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SENATE BILL NO. 1063**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on Finance and Appropriations
on February 5, 2020)

(Patrons Prior to Substitute—Senators McPike and Ruff [SB 960])

A *BILL to amend and reenact §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-334.3, 18.2-340.22, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-3, 58.1-302, 58.1-322.02, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4025, 58.1-4027, and 59.1-148.3 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056; and to repeal § 58.1-4007.2 of the Code of Virginia, relating to the Virginia Lottery Board; repeal prohibition against sale of lottery tickets over the Internet; regulation of the manufacturing, distributing, hosting, and playing of electronic gaming devices; penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, 9.1-801, 18.2-308.016, 18.2-334.3, 18.2-340.22, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-3, 58.1-302, 58.1-322.02, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4025, 58.1-4027, and 59.1-148.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056, as follows:

§ 2.2-419. Definitions.

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

"Anything of value" means:

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

"Compensation" means:

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

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

62 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in
63 § 30-355.

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

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

71 "Executive official" means:

- 72 1. The Governor;
- 73 2. The Lieutenant Governor;
- 74 3. The Attorney General;
- 75 4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General
76 other than a clerical or secretarial employee;
- 77 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
78 executive agency; or
- 79 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
80 however selected.

81 "Expenditure" means:

- 82 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
83 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
84 of value for any purpose;
- 85 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
86 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
87 persons;
- 88 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
89 payment of expenses incurred at the request or suggestion of the lobbyist;
- 90 4. A payment that directly benefits an executive or legislative official or a member of the official's
91 immediate family;
- 92 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
93 of an employee for or in connection with direct communication with an executive or legislative official;
- 94 6. A payment for or in connection with soliciting or urging other persons to enter into direct
95 communication with an executive or legislative official; or
- 96 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
97 this chapter.

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

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

103 "Gift" means anything of value, including any gratuity, favor, discount, entertainment, hospitality,
104 loan, forbearance, or other item having monetary value, and includes services as well as gifts of
105 transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket,
106 payment in advance, or reimbursement after the expense has been incurred.

107 "Gift" does not mean:

- 108 1. Printed informational or promotional material;
- 109 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
110 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
111 tax purposes;
- 112 3. A devise or inheritance;
- 113 4. A gift of a value of less than \$20;
- 114 5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or
115 pass is used;
- 116 6. Any food or beverages provided to an individual at an event at which the individual is performing
117 official duties related to his public service;
- 118 7. Any food and beverages received at or registration or attendance fees waived for any event at
119 which the individual is a featured speaker, presenter, or lecturer;
- 120 8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall
121 memento, or similar item that is given in recognition of public, civic, charitable, or professional service;

9. Any gift to an individual's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law;

10. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman;

11. Travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; or

12. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered.

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

"Legislative action" means:

1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the General Assembly or a legislative official;

2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or

3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

"Legislative official" means:

1. A member or member-elect of the General Assembly;

2. A member of a committee, subcommittee, commission, or other entity established by and responsible to the General Assembly or either house of the General Assembly; or

3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

"Lobbying" means:

1. Influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.

"Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or

183 4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of
184 this definition.

185 "Local government employee" means a public employee of a local government.

186 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company,
187 syndicate, business trust, estate, company, corporation, association, club, committee, organization, or
188 group of persons acting in concert.

189 "Procurement transaction" means all functions that pertain to obtaining all goods, services, or
190 construction on behalf of an executive agency, including description of requirements, selection and
191 solicitation of sources, preparation and award of contract, and all phases of contract administration
192 where the stated or expected value of the contract is \$5 million or more.

193 "Secretary" means the Secretary of the Commonwealth.

194 "Value" means the actual cost or fair market value of an item or items, whichever is greater. If the
195 fair market value cannot be determined, the actual amount paid for the item or items shall be given
196 consideration.

197 "Widely attended event" means an event at which at least 25 persons have been invited to attend or
198 there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
199 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
200 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

201 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

202 The provisions of this chapter shall not apply to:

203 1. Officers and employees for whom the Constitution specifically directs the manner of selection;

204 2. Officers and employees of the Supreme Court and the Court of Appeals;

205 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
206 house thereof is required or not;

207 4. Officers elected by popular vote or by the General Assembly or either house thereof;

208 5. Members of boards and commissions however selected;

209 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
210 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
211 notaries public;

212 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
213 special inquiries, investigations, or examinations on its behalf;

214 8. The presidents and teaching and research staffs of state educational institutions;

215 9. Commissioned officers and enlisted personnel of the National Guard;

216 10. Student employees at institutions of higher education and patient or inmate help in other state
217 institutions;

218 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
219 employees compensated on an hourly or daily basis;

220 12. County, city, town, and district officers, deputies, assistants, and employees;

221 13. The employees of the Virginia Workers' Compensation Commission;

222 14. The officers and employees of the Virginia Retirement System;

223 15. Employees whose positions are identified by the State Council of Higher Education and the
224 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the
225 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of
226 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The
227 Library of Virginia, and approved by the Director of the Department of Human Resource Management
228 as requiring specialized and professional training;

229 16. Employees of the Virginia Lottery and Gaming Department;

230 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
231 and service industries who have a human resources classification of industry worker;

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

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

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

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

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

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

26. Employees of the Virginia Indigent Defense Commission;

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

28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage Control Authority.

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

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery and Gaming Oversight Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery and Gaming Oversight Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

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

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his

306 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for
307 public inspection such declaration for a period of five years from the date of recording or receipt. If
308 reasonable time is not available to comply with the provisions of this subsection prior to participation in
309 the transaction, the officer or employee shall prepare and file the required declaration by the end of the
310 next business day.

311 G. An officer or employee of state government who is required to declare his interest pursuant to
312 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a
313 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide
314 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in
315 the public interest. The officer or employee shall either make his declaration orally to be recorded in
316 written minutes for his agency or file a signed written declaration with the clerk or administrative head
317 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make
318 available for public inspection such declaration for a period of five years from the date of recording or
319 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to
320 participation in the transaction, the officer or employee shall prepare and file the required declaration by
321 the end of the next business day.

322 H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher
323 education in the Commonwealth shall not be required to file the disclosure form prescribed by the
324 Council pursuant to § 2.2-3117 or 2.2-3118.

325 **§ 2.2-3202. Eligibility for transitional severance benefit.**

326 A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia
327 Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act
328 pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16
329 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the
330 Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System,
331 (vi) who is employed by the Virginia Lottery and Gaming Department, (vii) who is employed by the
332 Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is
333 employed at a state educational institution as faculty (including, but not limited to, presidents and
334 teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions
335 in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia
336 Personnel Act pursuant to subdivision 3, 20, 23, or 28 of § 2.2-2905; and (a) for whom reemployment
337 with the Commonwealth is not possible because there is no available position for which the employee is
338 qualified or the position offered to the employee requires relocation or a reduction in salary and (b)
339 whose involuntary separation was due to causes other than job performance or misconduct, shall be
340 eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter.
341 The date of involuntary separation shall mean the date an employee was terminated from employment or
342 placed on leave without pay-layoff or equivalent status.

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

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

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

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

353 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
354 **investigations.**

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

359 1. Information relating to investigations of applicants for licenses and permits, and of all licensees
360 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia
361 Lottery and Gaming Department, the Virginia Racing Commission, the Department of Agriculture and
362 Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et
363 seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal
364 Justice Services.

365 2. Records of active investigations being conducted by the Department of Health Professions or by
366 any health regulatory board in the Commonwealth pursuant to § 54.1-108.

367 3. Investigator notes, and other correspondence and information, furnished in confidence with respect

to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

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

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

6. Information relating to studies and investigations by the Virginia Lottery and Gaming Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations that cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such information has not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of the study or investigation.

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

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

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

10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses

including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

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

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

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

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

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

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

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery and Gaming Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the

identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

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

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery and Gaming Department pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

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

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

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

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

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

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement

system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

25. Information held by the Department of Corrections made confidential by § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

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

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

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

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial

interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

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

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

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

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

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

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

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

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

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

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

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

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from

private sources.

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

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

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

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

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

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

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

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

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

798 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
799 meetings in which individual death cases are discussed by overdose fatality review teams established
800 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
801 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

802 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
803 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
804 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
805 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
806 proprietary, business-related information pertaining to the operations of the University of Virginia
807 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
808 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
809 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
810 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
811 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
812 Medical School, as the case may be.

813 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
814 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
815 disposition by the Authority of real property, equipment, or technology software or hardware and related
816 goods or services, where disclosure would adversely affect the bargaining position or negotiating
817 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
818 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
819 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
820 affect the competitive position of the Authority; and members of the Authority's medical and teaching
821 staffs and qualifications for appointments thereto.

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

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

830 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
831 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
832 § 56-484.12, related to the provision of wireless E-911 service.

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

839 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
840 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
841 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
842 responsible public entity concerning such records.

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

847 30. Discussion or consideration of grant or loan application information subject to the exclusion in
848 subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation
849 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory
850 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

851 31. Discussion or consideration by the Commitment Review Committee of information subject to the
852 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
853 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

854 32. Discussion or consideration of confidential proprietary information and trade secrets developed
855 and held by a local public body providing certain telecommunication services or cable television services
856 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
857 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
858 seq.).

859 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless

Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

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

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)

individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. *Deliberations of the Virginia Lottery and Gaming Oversight Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a license related to electronic gaming devices and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.*

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

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

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

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

§ 2.2-4002. Exemptions from chapter generally.

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

1. The General Assembly.

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

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

4. The Virginia Housing Development Authority.

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

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

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

8. The Virginia Resources Authority.

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

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

11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23.1-207.

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

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

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

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

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

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

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

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

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

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

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

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

25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.

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

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

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

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

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

4. Grants of state or federal funds or property.

5. The chartering of corporations.

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

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

8. The conduct of elections or eligibility to vote.

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

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

11. Traffic signs, markers or control devices.

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

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

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

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

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

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, and any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the

activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

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

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

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

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

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

24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

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

§ 8.01-195.11. Compensation for wrongful incarceration.

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

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

C. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to subsection B, within 30 days of receipt of the written request for the disbursement of the transition assistance grant to the Executive Secretary of the Supreme Court of Virginia. Payment of the transition assistance grant from the Criminal Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Secretary of the Supreme Court of Virginia. In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career and technical training within the Virginia Community College System contingent upon successful completion of the training. Reimbursement for tuition shall be provided by the comprehensive community college at which the career or technical training was completed.

§ 9.1-101. Definitions.

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

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

"Board" means the Criminal Justice Services Board.

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

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

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,

indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

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

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

"Criminal justice agency" includes the Department of Criminal Justice Services.

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

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

"Department" means the Department of Criminal Justice Services.

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

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a sworn member of the security division of the Virginia Lottery and Gaming Department; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum

1167 of understanding with the private police department that addresses the duties and responsibilities of the
1168 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
1169 Private police departments and private police officers shall be subject to and comply with the
1170 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
1171 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
1172 and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable
1173 to private police departments. Any person employed as a private police officer pursuant to this section
1174 shall meet all requirements, including the minimum compulsory training requirements, for
1175 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
1176 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
1177 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
1178 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
1179 employee of the Commonwealth or any locality. An authorized private police department may use the
1180 word "police" to describe its sworn officers and may join a regional criminal justice academy created
1181 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
1182 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
1183 whose status as a private police department was recognized by the Department at that time is hereby
1184 validated and may continue to operate as a private police department as may such entity's successor in
1185 interest, provided it complies with the requirements set forth herein.

1186 "School resource officer" means a certified law-enforcement officer hired by the local
1187 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
1188 and secondary schools.

1189 "School security officer" means an individual who is employed by the local school board or a private
1190 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
1191 investigating violations of the policies of the school board or the private or religious school, and
1192 detaining students violating the law or the policies of the school board or the private or religious school
1193 on school property, school buses, or at school-sponsored events and who is responsible solely for
1194 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
1195 school.

1196 "Unapplied criminal history record information" means information pertaining to criminal offenses
1197 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
1198 record of an arrested or convicted person (i) because such information is not supported by fingerprints
1199 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission
1200 within the content of the submitted information.

1201 **§ 9.1-801. Public safety officer defined.**

1202 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
1203 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a
1204 correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail
1205 officer; a regional jail or jail farm superintendent; a member of any fire company or department or
1206 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or
1207 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part
1208 of the official safety program of such county, city, or town; an arson investigator; a member of the
1209 Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia
1210 National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the
1211 United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police
1212 agent appointed under the provisions of § 56-353; any regular or special conservation police officer who
1213 receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to
1214 § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or
1215 employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to
1216 § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter
1217 regional hazardous materials emergency response team member; any investigator who is a full-time
1218 sworn member of the security division of the Virginia Lottery and Gaming Department; any full-time
1219 sworn member of the enforcement division of the Department of Motor Vehicles meeting the
1220 Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any
1221 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
1222 Title 23.1; and any conservation officer of the Department of Conservation and Recreation
1223 commissioned pursuant to § 10.1-115.

1224 **§ 11-16.1. Exemption; play of authorized electronic gaming devices.**

1225 *This chapter shall not apply to the play of electronic gaming devices or related activity that is lawful*
1226 *under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1 or to any contract, conduct, or*
1227 *transaction arising from conduct lawful thereunder.*

1228 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery and Gaming Department, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

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

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the

Department of State Police for entry into the Virginia Criminal Information Network.

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

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

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

§ 18.2-334.3. Exemptions to article; state lottery.

Nothing in this article shall apply to any:

1. Any lottery conducted by the Commonwealth of Virginia pursuant to *Article 1* (§ 58.1-4000 *et seq.*) of Chapter 40 of Title 58.1; or

2. *The play of any electronic gaming devices or related activity that is lawful under Article 2* (§ 58.1-4030 *et seq.*) of Chapter 40 of Title 58.1.

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

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

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

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

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

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

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

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the

arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

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

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

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

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

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

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

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

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

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

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

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

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

14. The Virginia Lottery and Gaming Department for the conduct of investigations as set forth in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.) and electronic gaming devices as set forth in Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, and the Department of Agriculture and

1413 Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.)
1414 of Chapter 8 of Title 18.2;

1415 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
1416 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
1417 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
1418 the limitations set out in subsection E;

1419 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
1420 investigations of applicants for compensated employment in licensed assisted living facilities and
1421 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

1422 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
1423 in § 4.1-103.1;

1424 18. The State Board of Elections and authorized officers and employees thereof and general registrars
1425 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
1426 voter registration, limited to any record of felony convictions;

1427 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
1428 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
1429 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

1430 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1431 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1432 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

1433 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1434 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1435 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1436 services;

1437 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1438 Department for the purpose of determining an individual's fitness for employment pursuant to
1439 departmental instructions;

1440 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1441 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1442 records information on behalf of such governing boards or administrators pursuant to a written
1443 agreement with the Department of State Police;

1444 24. Public institutions of higher education and nonprofit private institutions of higher education for
1445 the purpose of screening individuals who are offered or accept employment;

1446 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1447 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1448 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1449 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1450 history record information obtained pursuant to this section or otherwise use any record of an individual
1451 beyond the purpose that such disclosure was made to the threat assessment team;

1452 26. Executive directors of community services boards or the personnel director serving the
1453 community services board for the purpose of determining an individual's fitness for employment,
1454 approval as a sponsored residential service provider, or permission to enter into a shared living
1455 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
1456 §§ 37.2-506 and 37.2-607;

1457 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1458 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1459 or permission to enter into a shared living arrangement with a person receiving medical assistance
1460 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

1461 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1462 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1463 name, address, demographics and social security number of the data subject shall be released;

1464 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1465 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1466 purpose of determining if any applicant who accepts employment in any direct care position or requests
1467 approval as a sponsored residential service provider or permission to enter into a shared living
1468 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1469 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1470 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1471 37.2-607;

1472 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1473 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1474 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45. Other entities as otherwise provided by law.

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

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

subject, the person making the request shall be furnished at his cost a certification to that effect.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities

pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

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

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

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

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

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

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

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

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

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

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

14. The Virginia Lottery and Gaming Department for the conduct of investigations as set forth in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.) and electronic gaming devices as set forth in Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of

1659 investigations of applicants for compensated employment in licensed assisted living facilities and
1660 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
1661 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
1662 in § 4.1-103.1;

1663 18. The State Board of Elections and authorized officers and employees thereof and general registrars
1664 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
1665 voter registration, limited to any record of felony convictions;

1666 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
1667 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
1668 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

1669 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1670 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1671 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

1672 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1673 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1674 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1675 services;

1676 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1677 Department for the purpose of determining an individual's fitness for employment pursuant to
1678 departmental instructions;

1679 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1680 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1681 records information on behalf of such governing boards or administrators pursuant to a written
1682 agreement with the Department of State Police;

1683 24. Public institutions of higher education and nonprofit private institutions of higher education for
1684 the purpose of screening individuals who are offered or accept employment;

1685 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1686 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1687 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1688 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1689 history record information obtained pursuant to this section or otherwise use any record of an individual
1690 beyond the purpose that such disclosure was made to the threat assessment team;

1691 26. Executive directors of community services boards or the personnel director serving the
1692 community services board for the purpose of determining an individual's fitness for employment,
1693 approval as a sponsored residential service provider, or permission to enter into a shared living
1694 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
1695 §§ 37.2-506 and 37.2-607;

1696 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1697 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1698 or permission to enter into a shared living arrangement with a person receiving medical assistance
1699 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

1700 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1701 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1702 name, address, demographics and social security number of the data subject shall be released;

1703 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1704 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1705 purpose of determining if any applicant who accepts employment in any direct care position or requests
1706 approval as a sponsored residential service provider or permission to enter into a shared living
1707 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1708 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1709 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1710 37.2-607;

1711 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1712 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1713 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1714 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1715 for the purpose of determining if any person being considered for election to any judgeship has been
1716 convicted of a crime;

1717 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1718 determining an individual's fitness for employment in positions designated as sensitive under Department
1719 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

1720 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under

subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

46. Other entities as otherwise provided by law.

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

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

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

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

1782 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
1783 Exchange prior to dissemination of any criminal history record information on offenses required to be
1784 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
1785 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
1786 where time is of the essence and the normal response time of the Exchange would exceed the necessary
1787 time period. A criminal justice agency to whom a request has been made for the dissemination of
1788 criminal history record information that is required to be reported to the Central Criminal Records
1789 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
1790 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
1791 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

1792 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
1793 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
1794 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

1795 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
1796 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
1797 for any offense specified in § 63.2-1720.

1798 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
1799 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
1800 definition of barrier crime in § 19.2-392.02.

1801 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
1802 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
1803 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
1804 the request to the employer or prospective employer making the request, provided that the person on
1805 whom the data is being obtained has consented in writing to the making of such request and has
1806 presented a photo-identification to the employer or prospective employer. In the event no conviction data
1807 is maintained on the person named in the request, the requesting employer or prospective employer shall
1808 be furnished at his cost a certification to that effect. The criminal history record search shall be
1809 conducted on forms provided by the Exchange.

1810 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
1811 information pursuant to the rules of court for obtaining discovery or for review by the court.

1812 **§ 37.2-304. Duties of Commissioner.**

1813 The Commissioner shall be the chief executive officer of the Department and shall have the
1814 following duties and powers:

1815 1. To supervise and manage the Department and its state facilities.

1816 2. To employ the personnel required to carry out the purposes of this title.

1817 3. To make and enter into all contracts and agreements necessary or incidental to the performance of
1818 the Department's duties and the execution of its powers under this title, including contracts with the
1819 United States, other states, and agencies and governmental subdivisions of the Commonwealth,
1820 consistent with policies and regulations of the Board and applicable federal and state statutes and
1821 regulations.

1822 4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the
1823 United States government, agencies and instrumentalities thereof, and any other source, subject to the
1824 approval of the Governor. To these ends, the Commissioner shall have the power to comply with
1825 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with
1826 policies and regulations of the Board.

1827 5. To accept, execute, and administer any trust in which the Department may have an interest, under
1828 the terms of the instruments creating the trust, subject to the approval of the Governor.

1829 6. To transfer between state hospitals and training centers school-age individuals who have been
1830 identified as appropriate to be placed in public school programs and to negotiate with other school
1831 divisions for placements in order to ameliorate the impact on those school divisions located in a
1832 jurisdiction in which a state hospital or training center is located.

1833 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,
1834 established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical
1835 incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities
1836 and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to
1837 § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the
1838 Department within 15 working days of the critical incident, serious injury, or death.

1839 8. To work with the appropriate state and federal entities to ensure that any individual who has
1840 received services in a state facility for more than one year has possession of or receives prior to
1841 discharge any of the following documents, when they are needed to obtain the services contained in his
1842 discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days
1843 from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a

social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.

10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.

11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.

12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

13. *To administer the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.*

Unless specifically authorized by the Governor to accept or undertake activities for compensation, the Commissioner shall devote his entire time to his duties.

§ 37.2-314.1. Problem Gambling Treatment and Support Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys required to be deposited into the Fund pursuant to subsection A of § 58.1-4049 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing counseling and other support services for compulsive and problem gamblers, (ii) developing and implementing problem gambling treatment and prevention programs, and (iii) providing grants to supporting organizations that provide assistance to compulsive gamblers. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court

pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;

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

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the

1967 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
 1968 of income, filing status, number and type of dependents, and Forms W-2 and 1099 to facilitate the
 1969 administration of public assistance or social services benefits as defined in § 63.2-100 or child support
 1970 services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2; (iii) provide to the chief executive
 1971 officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request,
 1972 the names and home addresses of those persons identified by the designated guarantor as having
 1973 delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon
 1974 request to state agencies and institutions for their confidential use in facilitating the collection of
 1975 accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating
 1976 the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the
 1977 Commissioner of the Virginia Employment Commission, after entering into a written agreement, such
 1978 tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid
 1979 benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written
 1980 agreement, such tax information as may be necessary to facilitate the collection of state and local taxes
 1981 and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the
 1982 Virginia Lottery and Gaming Department such tax information as may be necessary to identify those
 1983 lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its
 1984 confidential use such tax information as may be necessary to facilitate the location of owners and
 1985 holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation
 1986 Commission, upon entering into a written agreement, such tax information as may be necessary to
 1987 facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive
 1988 Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax
 1989 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi)
 1990 provide to the Commissioner of the Department of Agriculture and Consumer Services such tax
 1991 information as may be necessary to identify those applicants for registration as a supplier of charitable
 1992 gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the
 1993 Department of Housing and Community Development for its confidential use such tax information as
 1994 may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise
 1995 Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide
 1996 current name and address information to private collectors entering into a written agreement with the
 1997 Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its
 1998 political subdivisions; however, the Tax Commissioner is not authorized to provide such information to
 1999 a private collector who has used or disseminated in an unauthorized or prohibited manner any such
 2000 information previously provided to such collector; (xiv) provide current name and address information as
 2001 to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any
 2002 person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for
 2003 injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or
 2004 Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering
 2005 into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid
 2006 wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource
 2007 Management, upon entering into a written agreement, such tax information as may be necessary to
 2008 identify persons receiving workers' compensation indemnity benefits who have failed to report earnings
 2009 as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any
 2010 other officer of any county, city, or town performing any or all of the duties of a commissioner of the
 2011 revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list
 2012 of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii)
 2013 provide to the Executive Director of the Northern Virginia Transportation Commission for his
 2014 confidential use such tax information as may be necessary to facilitate the collection of the motor
 2015 vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the
 2016 name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as
 2017 subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx)
 2018 provide to the developer or the economic development authority of a tourism project authorized by
 2019 § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap
 2020 financing; and (xxi) provide to the Virginia Retirement System and the Department of Human Resource
 2021 Management, after entering into a written agreement, such tax information as may be necessary to
 2022 facilitate the enforcement of subdivision C 4 of § 9.1-401. The Tax Commissioner is further authorized
 2023 to enter into written agreements with duly constituted tax officials of other states and of the United
 2024 States for the inspection of tax returns, the making of audits, and the exchange of information relating to
 2025 any tax administered by the Department of Taxation. Any person to whom tax information is divulged
 2026 pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he
 2027 were a tax official.

2028 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
2029 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
2030 stating the reason for such request, the chief executive officer of any county or city with information
2031 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
2032 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
2033 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
2034 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
2035 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
2036 profession or occupation administered by the Department of Professional and Occupational Regulation,
2037 only after the Department of Professional and Occupational Regulation exhausts all other means of
2038 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
2039 association, property owners' association or real estate cooperative association, or to the owner of
2040 property governed by any such association, the names and addresses of parties having a security interest
2041 in real property governed by any such association; however, such information shall be released only
2042 upon written request stating the reason for such request, which reason shall be limited to proposing or
2043 opposing changes to the governing documents of the association, and any information received by any
2044 person under this subsection shall be used only for the reason stated in the written request. The treasurer
2045 or other local assessing official may require any person requesting information pursuant to clause (iii) of
2046 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
2047 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
2048 prescribed herein as though he were a tax official.

2049 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
2050 treasurer or other collector of taxes for a county, city or town is authorized to provide information
2051 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
2052 of performing his duties to the commissioner of the revenue or other assessing official for such
2053 jurisdiction for use by such commissioner or other official in performing assessments.

2054 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
2055 motor vehicle local license decal the year, make, and model and any other legal identification
2056 information about the particular motor vehicle for which that local license decal is assigned.

2057 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
2058 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
2059 written request, the name, address, and social security number of a taxpayer, necessary for the
2060 performance of the Commissioner's official duties regarding the administration and enforcement of laws
2061 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
2062 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
2063 Commissioner of the obligations under this section.

2064 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
2065 any confidential tax document which he knows or has reason to know is a confidential tax document. A
2066 confidential tax document is any correspondence, document, or tax return that is prohibited from being
2067 divulged by subsection A, B, C, or D and includes any document containing information on the
2068 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
2069 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
2070 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
2071 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

2072 **§ 58.1-302. Definitions.**

2073 For the purpose of this chapter and unless otherwise required by the context:

2074 "Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to
2075 each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or
2076 others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same
2077 interests.

2078 "Compensation" means wages, salaries, commissions and any other form of remuneration paid or
2079 accrued to employees for personal services.

2080 "Corporation" includes associations, joint stock companies and insurance companies.

2081 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends
2082 to return even though he may actually reside elsewhere. In determining domicile, consideration may be
2083 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not
2084 limited to, financial independence, business pursuits, employment, income sources, residence for federal
2085 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of
2086 personal and real property owned by the applicant, motor vehicle and other personal property
2087 registration, residence for purposes of voting as proven by registration to vote, if any, and such other
2088 factors as may reasonably be deemed necessary to determine the person's domicile.

2089 "Foreign source income" means:

1. Interest, other than interest derived from sources within the United States;
 2. Dividends, other than dividends derived from sources within the United States;
 3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties;
 4. Gains, profits, or other income from the sale of intangible or real property located without the United States; and
 5. The amount of an individual's share of net income attributable to a foreign source qualified business unit of an electing small business corporation (S corporation). For purposes of this subsection, qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.
- In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.
- "Income and deductions from Virginia sources" includes:
1. Items of income, gain, loss and deduction attributable to:
 - a. The ownership of any interest in real or tangible personal property in Virginia;
 - b. A business, trade, profession or occupation carried on in Virginia; or
 - c. Prizes paid by the Virginia Lottery and Gaming Department, and gambling winnings from wagers placed or paid at a location in Virginia.
 2. Income from intangible personal property, including annuities, dividends, interest, royalties and gains from the disposition of intangible personal property to the extent that such income is from property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.
- "Income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion of a return or claim for refund shall be treated as if it were the preparation of the return or claim for refund. A person shall not be an "income tax return preparer" merely because the person:
1. Furnishes typing, reproducing, or other mechanical assistance;
 2. Prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed;
 3. Prepares as a fiduciary a return or claim for refund for any person; or
 4. Prepares an application for correction of an erroneous assessment or a protective claim for refund for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.
- "Individual" means all natural persons whether married or unmarried and fiduciaries acting for natural persons, but not fiduciaries acting for trusts or estates.
- "Intangible expenses and costs" means:
1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income;
 2. Losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
 3. Royalty, patent, technical and copyright fees;
 4. Licensing fees; and
 5. Other similar expenses and costs.
- "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.
- "Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease, transfer, or disposition of intangible property.
- "Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.
- "Related entity" means:
1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the

2151 taxpayer's outstanding stock;

2152 2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation,
2153 if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and
2154 corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent
2155 of the value of the taxpayer's outstanding stock; or

2156 3. A corporation, or a party related to the corporation in a manner that would require an attribution
2157 of stock from the corporation to the party or from the party to the corporation under the attribution rules
2158 of § 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or
2159 constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution
2160 rules of § 318 of the Internal Revenue Code shall apply for purposes of determining whether the
2161 ownership requirements of this subdivision have been met.

2162 "Related member" means a person that, with respect to the taxpayer during all or any portion of the
2163 taxable year, is a related entity, a component member as defined in § 1563(b) of the Internal Revenue
2164 Code, or is a person to or from whom there is attribution of stock ownership in accordance with
2165 § 1563(e) of the Internal Revenue Code.

2166 "Resident" applies only to natural persons and includes, for the purpose of determining liability for
2167 the taxes imposed by this chapter upon the income of any taxable year every person domiciled in
2168 Virginia at any time during the taxable year and every other person who, for an aggregate of more than
2169 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in
2170 Virginia or not. The word "resident" shall not include any member of the United States Congress who is
2171 domiciled in another state.

2172 "Resident estate or trust" means:

2173 1. The estate of a decedent who at his death was domiciled in the Commonwealth;

2174 2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth; or

2175 3. A trust created by or consisting of property of a person domiciled in the Commonwealth

2176 "Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or
2177 other disposition of intangible property shall include only the net gain realized from the transaction.

2178 "State," for purposes of Article 10 (§ 58.1-400 et seq.), means any state of the United States, the
2179 District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United
2180 States, and any foreign country.

2181 "Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary
2182 income tax return under the laws of the United States.

2183 "Virginia fiduciary adjustment" means the net amount of the applicable modifications described in
2184 §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04 (including subdivision 1 of § 58.1-322.04 if the estate or
2185 trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction
2186 of an estate or trust. The fiduciary adjustment shall not include the modification in § 58.1-322.03, except
2187 that the amount of state income taxes excluded from federal taxable income shall be included. The
2188 fiduciary adjustment shall also include the modification in subdivision 7 of § 58.1-322.03 regarding the
2189 deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

2190 **§ 58.1-322.02. Virginia taxable income; subtractions.**

2191 In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal
2192 adjusted gross income, there shall be subtracted:

2193 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
2194 and on obligations or securities of any authority, commission, or instrumentality of the United States to
2195 the extent exempt from state income taxes under the laws of the United States, including, but not
2196 limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of
2197 federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2198 2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth
2199 or of any political subdivision or instrumentality of the Commonwealth.

2200 3. Benefits received under Title II of the Social Security Act and other benefits subject to federal
2201 income taxation solely pursuant to § 86 of the Internal Revenue Code.

2202 4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code;
2203 however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a
2204 subtraction under this subdivision.

2205 5. The amount of any refund or credit for overpayment of income taxes imposed by the
2206 Commonwealth or any other taxing jurisdiction.

2207 6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not
2208 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

2209 7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery and
2210 Gaming Department.

2211 8. The wages or salaries received by any person for active and inactive service in the National Guard
2212 of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days

of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

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

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

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

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

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by

2274 the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or
2275 omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath,
2276 (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution,
2277 or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II
2278 and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual
2279 forced into labor against his will, under the threat of death, during World War II and its prelude and
2280 direct aftermath.

2281 20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased
2282 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction
2283 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal
2284 gross income in accordance with § 134 of the Internal Revenue Code.

2285 21. The death benefit payments from an annuity contract that are received by a beneficiary of such
2286 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an
2287 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under
2288 this subdivision shall be allowed only for that portion of the death benefit payment that is included in
2289 federal adjusted gross income.

2290 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
2291 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
2292 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
2293 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

2294 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
2295 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the
2296 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,
2297 and launched from an airport or spaceport in Virginia.

2298 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
2299 taxed as investment services partnership interest income (otherwise known as investment partnership
2300 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
2301 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
2302 § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided
2303 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
2304 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
2305 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
2306 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
2307 shall be eligible for the subtraction under this subdivision for an investment in the same business.

2308 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
2309 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
2310 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
2311 and (ii) interest income or other income for federal income tax purposes attributable to such person's
2312 first-time home buyer savings account.

2313 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
2314 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
2315 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
2316 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
2317 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
2318 year that was used for other than the payment of eligible costs, computed by multiplying the amount
2319 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
2320 the account at the time of the withdrawal to the total balance in the account at such time.

2321 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
2322 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
2323 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
2324 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)
2325 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified
2326 beneficiary.

2327 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
2328 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

2329 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year
2330 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
2331 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
2332 Revenue Code.

2333 27. a. Income, including investment services partnership interest income (otherwise known as
2334 investment partnership carried interest income), attributable to an investment in a Virginia venture
2335 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or

after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real property by condemnation proceedings.

§ 58.1-460. Definitions.

For the purposes of this article:

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

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

2397 1. If the person, governmental unit, or agency thereof, for whom the individual performs or
 2398 performed the service does not have control of the payment of the wages for such services, the term
 2399 "employer" (except as used in the definition of "wages" herein) means the person having control of the
 2400 payment of such wages, and

2401 2. In the case of a person paying wages on behalf of a nonresident person not engaged in trade or
 2402 business within the Commonwealth or on behalf of any governmental unit or agency thereof not located
 2403 within the Commonwealth, the term, "employer" (except as used in the definition of "wages" herein)
 2404 means such person. The term shall not include a financial institution, corporation, partnership or other
 2405 person or entity with respect to benefits paid as custodian, trustee or depository for an individual
 2406 retirement account (IRA) or simplified employee pension plan (SEPP).

2407 "Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly,
 2408 semimonthly, monthly, quarterly, semiannual, or annual payroll period.

2409 "Payroll period" means a period for which a payment of wages is ordinarily made to the employee
 2410 by his employer.

2411 "Wages" means wages as defined under § 3401 (a) of the Internal Revenue Code, as well as any
 2412 other amounts from which federal income tax is withheld under the provisions of §§ 3402 and 3405 of
 2413 the Internal Revenue Code and also includes all prizes in excess of \$5,001 paid by the Virginia Lottery
 2414 and Gaming Department; however, such term shall not include amounts paid pursuant to individual
 2415 retirement plans and simplified employee pension plans as defined in §§ 7701 (a)(37) and 408 (c) of the
 2416 Internal Revenue Code and shall not include remuneration paid for acting in or service as a member of
 2417 the crew of a (i) motion picture feature film, (ii) television series or commercial, or (iii) promotional
 2418 film filmed totally or partially in the Commonwealth by an individual or corporation which conducts
 2419 business in the Commonwealth for less than 90 days of the tax year and when such film, series or
 2420 commercial is processed, edited and marketed outside the Commonwealth. Every such individual or
 2421 corporation shall, immediately subsequent to the filming of such portion of the film, series or
 2422 commercial filmed in the Commonwealth, file with the Commissioner on forms furnished the
 2423 Department, a list of the names and social security account numbers of each actor or crew member who
 2424 is a resident of the Commonwealth and is compensated by such individual or corporation.

2425 CHAPTER 40.

2426 VIRGINIA LOTTERY AND GAMING LAW.

2427 Article 1.

2428 *Virginia Lottery and Gaming Oversight Board; Administration of Tickets and Prizes.*

2429 § 58.1-4000. Short title.

2430 This chapter shall be known and may be cited as the "Virginia Lottery and Gaming Law."

2431 § 58.1-4002. Definitions.

2432 For the purposes of this chapter:

2433 "Board" means the Virginia Lottery and Gaming Oversight Board established by this chapter.

2434 "Department" means the independent agency responsible for the administration of the Virginia
 2435 Lottery created in pursuant to this chapter article and the regulation of electronic gaming devices
 2436 pursuant to Article 2 (§ 58.1-4030 et seq.).

2437 "Director" means the Director of the Virginia Lottery and Gaming Department.

2438 "Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this
 2439 chapter article.

2440 "Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery
 2441 tickets on behalf of individuals located within or outside the Commonwealth and delivering or
 2442 transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit
 2443 delivery service.

2444 § 58.1-4003. Virginia Lottery and Gaming Department; Virginia Lottery and Gaming Oversight 2445 Board.

2446 Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any
 2447 other provision of law, there is hereby established as an independent agency of the Commonwealth,
 2448 exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery and
 2449 Gaming Department, which shall include a Director and a Virginia Lottery and Gaming Oversight Board
 2450 for the purpose of operating a state lottery and regulating electronic gaming devices pursuant to Article
 2451 2 (§ 58.1-4030 et seq.).

2452 § 58.1-4006. Powers of the Director.

2453 A. The Director shall supervise and administer the:

2454 1. The operation of the lottery in accordance with the provisions of this chapter article and with the
 2455 rules and regulations promulgated hereunder; and

2456 2. The regulation of electronic gaming devices in accordance with Article 2 (§ 58.1-4030 et seq.) and
 2457 with the rules and regulations promulgated hereunder.

2458 B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond or other surety satisfactory to the Director from licensed agents as provided in subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer regularly, but not less than four times each year, with the Board on the operation and administration of the lottery *and the regulation of electronic gaming devices*; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery *and the regulation of electronic gaming devices*.

5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate *Committee on Finance Committee and Appropriations*, House *Committee on Finance Committee* and House *Committee on Appropriations Committee* the total lottery revenues, prize disbursements, and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this ~~chapter~~ *article* as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters ~~which~~ *that* require immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery *or the regulation of electronic gaming devices*.

10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales agents ~~which~~ *that* he determines will be cost effective and support increased sales of lottery products.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery *pursuant to this article and the regulation of electronic gaming devices pursuant to Article 2* (§ 58.1-4030 *et seq.*). The regulations governing the establishment and operation of the lottery *and the regulation of electronic gaming devices* shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 *et seq.*). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery *and regulation of electronic gaming devices* and for the convenience of the purchasers of tickets or shares, ~~and~~ the holders of winning tickets or shares, *and the players of electronic gaming devices*. The regulations, which may be amended, repealed, or supplemented as necessary, shall include, but not be limited to, the following:

1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.

2. The price or prices of tickets or shares in the lottery.

3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.

4. The manner of selecting the winning tickets or shares.

5. The manner of payment of prizes to the holders of winning tickets or shares.

6. The frequency of the drawings or selections of winning tickets or shares without limitation.

7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.

2520 8. The method to be used in selling tickets or shares, *including the sale of tickets or shares over the*
2521 *Internet.*

2522 9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

2523 10. The licensing of agents to sell tickets or shares who will best serve the public convenience and
2524 promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A
2525 licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at
2526 the agent's place of business so long as the employee is supervised in the selling or vending of tickets
2527 by the manager or supervisor in charge at the location where the tickets are being sold. Employment of
2528 such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

2529 11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to
2530 provide for the adequate availability of tickets or shares to prospective buyers and for the convenience
2531 of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to
2532 approve temporary bonus or incentive programs for payments to licensed sales agents.

2533 12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other
2534 sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 ~~of this~~
2535 ~~chapter.~~

2536 13. Such other matters necessary or desirable for the efficient and economical operation and
2537 administration of the lottery.

2538 14. *The regulation of electronic gaming devices pursuant to Article 2 (§ 58.1-4030 et seq.).*

2539 The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2;
2540 however, the Board shall promulgate regulations, after consultation with the Director, relative to
2541 departmental procurement which include standards of ethics for procurement consistent with the
2542 provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that
2543 departmental procurement will be based on competitive principles.

2544 The Board shall have the power to advise and recommend, but shall have no power to veto or
2545 modify administrative decisions of the Director. However, the Board shall have the power to accept,
2546 modify, or reject any revenue projections before such projections are forwarded to the Governor.

2547 B. The Board shall carry on a continuous study and investigation of the lottery *and electronic*
2548 *gaming devices* throughout the Commonwealth to:

2549 1. Ascertain any defects of this chapter or the regulations issued hereunder ~~which that~~ cause abuses
2550 in the administration and operation of the lottery *or the regulation of electronic gaming devices* and any
2551 evasions of such provisions.

2552 2. Formulate, with the Director, recommendations for changes in this chapter and the regulations
2553 promulgated hereunder to prevent such abuses and evasions.

2554 3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge
2555 for organized crime and illegal gambling.

2556 4. Ensure that this law and the regulations of the Board are in such form and are so administered as
2557 to serve the true purpose of this chapter.

2558 C. The Board shall make a continuous study and investigation of (i) the operation and the
2559 administration of similar laws ~~which that~~ may be in effect in other states or countries, (ii) any literature
2560 on the subject ~~which that~~ may be published or available, (iii) any federal laws ~~which that~~ may affect the
2561 operation of the lottery *or electronic gaming devices*, and (iv) the reaction of Virginia citizens to the
2562 potential features of the lottery with a view to recommending or effecting changes that will serve the
2563 purpose of this chapter.

2564 D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or
2565 revocation of a license of a lottery agent pursuant to subdivision A 10 ~~of subsection A~~ of this section
2566 and subdivision B 5 ~~of subsection B~~ of § 58.1-4006 ~~of this chapter.~~ *The Board shall also hear and*
2567 *decide an appeal of any penalty, any denial by the Director of a license or renewal, or any suspension*
2568 *or revocation of a license imposed by the Director pursuant to Article 2 (§ 58.1-4030 et seq.).*

2569 E. The Board shall have the authority to initiate procedures for the planning, acquisition, and
2570 construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3
2571 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

2572 **§ 58.1-4008. Employees of the Department; background investigations of employees.**

2573 All persons employed by the Department shall be fingerprinted before, and as a condition of,
2574 employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National
2575 Criminal Records search and to the Department of State Police for a Virginia Criminal History Records
2576 search. All board members, officers and employees of any vendor to the Department of lottery on-line
2577 or instant ticket goods or services working directly on a contract with the Department for such goods or
2578 services shall be fingerprinted, and such fingerprints shall be submitted to the Federal Bureau of
2579 Investigation for a National Criminal Records search conducted by the chief security officer of the
2580 ~~Virginia Lottery Department.~~ A background investigation shall be conducted by the chief security officer
2581 of the ~~Virginia Lottery Department~~ on every applicant prior to employment by the Department.

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

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

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

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

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

D. In the event an applicant is a former lottery sales agent whose license was suspended, revoked, or refused renewal pursuant to this section or § 58.1-4012, no application for a new license to sell lottery tickets or shares shall be considered for a minimum period of 90 days following the suspension, revocation, or refusal to renew.

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

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

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

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

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

§ 58.1-4012. Suspension and revocation of licenses.

The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the Director. A license may be suspended, revoked, or refused renewal by the Director for one or more of

the following reasons:

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;
2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;
3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;
4. Failure to file any return or report, to keep records or to pay any fees or other charges required by this chapter;
5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the Commonwealth lottery *or the administration and regulation of electronic gaming devices*;
6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees;
7. A material change, since issuance of the license, with respect to any matters required to be considered by the Director under this chapter; ~~or~~
8. ~~Failure to pay any fees or penalties required by this chapter; or~~
9. Other factors established by Department regulation.

§ 58.1-4020.1. Voluntary assignment of lottery prizes or pledge as collateral for a loan; requirements for the assignees and lenders.

A. Lottery prizes, payable in installments over a period of time, excluding prizes payable for the winner's life, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the person entitled to such installments, by written contract affirming that the requirements of this section have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The order shall specify the name, address and social security number or tax identification number of the assignee or lender and shall specifically describe the payments be assigned or pledged as collateral by date and gross pre-tax amount. The Department shall be given notice of any hearing held pursuant to this section and shall have the right to appear and participate in such hearing. Venue for hearings held pursuant to this section shall be in the Circuit Court of the City of Richmond.

The rate charged for any such assignment or loan shall not exceed 15 percent.

The contract shall:

1. Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or borrower shall affirm the assignment or loan has been voluntarily executed.

2. Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is of sound mind and not acting under duress; (ii) has been advised in writing by the assignee or lender to seek independent legal counsel and independent financial counsel concerning the implications of the assignment or loan, including the tax consequences, and has either received such advice or knowingly waived such advice in writing; (iii) understands that he is relinquishing or limiting his rights to receive the lottery proceeds; and (iv) has received from the ~~Virginia Lottery Department~~, in response to a written request therefor, confirmation of the assignee's or lender's registration with the ~~Virginia Lottery Department~~ in accordance with subsection E ~~of this section~~.

3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees associated with the assignment or loan and by whom such fees are payable; and (vi) the tax identification number of the assignee.

4. Expressly state that the assignor or borrower has three business days after signing the contract to cancel the assignment or loan.

5. Expressly state that the assignee or lender is eligible to purchase, share or receive prizes of the ~~Virginia Lottery Department~~ pursuant to §§ 58.1-4015, 58.1-4016 and subsection A of § 58.1-4019, and that the ~~Virginia Lottery Department~~ has complied with subsection B of § 58.1-4019 in that the original prizewinner is (or if deceased, was) a natural person if and to the extent that the prize was awarded on or after the effective date pursuant to subsection B of § 58.1-4019.

6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21 (§ 58.1-520 et seq.) of Chapter 3 of this title.

B. The Commonwealth, the ~~Virginia Lottery Department~~, and any employee or representative of either shall be indemnified and held harmless upon payment of amounts due as set forth in the court order.

C. The ~~Lottery Department~~ may establish a reasonable fee to process the assignments provided for in this section and to receive, review, and file the registration required by subsection E and confirm compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs of processing the assignments or registrations.

D. Notwithstanding the provisions of this section, the Commonwealth and the ~~Virginia Lottery Department~~ shall not accept any assignment if either of the following has occurred:

1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

E. An assignee, prospective assignee, lender, or prospective lender shall not make any representation in any written or oral communications with a lottery winner that implies that the assignee, prospective assignee, lender, or prospective lender is associated with or an agent of the Virginia Lottery Department. Every prospective assignee or prospective lender shall register with the Virginia Lottery Department, prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public financial statement. The Director may deny, suspend or revoke a registration for a violation of this chapter or for such other reason as the Board, by regulation, may establish.

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

Except as provided in Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 and § 58.1-4011, no state or local taxes of any type whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant to the Virginia Lottery and Gaming Law.

§ 58.1-4027. Judicial review.

The action of the Board in (i) granting, ~~or in refusing to grant, in~~ or denying a license or registration or suspending or revoking any license or registration under the provisions of this chapter article and (ii) granting, denying, suspending, or revoking any license or imposing any penalty pursuant to Article 2 (§ 58.1-4030 et seq.) shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

Article 2.

Electronic Gaming Devices.

§ 58.1-4030. Definitions.

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

"Distributor" means any person that leases or buys video game terminals from a manufacturer and sells, leases, or otherwise distributes them to operators. A distributor shall not contract directly with a host location.

"Electronic gaming device" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by chance, skill, or some combination thereof, and that may deliver or entitle the person playing or operating the device to receive cash in excess of the cost of operating, activating, or playing the game. "Electronic gaming device" does not include charitable games authorized pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 or historical horse racing authorized pursuant to Chapter 29 (§ 59.1-364) of Title 59.1.

"Gross profits" means all revenue generated from the play of electronic gaming devices minus prizes paid out to successful players.

"Gross revenue" means all revenue generated from the play of electronic gaming devices.

"Host location" means an establishment at which electronic gaming devices are placed and offered to the public for play.

"Independent testing laboratory" means a laboratory with a national reputation for honesty, independence, and timeliness that is demonstrably competent and qualified to scientifically test and evaluate electronic gaming devices for compliance with this article and to otherwise perform the functions assigned to it by this article. An independent testing laboratory shall not be owned or controlled by a manufacturer, distributor, or host location licensee or the Commonwealth.

"Individual" means a natural person.

"Inducement" means (i) consideration paid directly or indirectly, from a manufacturer, supplier, terminal operator, procurement agent, gaming employee, or nongaming employee, or another person on behalf of an applicant or licensee, to an establishment licensee, an establishment licensee owner, or an employee of the establishment licensee, directly or indirectly, as an enticement to solicit or maintain the establishment licensee or establishment licensee owner's business or (ii) cash, incentive, marketing and advertising cost, gift, food, beverage, loan, prepayment of gross terminal revenue, or other contribution or payment that offsets an establishment licensee's operational costs, or as otherwise determined by the

2766 board.

2767 "Inducement" does not include costs paid by a terminal operator applicant or licensee related to:

2768 1. Structural changes necessary to segregate the video gaming area or maintain the security of video
2769 gaming terminals and redemption terminals as required by the Board that do not exceed \$2,500,
2770 provided, however that any changes, in excess of \$2,500 may be shared equally between the terminal
2771 applicant or licensee and the establishment applicant or licensee.

2772 2. Surveillance technology to monitor only the video gaming area.

2773 3. Making video gaming terminals operate at a licensed establishment, including wiring and
2774 rewiring, software updates, ongoing video gaming terminal maintenance, redemption terminals, network
2775 connections, site controllers and costs associated with communicating with the central control computer
2776 system.

2777 4. Installation of security and alarm systems at an establishment licensee's premises that are
2778 reasonably necessary to protect video gaming terminals.

2779 5. Any requirement established by the Board regarding minimum standards for a video gaming area.

2780 6. Any cosmetic renovations or improvements within a video gaming area that are reasonably
2781 necessary, as determined by the Board, to provide a suitable environment for players.

2782 7. Fees established by the Board.

2783 "Institutional investor" means a retirement fund administered by a public agency for the exclusive
2784 benefit of federal, state, or local public employees, an investment company registered under the
2785 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), a collective investment trust
2786 organized by banks under Part Nine of the Rules of the Comptroller of the Currency, a closed-end
2787 investment trust, a chartered or licensed life insurance company or property and casualty insurance
2788 company, a banking and other chartered or licensed lending institution, an investment advisor registered
2789 under the Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.), and such other
2790 person as the Board may determine consistent with this definition.

2791 "Licensee" or "license holder" means any person holding a manufacturer, distributor, operator, or
2792 host location license under this article.

2793 "Manufacturer" means any person that manufactures and sells or leases major components or parts,
2794 including software and hardware, for electronic gaming devices to distributors or operators.

2795 "Operator" means any person that leases or owns electronic gaming devices and provides such
2796 terminals to host locations.

2797 "Person" means any individual, group of individuals, firm, company, corporation, partnership,
2798 business, trust, association, or other legal entity.

2799 "Player" means an individual who plays an electronic gaming device.

2800 "Procurement agent" means a person that acts as the agent of an operator or operators and shares
2801 in the gross profits or is otherwise compensated for the purpose of soliciting or procuring a written
2802 agreement between an operator licensee and a host location licensee for the placement of an electronic
2803 gaming device by the operator at the host location.

2804 "Publicly traded corporation" means a person, other than an individual, that (i) has a class or series
2805 of securities registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et
2806 seq.), (ii) is a registered management company under the Investment Company Act of 1940, or (iii) is
2807 subject to the reporting obligations imposed by § 15(d) of the Securities Exchange Act of 1934 by
2808 reason of having filed a registration statement that has become effective under the Securities Act of
2809 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.).

2810 "Single play" means the period beginning when a player activates and pays for the interactive game
2811 play function of an electronic gaming device and ending at the time when the game play function or
2812 series of free subgames thereunder will not continue without payment by the player of additional
2813 consideration.

2814 "Subsidiary" means a person, other than an individual, including (i) a corporation, a significant part
2815 of whose outstanding equity securities are owned, subject to a power or right of control or held with
2816 power to vote, by a holding company or an intermediary company; (ii) a significant interest in a person,
2817 other than an individual, that is owned, subject to a power or right of control or held with power to
2818 vote, by a holding company or an intermediary company; or (iii) a person deemed to be a subsidiary by
2819 the Board.

2820 "Successful player" means an individual who wins on one or more plays of an electronic gaming
2821 device.

2822 "Ticket redemption terminal" means a terminal where a voucher dispensed by an electronic gaming
2823 device may be redeemed for cash or a cash equivalent.

2824 **§ 58.1-4031. Powers and duties of the Director related to electronic gaming devices; reporting.**

2825 A. The Director shall have the following additional powers and duties related to the regulation of
2826 electronic gaming devices:

2827 1. Issue licenses under this article, and supervise all activities licensed under the provisions of this

2828 article, including the manufacturing, distributing, operating, hosting, and playing of electronic gaming
2829 devices;

2830 2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the rules and
2831 regulations adopted pursuant to this article;

2832 3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of
2833 any licensee, and compel the production of any books, documents, records, or memoranda of any
2834 licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied
2835 with;

2836 4. Order such audits as deemed necessary;

2837 5. Certify monthly to the State Comptroller and the Board a full and complete statement of electronic
2838 gaming device revenue and expenses for the previous month;

2839 6. Assess and collect civil penalties for violations of this article and Board regulations;

2840 7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate
2841 Committee on Finance and Appropriations, House Committee on Finance, and House Committee on
2842 Appropriations the total electronic gaming device revenues and expenses for the previous month and
2843 make an annual report, which shall include a full and complete statement of electronic gaming device
2844 revenues and expenses, to the Governor and the General Assembly, including recommendations for
2845 changes in this article as the Director and Board deem prudent; and

2846 8. Do all acts necessary and advisable to carry out the purposes of this article.

2847 B. The Director may require bond or other surety satisfactory to the Director from license holders in
2848 such amount as provided in the rules and regulations of the Board adopted under this article;

2849 **§ 58.1-4032. Powers and duties of the Board related to electronic gaming devices.**

2850 In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate
2851 regulations related to electronic gaming devices that:

2852 1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient
2853 for the administration of this article;

2854 2. Provide a schedule of application, license, and renewal fees that shall be sufficient to cover the
2855 costs of the administration and regulation of electronic gaming devices pursuant to this article;

2856 3. Establish requirements for all licensees under this article for the form, content, and retention of
2857 all records and accounts;

2858 4. Establish a process for the approval or disapproval of electronic gaming devices and games
2859 offered on such devices;

2860 5. Establish cash handling procedures for operator and host location licensees that require such
2861 licensees to keep separate accounts for gaming and non-gaming transactions;

2862 6. Require inspections of all licensees at a frequency determined by the Board; and

2863 7. Establish a program of periodic testing and inspection for all electronic gaming devices.

2864 **§ 58.1-4033. Licenses that may be granted by the Director.**

2865 A. The Director may grant the following licenses:

2866 1. Manufacturer license, which shall authorize the licensee to manufacture and sell or lease to
2867 distributors and operators major components or parts, including software and hardware, for electronic
2868 gaming devices.

2869 2. Distributor license, which shall authorize the licensee to lease or buy electronic gaming devices
2870 from a manufacturer and lease, sell, or otherwise distribute them to operators.

2871 3. Operator license, which shall authorize the licensee to (i) buy or lease electronic gaming devices
2872 from a manufacturer or distributor, (ii) supply such devices to host locations, and (iii) maintain and
2873 service such devices.

2874 4. Host location license, which shall authorize the licensee to allow the placement and offering for
2875 play by the public of electronic gaming devices at such licensee's establishment.

2876 B. Notwithstanding the provisions of subsection A, no application or license shall be required by the
2877 Director for an institutional investor if the institutional investor holds less than 10 percent of the
2878 securities or other ownership interests referred to in a licensee, the securities or interests are publicly
2879 traded securities, and its holdings of the securities were purchased for investment purposes only. No
2880 application or license shall be required for an institutional investor that holds more than 10 percent of
2881 the securities or other ownership interests, so long as such institutional investor files with the Director a
2882 certified statement to the effect that it has no intention of influencing or affecting, directly or indirectly,
2883 the affairs of the licensee, provided, however, that such institutional investor shall be permitted to vote
2884 on matters put to the vote of the outstanding security holders.

2885 **§ 58.1-4034. General licensing requirements; penalty.**

2886 A. An applicant for a manufacturer, distributor, operator, or host location license shall submit an
2887 application to the Director on forms provided by the Director, accompanied by any fees required by the
2888 Board.

2889 *B. The chief security officer of the Department shall conduct a background investigation, to include a*
2890 *Virginia criminal history records search and fingerprinting, that shall be submitted to the Federal*
2891 *Bureau of Investigation if the Director deems a national criminal records search is necessary, on*
2892 *applicants for licensure pursuant to this article.*

2893 *C. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license*
2894 *issued pursuant to this article to any person who has been (i) convicted of a crime involving moral*
2895 *turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud*
2896 *or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in*
2897 *conduct prejudicial to public confidence in electronic gaming devices.*

2898 *D. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license*
2899 *issued pursuant to this article to a partnership or corporation, if he determines that any general or*
2900 *limited partner, or officer or director of such partnership or corporation has been (i) convicted of a*
2901 *crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii)*
2902 *found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found*
2903 *to have engaged in conduct prejudicial to public confidence in electronic gaming devices.*

2904 *E. The Director may also refuse to grant a license pursuant to this article if:*

2905 *1. The Director reasonably believes that the applicant or any general or limited partner, or officer*
2906 *or director of such applicant lacks good character, honesty, or integrity;*

2907 *2. The Director reasonably believes that the applicant's prior activities, criminal record, reputation,*
2908 *or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of*
2909 *electronic gaming devices, or (iii) promote unfair or illegal activities in the conduct of electronic*
2910 *gaming devices;*

2911 *3. The applicant or any general or limited partner or any officer or director of such applicant*
2912 *knowingly makes a false statement of material fact or deliberately fails to disclose information requested*
2913 *by the Director;*

2914 *4. The applicant or any general or limited partner or any officer or director of such applicant*
2915 *knowingly fails to comply with the provisions of this article or any requirements of the Director;*

2916 *5. The applicant's license to manufacture, distribute, operate, or offer to the public for play an*
2917 *electronic gaming device issued by any other jurisdiction has been suspended or revoked;*

2918 *6. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or*

2919 *7. The applicant's application is incomplete.*

2920 *F. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or*
2921 *knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any*
2922 *application pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the*
2923 *license of a licensee if, subsequent to the issuance of the license, the Director determines that the*
2924 *licensee knowingly or recklessly made a false statement of material fact to the Director in applying for*
2925 *the license.*

2926 **§ 58.1-4035. License posting; expiration.**

2927 *A. Each license granted by the Director shall designate the place where the business of the licensee*
2928 *will be carried out.*

2929 *B. Each license shall be posted in a location conspicuous to the public at the place where the*
2930 *licensee carries out the business for which the license is granted.*

2931 *C. The privileges conferred by any license granted by the Director shall continue until the last day*
2932 *of the twelfth month next ensuing or the last day of the designated month and year of expiration, except*
2933 *the license may be sooner terminated for any cause for which the Director would be entitled to refuse to*
2934 *grant a license or by operation of law, voluntary surrender, or order of the Director.*

2935 *D. The Director may grant licenses for one year or for multiple years, not to exceed three years.*
2936 *Qualifications for a multiyear license shall be determined on the basis of criteria established by the*
2937 *Director. Fees for multiyear licenses shall not be refundable.*

2938 *E. At least 60 days before the expiration of a license, the license holder may submit a renewal*
2939 *application, on forms prescribed by the Director. The Director may deny a license renewal if he finds*
2940 *grounds for denial as described in § 58.1-4034.*

2941 **§ 58.1-4036. Prohibition against the issuance of multiple licenses to one person.**

2942 *A. For purposes of this section, "interest" means an equity ownership interest or a partial equity*
2943 *ownership interest or any other type of financial interest, including but not limited to being an investor*
2944 *or serving in a management position.*

2945 *B. No licensee that has been issued a manufacturer license shall be issued a distributor license,*
2946 *operator license, or host location license, or have any interest in a distributor licensee, operator*
2947 *licensee, or host location licensee.*

2948 *C. No licensee that has been issued a distributor license shall be issued a manufacturer license,*
2949 *operator license, or host location license, or have any interest in a manufacturer licensee, operator*
2950 *licensee, or host location licensee.*

D. No licensee that has been issued an operator license shall be issued a manufacturer license, distributor license, or host location license, or have any interest in a manufacturer licensee, distributor licensee, or host location licensee.

E. No licensee that has been issued a host location license shall be issued a manufacturer license, distributor license, or operator license, or have any interest in a manufacturer licensee, distributor licensee, or operator licensee.

§ 58.1-4037. Prohibition against transferring licenses without approval by Director.

A licensee may not transfer its license, or assign responsibility for compliance with the conditions of its license, to any party, including a transfer of effective control of the licensee, without approval by the Director.

§ 58.1-4038. Suspension and revocation of licenses; civil penalties; hearing and appeal.

A. If the Director determines that any provision of this article, or any regulation or condition of the Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days' notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed \$100,000 and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked, the Director shall state its reasons for doing so, which shall be entered of record.

B. Any person aggrieved by a refusal of the Director to issue any license, the suspension or revocation of a license, the imposition of a fine, or any other action of the Director may seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 of the Administrative Process Act.

C. Suspension or revocation of a license by the Director for any violation shall not preclude criminal liability for such violation.

§ 58.1-4039. Requirement for written agreement between operator licensee and host location licensee; division of revenue.

A. No operator licensee may place or maintain an electronic gaming device on the premises of a host location licensee unless the operator licensee and the host location licensee have entered into a written agreement that sets forth the terms and conditions for the placement and maintenance of such devices.

B. A copy of the written agreement shall be maintained in the business office of both the operator licensee and the host location licensee and shall be available at all times for inspection by the Director.

C. The written agreement shall be exclusive between one operator licensee and one host location licensee.

D. The written agreement shall be valid for a term of at least four years.

E. The operator licensee and host location licensee shall agree within the written agreement to split equally the allocation of all gross profits from the play of electronic gaming devices between the two licensees. No person shall receive a portion of any proceeds from the play of electronic gaming devices except for distributor licensees and host location licensees.

F. An operator and a host location may not enter into a written agreement until both the operator and the host location are duly licensed pursuant to this article. Any agreements between a prospective operator and a prospective host location regarding the placement of an electronic gaming device, including an agreement granting the right to enter into a written agreement or match any offer to enter into a written agreement, prior to the Board's granting licenses to both parties shall be unenforceable.

§ 58.1-4040. Approval of electronic gaming devices by the Director.

A. No electronic gaming device shall be offered for play by the public in the Commonwealth unless such electronic gaming device has first been approved by the Director.

B. Before selling, leasing, or otherwise providing an electronic gaming device to an operator, a manufacturer shall provide a prototype or production sample of such electronic gaming device to an independent testing laboratory that has been approved by the Director, which shall evaluate and certify whether such electronic gaming device meets the definition of electronic gaming device under § 58.1-4030, the requirements of § 58.1-4041, and any other requirements established in Board regulations.

Along with the prototype or production sample of the electronic gaming device, the manufacturer shall provide the following information concerning the electronic gaming device to the independent testing laboratory:

1. The method of determining the game outcome;
2. The available wagering denominations;
3. The minimum wager amount;
4. The maximum wager amount;
5. The amount of takeout for each wager;
6. The method of calculating winning payouts;

3012 7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;
3013 8. The minimum payouts and the method of guaranteeing minimum payouts; and
3014 9. Any other information requested by the independent testing laboratory or required by the Board
3015 for use in the testing of the electronic gaming device.

3016 The report of the independent testing laboratory shall be submitted by the manufacturer to the
3017 Director. The Director shall use the report in evaluating whether the electronic gaming device shall be
3018 approved under this article.

3019 If at any time a manufacturer makes a substantive change to any electronic gaming device that has
3020 previously been approved by the Director, such manufacturer shall resubmit the electronic gaming
3021 device to the Director in a manner prescribed by Board regulation.

3022 **§ 58.1-4041. Requirements of electronic gaming devices.**

3023 In addition to meeting the definition of electronic gaming device established in § 58.1-4030,
3024 electronic gaming devices shall:

3025 1. Show the rules of play for each game in a way that adequately describes or displays such
3026 information so that a reasonable person could understand the game prior to placing a wager;

3027 2. Accept only cash wagers;

3028 3. Make all possible game outcomes available upon the initiation of each game;

3029 4. Prohibit the modification of the rules of play for a game, including the probability and award of a
3030 game outcome, once a game is initiated;

3031 5. Prohibit the remote modification or manipulation of games;

3032 6. Pay out no more than \$1,199 in winnings for a single play of a game;

3033 7. Have a payout percentage of at least 85 percent;

3034 8. Have a power switch that is located inside of the device to prevent power from being switched off
3035 from outside of the device;

3036 9. Be designed such that power and data cables into and out of the device are routed so that they
3037 are not accessible by the general public;

3038 10. Have an identification badge affixed to the exterior of the device by the manufacturer that is not
3039 removable without leaving evidence of tampering. Such badge shall include the following information:

3040 a. The name of the manufacturer;

3041 b. A unique serial number;

3042 c. The device model number; and

3043 d. The date of manufacture;

3044 11. Be constructed of materials that are designed to allow only authorized access to the interior of
3045 the device. Such materials shall be designed to show evidence of tampering if unauthorized access does
3046 occur;

3047 12. Have seals between the device and the doors of a locked area that are designed to resist the use
3048 of tools or other objects used to breach the locked area by physical force;

3049 13. Have external doors that shall be locked and monitored by door access sensors;

3050 14. Have a currency storage area that is secured by two locks before the currency can be removed
3051 and that is only accessible by the operator licensee;

3052 15. Make payments to successful players by issuing a voucher that can be redeemed for cash at the
3053 host location's ticket redemption terminal; and

3054 16. Have the ability to allow for an independent integrity check by an independent testing laboratory
3055 approved by the Director of all software that may affect the integrity of the game.

3056 **§ 58.1-4042. Independent integrity checks of electronic gambling devices.**

3057 A prototype or production sample of each type, version, or model of electronic gaming device being
3058 operated in the Commonwealth shall be tested by an independent testing laboratory approved by the
3059 Director to ensure its integrity and proper working order. This evaluation shall include a review of
3060 installed software periodically within a timeframe established by the Director.

3061 The independent testing laboratory's software may be embedded within the game software, utilize an
3062 interface port to communicate with the device, or require the removal of device media for external
3063 verification.

3064 The manufacturer licensee shall pay the cost of the independent testing laboratory's review and
3065 testing, and the reports of the same shall be delivered to the licensee and the Director.

3066 **§ 58.1-4043. Requirement for central monitoring system.**

3067 Each electronic gaming device and ticket redemption terminal being operated in the Commonwealth
3068 shall be connected to a central monitoring system established and operated by the Department.

3069 The central monitoring system shall collect the following information from each device: (i) cash in,
3070 (ii) payouts, (iii) points played, (iv) points won, (v) gross terminal income, (vi) net terminal income, (vii)
3071 the number of plays of the game, (viii) the amounts paid to play the game, (ix) all taxes accrued and
3072 paid, and (x) any other information required by Board regulations.

3073 **§ 58.1-4044. Requirements of operator licensees.**

A. No operator licensee shall own or lease an electronic gaming device unless such device has been manufactured by and purchased or leased from a manufacturer licensee or distributor licensee. No contract between a distributor licensee and a manufacturer licensee or an operator licensee shall grant the distributor licensee or operator licensee exclusive rights to own, maintain, or place a type, model, or brand of electronic gaming device in the Commonwealth.

B. No operator licensee shall place or maintain an electronic gaming device at any establishment where it is offered to the public for play for a charge, directly or indirectly, unless such establishment is a host location licensee.

C. Each operator licensee that places or maintains an electronic gaming device at any establishment where it is offered to the public for play for a charge, directly or indirectly, shall submit or confirm a report to the Department, on a frequency established by the Board, detailing:

1. The gross revenue of each electronic gaming device that the operator licensee owns and maintains; and

2. The gross profits of each electronic gaming device that the operator licensee owns and maintains.

§ 58.1-4045. Requirements of host location licensees.

A. The following locations are eligible to receive a host location license:

1. Establishments licensed to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1;

2. Qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; and

3. Truck stops.

As used in this subsection, "truck stop" means an establishment that (i) is equipped with diesel islands used for fueling commercial motor vehicles; (ii) has sold, or reasonably anticipates selling, at least 10,000 gallons of diesel fuel per month; (iii) has parking spaces dedicated to commercial motor vehicles; (iv) has a convenience store; and (v) is situated on not less than two acres of land that the establishment owns or leases.

B. No host location licensee shall allow an electronic gaming device to be placed upon the premises of such licensee's establishment unless such device is owned or leased and maintained by an operator licensee.

C. Except for qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, the primary business of a host location licensee shall not be the offering for play of electronic gaming devices.

D. Except for qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, no host location licensee shall derive more than 50 percent of such location's annual gross receipts from its share of the gross profits derived from the play of electronic gaming devices at such location.

E. No host location licensee shall offer more than five electronic gaming devices to the public for play at such host location licensee's establishment.

F. Each host location licensee shall submit or confirm a report to the Department, on a frequency established by the Board, detailing:

1. The gross receipts of the location;

2. The gross revenue of each electronic gaming device; and

3. The gross profits of each electronic gaming device.

§ 58.1-4046. Responsible gaming.

A. In an effort to promote responsible gaming by players, host location licensees shall:

1. Post in a conspicuous place a sign that bears a toll-free number for problem gambling assistance that has been approved by the Virginia Council on Problem Gambling or other organizations that provide assistance to problem gamblers;

2. Provide informational leaflets or other similar materials at the licensee's facilities on the dangers associated with problem gambling;

3. If the licensee holds a license from the Virginia Alcoholic Beverage Control Authority to serve alcoholic beverages, train its employees to identify patrons who have consumed excessive amounts of alcohol to prevent such patrons from continuing to engage in wagering activity while impaired; and

4. Make all reasonable efforts to ensure that any request by a patron who wishes to self-exclude from the licensee's facilities is honored by the licensee.

B. Nothing contained in this section shall be construed to create any cause of action against the Board or Department for the failure of a host location licensee to comply with the requirements of this section.

§ 58.1-4047. Local regulation of electronic gaming devices.

A locality may adopt and enforce a local ordinance prohibiting the manufacturing, distributing, operating, hosting, or play of electronic gaming devices within such locality, provided that such

ordinance is passed no later than six months following the enactment of this article. If the locality passes such an ordinance and later chooses to allow the manufacturing, distributing, operating, hosting, or play of electronic gaming devices within such locality, the locality may pass an ordinance to that effect; however, such locality shall be prohibited from once again passing an ordinance to prohibit any such activities.

§ 58.1-4048. Tax on gross profits.

A. There shall be imposed a tax of 33 percent on all gross profits from the play of electronic gaming devices.

B. There shall be imposed an additional tax of three percent on all gross profits from the play of electronic gaming devices to benefit the locality in which the host location licensee operates.

C. The taxes imposed pursuant to this section shall be remitted by the operator licensee to the Department at a frequency established by Board regulations. If the operator licensee's accounting necessitates corrections to a previously remitted tax, such licensee shall document such corrections when remitting the next tax installment.

D. The taxes collected by the Department pursuant to this section shall be placed in the Virginia Lottery Fund, established pursuant to § 58.1-4022, pending distribution pursuant to § 58.1-4049.

§ 58.1-4049. Distribution of tax revenue.

A. The Department shall allocate two percent of the tax revenue collected pursuant to § 58.1-4048 to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.

B. The Department shall allocate 94 percent of the tax revenue collected pursuant to subsection A of § 58.1-4048 to the Virginia Electronic Gaming Device Education Support Fund established pursuant to subsection A of § 58.1-4050.

C. The Department shall allocate the remaining four percent of the tax revenue collected pursuant to subsection A of § 58.1-4048 to the Virginia Lottery Fund established pursuant to § 58.1-4022. From this amount a sum sufficient shall be appropriated to fund the operations of the Board related to the administration and regulation of electronic gaming devices pursuant to this article.

D. The Department shall allocate the entirety of the tax revenue collected pursuant to subsection B of § 58.1-4048 to the locality in which the host location licensee operates.

E. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days after such funds are collected, and only after the Department has verified the accuracy of the collected balances.

§ 58.1-4050. Virginia Electronic Gaming Device Education Support Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Electronic Gaming Device Education Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues allocated by the Department under § 58.1-4049 for deposit into the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of public education.

§ 58.1-4051. Illegal manufacturing, distributing, or hosting; penalty.

A. No person shall:

1. Manufacture or sell or lease to distributors or operators major components or parts, including software and hardware, for electronic gaming devices without a license issued by the Director.

2. Buy electronic gaming devices from a manufacturer, distribute such devices to or place such devices at host locations, or maintain and service such devices without a license issued by the Director.

3. Operate an establishment where one or more bona fide electronic gaming devices are made available for play by the public without a license issued by the Director.

4. Enter into an agreement for the placement of an electronic gaming device until the operator, host location, and procurement agent, if applicable, are all issued a license by the Director pursuant to this Article.

B. A violation of this section is a Class 6 felony.

§ 58.1-4052. Underage play prohibited; penalty.

A. No person shall play any electronic gaming device unless such person is 21 years of age or older.

B. No person shall redeem any evidence of winnings from any person who is not 21 years of age or older.

C. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4053. Prohibited acts by host location licensees; penalty.

A. No host location licensee shall:

1. Permit any person who is not 21 years of age or older to play any electronic gaming device;

2. Give any reward for the play of an electronic gaming device that is not authorized by this article;

or

3197 3. Give any reward for the play of an electronic gaming device that is redeemable at a location
3198 other than the host location's ticket redemption terminal.

3199 B. A violation of this section is a Class 1 misdemeanor.

3200 **§ 58.1-4054. Illegal tampering with electronic gaming devices; penalty.**

3201 No person other than a operator licensee shall possess or use any key or device designed for the
3202 purpose of opening, entering, or affecting the operation of an electronic gaming device or otherwise
3203 tamper with an electronic gaming device. A violation of this section is a Class 6 felony.

3204 **§ 58.1-4055. Conspiracies and attempts to commit violations; penalty.**

3205 A. Any person who conspires, confederates, or combines with another, either within or outside the
3206 Commonwealth, to commit a felony prohibited by this article is guilty of a Class 6 felony.

3207 B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal
3208 offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

3209 **§ 58.1-4056. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.**

3210 Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply to
3211 electronic gaming devices under this article. The Board shall promulgate regulations to interpret and
3212 clarify the applicability of Article 1 to this article.

3213 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

3214 A. The Department of State Police, the Department of Game and Inland Fisheries, the Virginia
3215 Alcoholic Beverage Control Authority, the Virginia Lottery and Gaming Department, the Marine
3216 Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the
3217 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department
3218 may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire
3219 department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow
3220 any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any
3221 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1,
3222 retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with
3223 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
3224 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a
3225 result of a service-incurred disability or who is receiving long-term disability payments for a
3226 service-incurred disability with no expectation of returning to the employment where he incurred the
3227 disability to purchase the service handgun issued or previously issued to him by the agency or institution
3228 at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be
3229 substituted for that weapon. This privilege shall also extend to any former Superintendent of the
3230 Department of State Police who leaves service after a minimum of five years. This privilege shall also
3231 extend to any person listed in this subsection who is eligible for retirement with at least 10 years of
3232 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this
3233 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the
3234 agencies listed in this subsection for personal duty use of an officer may, with approval of the agency
3235 head, be sold to the officer subject to the qualifications of this section at a fair market price determined
3236 as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular
3237 hardware or sporting goods store by a private citizen without restrictions other than the instant
3238 background check.

3239 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who
3240 retires with five or more years of service, but less than 10, to purchase the service handgun issued to
3241 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's
3242 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in
3243 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the
3244 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on
3245 the date of the officer's retirement. Determinations of fair market value may be made by reference to a
3246 recognized pricing guide.

3247 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn
3248 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least
3249 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

3250 D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any
3251 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1
3252 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent
3253 to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market
3254 value may be made by reference to a recognized pricing guide.

3255 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a
3256 state agency listed in subsection A, when the agency allows purchases of service handguns, and who
3257 retires after 10 years of state service, even if a portion of his service was with another state agency, may

3258 purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

3259 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a
3260 minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to
3261 him.

3262 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more
3263 than 10 years of service to purchase the service handgun issued to him by the agency at a price that is
3264 equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

3265 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
3266 currently employed by the agency to purchase his service handgun, with the approval of the chief
3267 law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the
3268 agency has purchased new service handguns for its officers, and the handgun subject to the sale is no
3269 longer used by the agency or officer in the course of duty.

3270 2. That § 58.1-4007.2 of the Code of Virginia is repealed.

3271 3. That the initial adoption by the Virginia Lottery and Gaming Oversight Board (the Board), as
3272 renamed by this act, of regulations necessary to implement the provisions of this act shall be
3273 exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except
3274 that the Board shall provide an opportunity for public comment on the regulations prior to
3275 adoption.

3276 4. That the initial procurement by the Virginia Lottery and Gaming Department, as renamed by
3277 this act, of the central monitoring system required by § 58.1-4043 of the Code of Virginia, as
3278 created by this act, shall be exempt from the departmental procurement regulations promulgated
3279 by the Virginia Lottery and Gaming Oversight Board, as renamed by this act, pursuant to
3280 § 58.1-4007 of the Code of Virginia, as amended by this act.

3281 5. That, notwithstanding the provisions of the first enactment of this act to the contrary, (i) until
3282 the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, adopts the
3283 regulations necessary to implement the provisions of this act pursuant to the third enactment of
3284 this act and (ii) the central monitoring system required by § 58.1-4043 of the Code of Virginia, as
3285 created by this act, is operational, the Director of the Virginia Lottery may issue a provisional
3286 license under the first enactment of this act to any entity that is duly licensed to engage in the
3287 manufacturing, distributing, operating, or hosting of any electronic gaming device in another state
3288 on July 1, 2020. The Board shall establish procedures for the issuance of provisional licenses. The
3289 granting of a provisional license pursuant to this enactment shall not entitle such license holder to
3290 the automatic granting of a license pursuant to the first enactment of this act. Holders of
3291 provisional licenses pursuant to this enactment shall self-report the information required by
3292 § 58.1-4043 of the Code of Virginia, as created by this act, to the Virginia Lottery and Gaming
3293 Department, as renamed by this act, pursuant to procedures established by the Board.
3294 Manufacturing, distributing, operating, or hosting any electronic gaming device at any time
3295 between July 1, 2020, and the date upon which (a) the regulations necessary to implement the
3296 provisions of this act are adopted and (b) the central monitoring system is operational without
3297 obtaining a provisional license pursuant to this enactment or failure to self-report the information
3298 required by this enactment may permanently disqualify a person from obtaining a license
3299 pursuant to the first enactment of this act. Any such disqualifications shall be within the sole
3300 discretion of the Director.

3301 6. That the provisions of this act may result in a net increase in periods of imprisonment or
3302 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
3303 necessary appropriation cannot be determined for periods of imprisonment in state adult
3304 correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia
3305 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to
3306 § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be
3307 determined for periods of commitment to the custody of the Department of Juvenile Justice.