desist order or injunction against any qualified education loan
115 servicer to cease activities in violation of this act.

116 **§ 6.2-2603. Application for license; form; content; fee.**

117 A. An application for a license under this chapter shall be made in writing and on a form provided
118 by the Commission.

119 B. The application shall set forth:

120 1. The name and address of the applicant, the name and address of each senior officer, and (i) if the
121 applicant is a partnership, firm, or association, the name and address of each partner or member; (ii) if

122 the applicant is a corporation or limited liability company, the name and address of each director,
123 member, registered agent, and principal; or (iii) if the applicant is a business trust, the name and
124 address of each trustee;

125 2. The address of the principal place of business to be licensed;

126 3. Such other information concerning the financial responsibility, background, experience, and
127 general fitness of the applicant and its members, senior officers, directors, trustees, and principals as
128 the Commissioner may require; and

129 4. Any other pertinent information that the Commissioner may require.

130 C. The application shall be accompanied by payment of a nonrefundable application fee as
131 prescribed by the Commission. The fee shall not be abated by surrender, suspension, or revocation of
132 the license.

133 D. If the Commissioner requests information to complete a deficient application and the information
134 is not received within 60 days of the Commissioner's request, the application shall be deemed
135 abandoned unless a request for an extension of time is received and approved by the Commissioner
136 prior to the expiration of the 60-day period. However, this subsection shall not be construed to prohibit
137 the Commission from denying a license application that does not meet the requirements of this chapter.

138 **§ 6.2-2604. Bond required.**

139 The application for a license shall be accompanied by a bond filed with the Commissioner with
140 corporate surety authorized to execute such bond, in the principal amount as determined by the
141 Commissioner. The amount of the bond shall be not less than \$50,000 nor more than \$500,000. The
142 form of such bond shall be approved by the Commissioner. Such bond shall be continuously maintained
143 thereafter in full force. Such bond shall be conditioned upon the applicant or licensee performing all
144 written agreements pertaining to qualified education loans, correctly and accurately accounting for all
145 funds received by the applicant or licensee in connection with qualified education loans, and conducting
146 its business in conformity with this chapter and all applicable laws. The aggregate liability under the
147 bond shall not exceed the penal sum of the bond.

148 **§ 6.2-2605. Investigation of applications.**

149 A. The Commissioner may make such investigations as he deems necessary to determine if the
150 applicant has complied with all applicable provisions of law and regulations.

151 B. For the purpose of investigating individuals who are members, senior officers, directors, trustees,
152 and principals of an applicant, such persons shall consent to a criminal history records check and
153 submit to fingerprinting. Each member, senior officer, director, trustee, and principal shall pay for the
154 cost of such fingerprinting and criminal history records check. Such persons shall cause their
155 fingerprints, personal descriptive information, and records check fees to be submitted to either of the
156 following, as prescribed by the Commissioner:

157 1. The Bureau, which shall forward these items to the Central Criminal Records Exchange. The
158 Central Criminal Records Exchange shall (i) conduct a search of its own criminal history records and
159 forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of
160 Investigation for the purpose of obtaining national criminal history record information regarding such
161 individuals and (ii) forward the results of the state and national records searches to the Commissioner
162 or his designee, who shall be an employee of the Commission; or

163 2. The Registry, provided that it is capable of processing criminal history records checks.

164 C. If any member, senior officer, director, trustee, or principal of an applicant fails to cause his
165 fingerprints, personal descriptive information, or records check fees to be submitted in accordance with
166 subsection B, the application for a qualified education loan servicer license shall be denied.

167 **§ 6.2-2606. Qualifications.**

168 A. Upon the filing and investigation of an application for a license, compliance by the applicant with
169 the provisions of §§ 6.2-2603 and 6.2-2604, and compliance by the persons identified in subsection B of
170 § 6.2-2605 with the provisions contained therein, the Commission shall issue and deliver to the
171 applicant the license applied for to engage in business under this chapter at the location specified in the
172 application if it finds that:

173 1. The financial responsibility, character, experience, and general fitness of the applicant and its
174 members, senior officers, directors, trustees, and principals are such as to warrant belief that the
175 business will be operated efficiently and fairly, in the public interest, and in accordance with the law;

176 2. The application does not contain any false statement of a material fact; and

177 3. The application does not omit any statement of a material fact that is required by § 6.2-2603.

178 B. If the Commission fails to make such findings, no license shall be issued and the Commissioner
179 shall notify the applicant of the denial and the reasons for such denial.

180 **§ 6.2-2607. Licenses; place of business; changes; renewal.**

181 A. Each license shall state the address at which the principal place of business is to be conducted
182 and shall state fully the legal name of the licensee as well as any fictitious names by which the licensee

183 *is conducting business under this chapter. Licenses shall not be transferable or assignable, by operation*
184 *of law or otherwise. No licensee shall use any names other than the legal name or fictitious names set*
185 *forth on the license issued by the Commission.*

186 *B. Every licensee shall notify the Commissioner, in writing, at least 30 days prior to relocating its*
187 *principal place of business and confirm the change in writing within five days after such relocation.*

188 *C. Every licensee shall within 10 days notify the Commissioner, in writing, of (i) any change to its*
189 *legal name; (ii) any change to or additional fictitious name by which the licensee is conducting business*
190 *under this chapter; and (iii) the name, address, and position of each new member, senior officer,*
191 *director, trustee, and principal. At the direction of the Commissioner, any such individual shall be*
192 *treated as a member, senior officer, director, trustee, or principal of an applicant for the purpose of*
193 *being investigated pursuant to subsection B of § 6.2-2605. The licensee shall provide such other*
194 *information with respect to the changes and persons identified in this subsection as the Commissioner*
195 *may reasonably require.*

196 *D. Every license shall remain in force until it expires or has been surrendered, revoked, or*
197 *suspended. The expiration, surrender, revocation, or suspension of a license shall not affect any*
198 *preexisting legal right or obligation of such licensee.*

199 *E. Notwithstanding any other provision of this chapter, a qualified education loan servicer license*
200 *shall expire at the end of each calendar year unless it is renewed by a licensee prior to the expiration*
201 *date. A licensee may renew its license by (i) requesting renewal through the Registry and (ii) complying*
202 *with any requirements associated with such renewal request that are imposed by the Registry. If a*
203 *qualified education loan servicer license has expired, the Commission may by regulation permit the*
204 *former licensee to seek license reinstatement after the license expiration date by renewing its license in*
205 *accordance with this subsection and paying a reinstatement fee as prescribed by the Commission.*

206 **§ 6.2-2608. Retention of records; responding to the Bureau.**

207 *A. Each licensee shall maintain in its principal place of business such books, accounts, and records*
208 *as the Commissioner may reasonably require in order to determine whether such person is complying*
209 *with the provisions of this chapter and other laws applicable to the conduct of its business. Such books,*
210 *accounts, and records shall be maintained apart and separate from any other business in which the*
211 *qualified education loan servicer is involved. Each licensee shall maintain adequate records of each*
212 *qualified education loan transaction for at least three years after final payment is made on such loan or*
213 *the assignment of such qualified education loan, whichever occurs first.*

214 *B. To safeguard the privacy of qualified education loan borrowers, records containing personal*
215 *financial information shall be shredded, incinerated, or otherwise disposed of by a licensee in a secure*
216 *manner. Licensees may arrange for the shredding, incineration, or other disposal of the records from a*
217 *business record destruction vendor.*

218 *C. When the Bureau requests a written response, books, records, documentation, or other*
219 *information from a licensee in connection with the Bureau's investigation, enforcement, or examination*
220 *of compliance with applicable laws, the licensee shall deliver a written response as well as any*
221 *requested books, records, documentation, or information within the time period specified in the Bureau's*
222 *request. If no time period is specified, a written response as well as any requested books, records,*
223 *documentation, or information shall be delivered by the licensee to the Bureau not later than 30 days*
224 *from the date of such request. In determining the specified time period for responding to the Bureau and*
225 *when considering a request for an extension of time to respond, the Bureau shall take into consideration*
226 *the volume and complexity of the requested written response, books, records, documentation, or*
227 *information and such other factors as the Bureau determines to be relevant under the circumstances.*

228 **§ 6.2-2609. Acquisition of control; application.**

229 *A. Except as provided in this section, no person shall acquire, directly or indirectly, 25 percent or*
230 *more of the voting shares of a corporation or 25 percent or more of the ownership of any other person*
231 *licensed to conduct business under this chapter unless such person first:*

232 *1. Files an application with the Commission in such form as the Commissioner may prescribe from*
233 *time to time;*

234 *2. Delivers such other information to the Commissioner as the Commissioner may require concerning*
235 *the financial responsibility, background, experience, and general fitness of the applicant and of any*
236 *proposed new directors, senior officers, principals, trustees, or members of the licensee;*

237 *3. Submits and furnishes to the Commissioner information concerning the identity of the applicant*
238 *and of any proposed new directors, senior officers, principals, trustees, or members of the licensee. Such*
239 *individuals shall (i) consent to a criminal history records check, submit to fingerprinting, and pay for*
240 *the cost of such fingerprinting and criminal records check and (ii) cause their fingerprints, personal*
241 *descriptive information, and records check fees to be submitted to either of the following, as prescribed*
242 *by the Commissioner:*

243 *a. The Bureau, who shall forward these items to the Central Criminal Records Exchange. The*
244 *Central Criminal Records Exchange shall (i) conduct searches of its own criminal history records and*

245 forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of
 246 Investigation for the purpose of obtaining national criminal history record information regarding such
 247 individuals and (ii) forward the results of the state and national records search to the Commissioner or
 248 his designee, who shall be an employee of the Commission; or

249 b. The Registry, provided that it is capable of processing criminal history records checks; and

250 4. Pays such application fee as the Commission may prescribe.

251 B. Upon the filing and investigation of an application, the Commission shall permit the applicant to
 252 acquire the interest in the licensee if it finds that the applicant and any proposed new directors,
 253 members, senior officers, trustees, and principals of the licensee have the financial responsibility,
 254 character, experience, and general fitness to warrant belief that the business will be operated efficiently
 255 and fairly, in the public interest, and in accordance with law. The Commission shall grant or deny the
 256 application within 60 days from the date a completed application accompanied by the required fee is
 257 filed unless the period is extended by order of the Commissioner giving the reasons for the extension. If
 258 the application is denied, the Commission shall notify the applicant of the denial and the reasons for the
 259 denial.

260 C. The provisions of this section shall not apply to the acquisition of an interest in a licensee (i)
 261 directly or indirectly, including an acquisition by merger or consolidation, by or with a person licensed
 262 or exempt from licensing under this chapter; (ii) directly or indirectly, by merger or consolidation by or
 263 with a person affiliated through common ownership with the licensee; or (iii) by bequest, descent,
 264 survivorship, or operation of law. This section shall also not apply to the acquisition of an interest in a
 265 licensee that is a party to a contract awarded by the U.S. Secretary of Education under 20 U.S.C.
 266 § 1087f. The person acquiring an interest in a licensee in a transaction that is exempt from filing an
 267 application by this subsection shall send written notice of such acquisition to the Commissioner within
 268 30 days of its closing.

269 **§ 6.2-2610. Prohibited activities; compliance with federal laws and regulations.**

270 A. No qualified education loan servicer shall:

271 1. Directly or indirectly employ any scheme, device, or artifice to defraud or mislead qualified
 272 education loan borrowers;

273 2. Engage in any unfair or deceptive act or practice toward any person or misrepresent or omit any
 274 material information in connection with the servicing of a qualified education loan, including
 275 misrepresenting (i) the amount, nature, or terms of any fee or payment due or claimed to be due on a
 276 qualified education loan; (ii) the terms and conditions of the loan agreement; or (iii) the borrower's
 277 obligations under the loan;

278 3. Obtain property by fraud or misrepresentation;

279 4. Misapply qualified education loan payments to the outstanding balance of a qualified education
 280 loan;

281 5. Provide inaccurate information to a nationally recognized consumer credit bureau;

282 6. Fail to report both the favorable and unfavorable payment history of the borrower to a nationally
 283 recognized consumer credit bureau at least annually if the loan servicer regularly reports information to
 284 such a credit bureau;

285 7. Fail to communicate with an authorized representative of the borrower who provides a written
 286 authorization signed by the borrower, provided that the loan servicer may adopt procedures reasonably
 287 related to verifying that the representative is in fact authorized to act on behalf of the borrower;

288 8. Make any false statement of a material fact or omit any material fact in connection with any
 289 information provided to the Commission or another governmental authority; or

290 9. Engage in any other prohibited activities identified in regulations adopted by the Commission
 291 pursuant to this chapter.

292 B. A qualified education loan servicer shall comply with all federal laws and regulations applicable
 293 to the conduct of its licensed business. In addition to any other remedies provided by law, a violation of
 294 any such federal law or regulation shall be deemed a violation of this chapter and a basis upon which
 295 the Commission may take enforcement action pursuant to § 6.2-2615, 6.2-2617, or 6.2-2618.

296 C. A qualified education loan servicer shall not engage in abusive acts or practices when servicing a
 297 qualified education loan. An act or practice is abusive in connection with the servicing of a qualified
 298 education loan if the act or practice does either of the following:

299 1. Materially interferes with the ability of a borrower to understand a term or condition of a
 300 qualified education loan; or

301 2. Takes unreasonable advantage of:

302 a. A lack of understanding on the part of a qualified education loan borrower of the material risks,
 303 costs, or conditions of the qualified education loan;

304 b. The reasonable reliance by the borrower on a person engaged in the servicing of a qualified
 305 education loan to act in the interests of the borrower; or

306 c. The inability of a borrower to protect the interests of the borrower when selecting (i) a qualified
307 education loan or (ii) a feature, term, or condition of a qualified education loan.

308 **§ 6.2-2611. Affirmative acts required of qualified education loan servicers.**

309 Except to the extent that this section is inconsistent with any provision of federal law or regulation,
310 and then only to the extent of the inconsistency, a person engaged in qualified education loan servicing
311 shall:

312 1. Evaluate a qualified education loan borrower for eligibility for an income-driven repayment
313 program prior to placing the borrower in forbearance or default, if an income-driven repayment
314 program is available to the borrower;

315 2. Respond to a written inquiry from a qualified education loan borrower or the representative of a
316 qualified education loan borrower within 10 business days after receipt of the request and, within 30
317 business days after receipt of the request, provide information relating to the request and, if applicable,
318 to the action the qualified education loan servicer will take to correct the account or an explanation for
319 the qualified education loan servicer's position that the borrower's account is correct. Such 30-day
320 period may be extended for not more than 15 days if, before the end of the 30-day period, the qualified
321 education loan servicer notifies the borrower, or the borrower's representative, as applicable, of the
322 extension and the reasons for the delay in responding;

323 3. Not furnish to a consumer reporting agency, during 60 days following receipt of a written request
324 related to a dispute on a borrower's payment on a qualified education loan, information regarding a
325 payment that is the subject of the written request;

326 4. Except as provided in federal law or required by a qualified education loan agreement, inquire of
327 a borrower how to apply an overpayment to a qualified education loan. A borrower's direction on how
328 to apply an overpayment to a qualified education loan shall remain in effect for any future
329 overpayments during the term of a qualified education loan or until the borrower provides different
330 directions. As used in this subdivision, "overpayment" means a payment on a qualified education loan
331 that exceeds the monthly amount due from a borrower on the qualified education loan, which payment
332 may be referred to as a prepayment;

333 5. Apply partial payments in a manner that minimizes late fees and negative credit reporting. If
334 loans on a borrower's qualified education loan account have an equal level of delinquency, a qualified
335 education loan servicer shall apply partial payments to satisfy as many individual loan payments as
336 possible on a borrower's account. As used in this subdivision, "partial payment" means a payment on a
337 qualified education loan account that contains multiple individual loans in an amount less than the
338 amount necessary to satisfy the outstanding payment due on all loans in the qualified education loan
339 account, which payment may be referred to as an underpayment.

340 6. Require, as a condition of a sale, an assignment, or any other transfer of the servicing of a
341 qualified education loan, that the new loan servicer honor all benefits originally represented as
342 available to a qualified education loan borrower during the repayment of the qualified education loan
343 and preserve the availability of the benefits, including any benefits for which the qualified education
344 loan borrower has not yet qualified. If a qualified education loan servicer is not also the loan holder or
345 is not acting on behalf of the loan holder, the loan servicer satisfies the requirement of this subsection
346 by providing the new loan servicer with information necessary for the new loan servicer to honor all
347 benefits originally represented as available to a qualified education loan borrower during the repayment
348 of the qualified education loan and preserve the availability of the benefits, including any benefits for
349 which the loan borrower has not yet qualified; and

350 7. In the event of a sale, assignment, or other transfer of the servicing of a qualified education loan
351 that results in a change in the identity of the person to whom a qualified education loan borrower is
352 required to send payments or direct any communication concerning the qualified education loan:

353 a. Transfer to the new loan servicer all records regarding the qualified education loan borrower, the
354 account of the loan borrower, and the qualified education loan of the loan borrower. Such records
355 include the repayment status of the qualified education loan borrower and any benefits associated with
356 the qualified education loan of the loan borrower. The transfer of records shall be completed within 45
357 days after the sale, assignment, or other transfer of the servicing of a qualified education loan;

358 b. Notify affected qualified education loan borrowers of the sale, assignment, or other transfer of the
359 servicing of a qualified education loan at least seven days before the next payment on the loan is due.
360 The notice shall include (i) the identity of the new qualified education loan servicer; (ii) the effective
361 date of the transfer of the borrower's qualified education loan to the new loan servicer; (iii) the date on
362 which the existing loan servicer will no longer accept payments; and (iv) the contact information for the
363 new loan servicer; and

364 c. Adopt policies and procedures to verify that the new qualified education loan servicer has received
365 all records regarding the qualified education loan borrower, the account of the qualified education loan
366 borrower, and the qualified education loan of the borrower, including the repayment status of the
367 qualified education loan borrower and any benefits associated with the qualified education loan of the

368 borrower.

369 **§ 6.2-2612. Reporting requirements.**

370 A. Within 15 days following the occurrence of any of the following events, a licensee shall file a
371 written report with the Commission describing such event and its expected impact upon the business of
372 the licensee:

373 1. The filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee;

374 2. The institution of administrative or regulatory proceedings against the licensee by any
375 governmental authority;

376 3. Any felony indictment of the licensee or any of its members, directors, senior officers, trustees, or
377 principals;

378 4. Any felony conviction of the licensee or any of its members, directors, senior officers, trustees, or
379 principals; and

380 5. Such other events as the Commission may prescribe by regulation.

381 B. Each licensee shall file periodic written reports with the Commissioner or the Registry containing
382 such information as the Commission may require concerning the licensee's business and operations.
383 Reports shall be in the form and be submitted with such frequency and by such dates as may be
384 prescribed by the Commissioner.

385 **§ 6.2-2613. Investigations; examinations.**

386 A. The Commission may, as often as it deems necessary, investigate and examine the affairs,
387 business, premises, and records of any person licensed or required to be licensed under this chapter
388 insofar as they pertain to any business for which a license is required by this chapter. Examinations of
389 licensees shall be conducted at least once in each three-year period. In the course of such investigations
390 and examinations, the owners, members, officers, directors, partners, trustees, and employees of the
391 person being investigated or examined shall, upon demand of the person making such investigation or
392 examination, afford full access to all premises, books, records, and information that the person making
393 such investigation or examination deems necessary.

394 B. Examinations under this section may be conducted in conjunction with examinations to be
395 performed by representatives of agencies of the federal government or another state. In lieu of
396 conducting an examination, the Commission may accept the examination report of the federal
397 government or another state.

398 **§ 6.2-2614. Annual fees.**

399 A. In order to defray the costs of their examination, supervision, and regulation, every licensee under
400 this chapter shall pay an annual fee calculated in accordance with a schedule set by the Commission.
401 All such fees shall be assessed on or before April 1 for every calendar year. All such fees shall be paid
402 by the licensee to the State Treasurer on or before May 1 following each assessment.

403 B. In addition to the annual fee prescribed in subsection A, when it becomes necessary to examine or
404 investigate the books and records of a licensee under this chapter at a location outside the
405 Commonwealth, the licensee shall be liable for and shall pay to the Commission within 30 days of the
406 presentation of an itemized statement the actual travel and reasonable living expenses incurred on
407 account of its examination, supervision, and regulation or shall pay a reasonable per diem rate
408 approved by the Commission.

409 **§ 6.2-2615. Suspension or revocation of license.**

410 A. The Commission may suspend or revoke any license issued under this chapter upon any of the
411 following grounds:

412 1. Any ground for denial of a license under this chapter;

413 2. Any violation of the provisions of this chapter or regulations adopted by the Commission pursuant
414 thereto, or a violation of any other law or regulation applicable to the conduct of the licensee's
415 business;

416 3. A course of conduct consisting of the failure to perform written agreements with qualified
417 education loan borrowers;

418 4. Failure to account for funds received or disbursed to the satisfaction of the person supplying or
419 receiving qualified education loan funds;

420 5. Conviction of any felony or of a misdemeanor involving fraud, misrepresentation, or deceit;

421 6. Entry of a judgment against the licensee involving fraud, misrepresentation, or deceit;

422 7. Entry of a federal or state administrative order against the licensee for violation of any law or
423 regulation applicable to the conduct of the licensee's business;

424 8. Refusal to permit an investigation or examination by the Commission;

425 9. Failure to pay any fee or assessment imposed by this chapter; or

426 10. Failure to comply with any order of the Commission.

427 B. For the purposes of this section, acts of any senior officer, director, member, partner, trustee, or
428 principal shall be deemed acts of the licensee.

429 **§ 6.2-2616. Notice of proposed suspension or revocation.**

430 *The Commission shall not revoke or suspend the license of any licensee upon any of the grounds set*
 431 *forth in § 6.2-2615 until it has given the licensee (i) 21 days' notice in writing of the reasons for the*
 432 *proposed revocation or suspension and (ii) an opportunity to introduce evidence and be heard. The*
 433 *notice shall be sent by certified mail to the principal place of business of such licensee and shall state*
 434 *with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the*
 435 *licensee named therein may file with the Clerk of the Commission a written request for a hearing. If a*
 436 *hearing is requested, the Commission shall not suspend or revoke the license except based upon findings*
 437 *made at such hearing. The hearing shall be conducted in accordance with the Commission's Rules.*

438 **§ 6.2-2617. Cease and desist orders.**

439 *A. If the Commission determines that any person has violated any provision of this chapter or any*
 440 *regulation adopted by the Commission pursuant thereto, or violated any other law or regulation*
 441 *applicable to the conduct of a licensee's business, the Commission may, upon 21 days' notice in writing,*
 442 *order such person to cease and desist from such practices and to comply with the provisions of this*
 443 *chapter and other applicable laws and regulations. The notice shall be sent by certified mail to the*
 444 *principal place of business of such person or other address authorized under § 12.1-19.1 and shall state*
 445 *the grounds for the contemplated action.*

446 *B. Within 14 days of mailing the notice, the person named therein may file with the clerk of the*
 447 *Commission a written request for a hearing. If a hearing is requested, the Commission shall not issue a*
 448 *cease and desist order except on the basis of findings made at the hearing. The hearing shall be*
 449 *conducted in accordance with the Commission's Rules. The Commission may enforce compliance with*
 450 *any order issued under this section by imposition and collection of such fines and penalties as may be*
 451 *prescribed by law.*

452 **§ 6.2-2618. Civil penalties.**

453 *The Commission may impose a civil penalty not exceeding \$2,500 upon any person who it*
 454 *determines, in proceedings commenced in accordance with the Commission's Rules, has violated any of*
 455 *the provisions of this chapter or regulations adopted by the Commission pursuant thereto or violated*
 456 *any other law or regulation applicable to conduct of the person's business. For the purposes of this*
 457 *section, each separate violation shall be subject to the civil penalty prescribed in this section, and each*
 458 *day that an unlicensed person engages in the business of a qualified education loan servicer shall*
 459 *constitute a separate violation.*

460 **§ 6.2-2619. Private cause of action.**

461 *A. A qualified education loan servicer shall:*

462 *1. Comply with this chapter.*

463 *2. Comply with all applicable federal laws related to qualified education loan servicing, as from time*
 464 *to time amended, and the regulations promulgated thereunder.*

465 *B. Any person who suffers damage as a result of the failure of a qualified education loan servicer to*
 466 *comply with the requirements of subdivisions A 1 and 2 may bring an action against that qualified*
 467 *education loan servicer to recover or obtain any of the following:*

468 *1. Actual damages, but in no case shall the total award of damages be less than \$500 per violation;*

469 *2. An order enjoining the methods, acts, or practices;*

470 *3. Restitution of property;*

471 *4. Punitive damages;*

472 *5. Attorney fees; and*

473 *6. Any other relief the court deems proper.*

474 *C. In addition to any other remedies provided by this section or otherwise provided by law,*
 475 *whenever it is proven by a preponderance of the evidence that a qualified education loan servicer has*
 476 *engaged in conduct that substantially interferes with a borrower's right to (i) an alternative payment*
 477 *arrangement; (ii) loan forgiveness, cancellation, or discharge; or (iii) any other financial benefit as*
 478 *established under the terms of a borrower's promissory note or under the Higher Education Act of 1965,*
 479 *20 U.S.C. § 1070a et seq., as amended from time to time, and regulations promulgated thereunder, the*
 480 *court shall award treble actual damages to the plaintiff, but in no case shall the award of damages be*
 481 *less than \$1,500 per violation.*

482 *D. The remedies provided in this section are not intended to be the exclusive remedies available to*
 483 *the qualified education loan borrower, and a qualified education loan borrower shall not be required to*
 484 *exhaust any administrative remedies established pursuant to this chapter or any other applicable law*
 485 *prior to proceeding under this section.*

486 **§ 6.2-2620. Investigating and restraining prohibited acts.**

487 *A. Notwithstanding the provisions of § 59.1-199, whenever the Attorney General has reasonable*
 488 *cause to believe that any person has engaged in, or is engaging in, or is about to engage in any*
 489 *violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The*
 490 *provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to*

491 *this section.*

492 *B. Notwithstanding any other provisions of law to the contrary, the Attorney General may cause an*
493 *action to be brought in the appropriate circuit court in the name of the Commonwealth to enjoin any*
494 *violation of this chapter. The circuit court having jurisdiction may enjoin such violations*
495 *notwithstanding the existence of an adequate remedy at law. In any action under this section, it shall*
496 *not be necessary that damages be proved.*

497 *C. The circuit courts are authorized to issue temporary or permanent injunctions to restrain and*
498 *prevent violations of this chapter.*

499 **§ 6.2-2621. Violation of the Virginia Consumer Protection Act.**

500 *Notwithstanding the provisions of § 59.1-199, any violation of the provisions of this chapter shall*
501 *constitute a prohibited practice in accordance with § 59.1-200 and shall be subject to any and all of the*
502 *enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).*

503 **§ 6.2-2622. Regulations.**

504 *The Commission shall adopt such regulations as it deems appropriate to effect the purposes of this*
505 *chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content*
506 *and shall afford interested parties an opportunity to be heard, in accordance with the Commission's*
507 *Rules.*

508 **§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record**
509 **information.**

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

512 *1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for*
513 *purposes of the administration of criminal justice and the screening of an employment application or*
514 *review of employment by a criminal justice agency with respect to its own employees or applicants, and*
515 *dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all*
516 *state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,*
517 *3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For*
518 *purposes of this subdivision, criminal history record information includes information sent to the Central*
519 *Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time*
520 *or part-time employee of the State Police, a police department or sheriff's office that is a part of or*
521 *administered by the Commonwealth or any political subdivision thereof, and who is responsible for the*
522 *prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the*
523 *Commonwealth for the purposes of the administration of criminal justice;*

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

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

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

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

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

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

550 *7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of*
551 *Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a*

552 position of employment whenever, in the interest of public welfare or safety and as authorized in the
553 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
554 with a conviction record would be compatible with the nature of the employment under consideration;

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

562 9. To the extent permitted by federal law or regulation, public service companies as defined in
563 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
564 personal contact with the public or when past criminal conduct of an applicant would be incompatible
565 with the nature of the employment under consideration;

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

568 11. A person requesting a copy of his own criminal history record information as defined in
569 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
570 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
571 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
572 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
573 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
574 Solvers or Crime Line program as defined in § 15.2-1713.1;

575 12. Administrators and board presidents of and applicants for licensure or registration as a child
576 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
577 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
578 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
579 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
580 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
581 that the data shall not be further disseminated by the facility or agency to any party other than the data
582 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
583 may be required to comply with an express requirement of law for such further dissemination;

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

587 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
588 (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of
589 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

594 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
595 investigations of applicants for compensated employment in licensed assisted living facilities and
596 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

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

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

602 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
603 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
604 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

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

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

614 departmental instructions;

615 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
616 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
617 records information on behalf of such governing boards or administrators pursuant to a written
618 agreement with the Department of State Police;

619 24. Public institutions of higher education and nonprofit private institutions of higher education for
620 the purpose of screening individuals who are offered or accept employment;

621 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
622 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
623 higher education, for the purpose of assessing or intervening with an individual whose behavior may
624 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
625 history record information obtained pursuant to this section or otherwise use any record of an individual
626 beyond the purpose that such disclosure was made to the threat assessment team;

627 26. Executive directors of community services boards or the personnel director serving the
628 community services board for the purpose of determining an individual's fitness for employment,
629 approval as a sponsored residential service provider, or permission to enter into a shared living
630 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
631 §§ 37.2-506 and 37.2-607;

632 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
633 determining an individual's fitness for employment, approval as a sponsored residential service provider,
634 or permission to enter into a shared living arrangement with a person receiving medical assistance
635 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

639 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
640 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
641 purpose of determining if any applicant who accepts employment in any direct care position or requests
642 approval as a sponsored residential service provider or permission to enter into a shared living
643 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
644 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
645 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
646 37.2-607;

647 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
648 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
649 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

653 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
654 determining an individual's fitness for employment in positions designated as sensitive under Department
655 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

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

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

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

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

671 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
672 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
673 or have accepted a position related to the provision of transportation services to enrollees in the
674 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other

675 program administered by the Department of Medical Assistance Services;

676 38. The State Corporation Commission for the purpose of investigating individuals who are current
677 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
678 Chapter 16 (§ 6.2-1600 et seq.) or, Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.)
679 of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
680 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or,
681 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
682 information to the applicant or its designee;

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

685 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
686 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
687 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
688 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

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

696 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
697 a juvenile's household when completing a predispositional or postdispositional report required by
698 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

699 45. Other entities as otherwise provided by law.

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

704 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
705 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
706 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
707 copy of conviction data covering the person named in the request to the person making the request;
708 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
709 making of such request. A person receiving a copy of his own conviction data may utilize or further
710 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
711 subject, the person making the request shall be furnished at his cost a certification to that effect.

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

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

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

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

729 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
730 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
731 for any offense specified in § 63.2-1720.

732 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
733 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
734 definition of barrier crime in § 19.2-392.02.

735 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
736 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the

737 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
738 the request to the employer or prospective employer making the request, provided that the person on
739 whom the data is being obtained has consented in writing to the making of such request and has
740 presented a photo-identification to the employer or prospective employer. In the event no conviction data
741 is maintained on the person named in the request, the requesting employer or prospective employer shall
742 be furnished at his cost a certification to that effect. The criminal history record search shall be
743 conducted on forms provided by the Exchange.

744 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
745 information pursuant to the rules of court for obtaining discovery or for review by the court.

746 **§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.**

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

749 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
750 purposes of the administration of criminal justice and the screening of an employment application or
751 review of employment by a criminal justice agency with respect to its own employees or applicants, and
752 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
753 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
754 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
755 purposes of this subdivision, criminal history record information includes information sent to the Central
756 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
757 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
758 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
759 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
760 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

787 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
788 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
789 position of employment whenever, in the interest of public welfare or safety and as authorized in the
790 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
791 with a conviction record would be compatible with the nature of the employment under consideration;

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

798 may be required to comply with an express requirement of law;

799 9. To the extent permitted by federal law or regulation, public service companies as defined in
800 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
801 personal contact with the public or when past criminal conduct of an applicant would be incompatible
802 with the nature of the employment under consideration;

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

805 11. A person requesting a copy of his own criminal history record information as defined in
806 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
807 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
808 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
809 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
810 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
811 Solvers or Crime Line program as defined in § 15.2-1713.1;

812 12. Administrators and board presidents of and applicants for licensure or registration as a child
813 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
814 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
815 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
816 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
817 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
818 that the data shall not be further disseminated by the facility or agency to any party other than the data
819 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
820 may be required to comply with an express requirement of law for such further dissemination;

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

824 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
825 (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of
826 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

831 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
832 investigations of applicants for compensated employment in licensed assisted living facilities and
833 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

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

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

839 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
840 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
841 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

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

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

852 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
853 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
854 records information on behalf of such governing boards or administrators pursuant to a written
855 agreement with the Department of State Police;

856 24. Public institutions of higher education and nonprofit private institutions of higher education for
857 the purpose of screening individuals who are offered or accept employment;

858 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
859 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of

860 higher education, for the purpose of assessing or intervening with an individual whose behavior may
861 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
862 history record information obtained pursuant to this section or otherwise use any record of an individual
863 beyond the purpose that such disclosure was made to the threat assessment team;

864 26. Executive directors of community services boards or the personnel director serving the
865 community services board for the purpose of determining an individual's fitness for employment,
866 approval as a sponsored residential service provider, or permission to enter into a shared living
867 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
868 §§ 37.2-506 and 37.2-607;

869 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
870 determining an individual's fitness for employment, approval as a sponsored residential service provider,
871 or permission to enter into a shared living arrangement with a person receiving medical assistance
872 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

876 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
877 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
878 purpose of determining if any applicant who accepts employment in any direct care position or requests
879 approval as a sponsored residential service provider or permission to enter into a shared living
880 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
881 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
882 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
883 37.2-607;

884 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
885 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
886 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

890 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
891 determining an individual's fitness for employment in positions designated as sensitive under Department
892 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

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

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

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

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

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

913 38. The State Corporation Commission for the purpose of investigating individuals who are current
914 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
915 Chapter 16 (§ 6.2-1600 et seq.) ~~or~~, Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.)
916 of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
917 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 ~~or~~,
918 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
919 information to the applicant or its designee;

920 39. The Department of Professional and Occupational Regulation for the purpose of investigating

921 individuals for initial licensure pursuant to § 54.1-2106.1;

922 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
923 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
924 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
925 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

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

933 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
934 a juvenile's household when completing a predispositional or postdispositional report required by
935 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

936 45. The State Corporation Commission, for the purpose of screening applicants for insurance
937 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

938 46. Other entities as otherwise provided by law.

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

943 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
944 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
945 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
946 copy of conviction data covering the person named in the request to the person making the request;
947 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
948 making of such request. A person receiving a copy of his own conviction data may utilize or further
949 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
950 subject, the person making the request shall be furnished at his cost a certification to that effect.

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

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

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

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

968 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
969 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
970 for any offense specified in § 63.2-1720.

971 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
972 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
973 definition of barrier crime in § 19.2-392.02.

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

983 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
984 information pursuant to the rules of court for obtaining discovery or for review by the court.

985 **§ 59.1-200. Prohibited practices.**

986 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
987 transaction are hereby declared unlawful:

- 988 1. Misrepresenting goods or services as those of another;
- 989 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 990 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
991 services, with another;
- 992 4. Misrepresenting geographic origin in connection with goods or services;
- 993 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
994 benefits;
- 995 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 996 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
997 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfections, or "not first
998 class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods
999 are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds,"
1000 irregulars, imperfections or "not first class";
- 1001 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
1002 at the price or upon the terms advertised.

1003 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or
1004 servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
1005 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph
1006 shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such
1007 goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or
1008 amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement
1009 or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

1010 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts
1011 of price reductions;

1012 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
1013 installed;

1014 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
1015 or bill for merchandise or services previously ordered;

1016 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
1017 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the
1018 supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in
1019 manufacturing the goods or services advertised or offered for sale;

1020 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
1021 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
1022 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth,
1023 or under federal statutes or regulations;

1024 13a. Failing to provide to a consumer, or failing to use or include in any written document or
1025 material provided to or executed by a consumer, in connection with a consumer transaction any
1026 statement, disclosure, notice, or other information however characterized when the supplier is required
1027 by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other
1028 information in connection with the consumer transaction;

1029 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
1030 with a consumer transaction;

1031 15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain
1032 animals by pet dealers which is described in such sections, is a violation of this chapter;

1033 16. Failing to disclose all conditions, charges, or fees relating to:

- 1034 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
1035 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
1036 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
1037 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
1038 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
1039 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account
1040 for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase.
1041 In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any
1042 refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision
1043 does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise

1044 reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser
1045 has requested the supplier to order merchandise of a specific or unusual size, color, or brand not
1046 ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a
1047 transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in
1048 § 46.2-100;
1049 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time
1050 of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
1051 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill
1052 of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches
1053 the agreement;
1054 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess
1055 of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment
1056 on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of
1057 receiving overpayments. If the credit balance information is incorporated into statements of account
1058 furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;
1059 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
1060 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
1061 agreement;
1062 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
1063 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et
1064 seq.);
1065 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et
1066 seq.);
1067 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4
1068 (§ 59.1-207.17 et seq.);
1069 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
1070 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32
1071 (§ 59.1-424 et seq.);
1072 24. Violating any provision of § 54.1-1505;
1073 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter
1074 17.6 (§ 59.1-207.34 et seq.);
1075 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
1076 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
1077 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
1078 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
1079 seq.);
1080 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
1081 seq.);
1082 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
1083 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
1084 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
1085 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
1086 35. Using the consumer's social security number as the consumer's account number with the supplier,
1087 if the consumer has requested in writing that the supplier use an alternate number not associated with
1088 the consumer's social security number;
1089 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
1090 37. Violating any provision of § 8.01-40.2;
1091 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
1092 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
1093 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
1094 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46
1095 (§ 59.1-525 et seq.);
1096 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
1097 43. Violating any provision of § 59.1-443.2;
1098 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
1099 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
1100 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
1101 47. Violating any provision of § 18.2-239;
1102 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
1103 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
1104 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
1105 presumption that a supplier has reason to know a children's product was recalled if notice of the recall

1106 has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale
1107 on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to
1108 children's products that are used, secondhand or "seconds";
1109 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
1110 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
1111 52. Violating any provision of § 8.2-317.1;
1112 53. Violating subsection A of § 9.1-149.1;
1113 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
1114 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
1115 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
1116 which defective drywall has been permanently installed or affixed;
1117 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
1118 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in
1119 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
1120 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
1121 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
1122 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
1123 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
1124 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
1125 59. Violating any provision of subsection E of § 32.1-126; ~~and~~
1126 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed
1127 under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1; *and*
1128 61. *Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.*
1129 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
1130 lease solely by reason of the failure of such contract or lease to comply with any other law of the
1131 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
1132 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable
1133 such contract or lease.
1134 **2. That the provisions of the first enactment of this act shall become effective on July 1, 2021.**
1135 **3. That on or before March 1, 2021, the State Corporation Commission shall begin accepting**
1136 **applications for licenses to be issued pursuant to Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2 of the**
1137 **Code of Virginia, as created by this act, when such chapter becomes effective. Applications filed**
1138 **with the Commission may be investigated prior to July 1, 2021, in accordance with § 6.2-2605 of**
1139 **the Code of Virginia, as created by this act.**
1140 **4. That the State Corporation Commission (the Commission) shall provide a report to members of**
1141 **the House Committee on Labor and Commerce, the Senate Committee on Commerce and Labor,**
1142 **the House Committee on Education, and the Senate Committee on Education and Health on or**
1143 **before November 1, 2022, that contains the following: (i) the number of licenses issued under**
1144 **Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2 of the Code of Virginia, as created by this act (the**
1145 **Chapter); (ii) the number of applications for a license under the Chapter that have been denied**
1146 **and the reasons for such denials; (iii) the number of licensees under the Chapter that filed a**
1147 **written report with the Commission pursuant to subsection A of § 6.2-2612, as created by this act,**
1148 **and for which of the events enumerated in subdivisions A 1 through 5 of § 6.2-2612, as created by**
1149 **this act, the written report was filed; (iv) the number and nature of complaints received under the**
1150 **Chapter; and (v) the number of investigations and examinations resulting from such complaints**
1151 **and the disposition of such investigations and examinations.**

SENATE SUBSTITUTE