

23104847D

**HOUSE BILL NO. 1758****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws  
on January 24, 2023)

(Patron Prior to Substitute—Delegate Webert)

A *BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-1502.2, relating to Department of Planning and Budget; Virginia Regulatory Sandbox Program; created.*

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

**1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-1502.2 as follows:**

**§ 2.2-1502.2. Virginia Regulatory Sandbox Program.**

**A. As used in this section:**

"Applicable agency" means a department or agency of the Commonwealth that by law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses, certificates of public need, or other types of authorization, which the Department determines would otherwise regulate a participant in the Program.

"Applicant" means an individual or business that is applying to participate in the Program.

"Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

"Consumer" means a person, business, or organization that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a sandbox participant.

"Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the Program.

"Department" means the Department of Planning and Budget.

"Director" means the Director of the Department.

"Financial product or service" means a product or service that supports the provision of banking or financial services, including those products or services that (i) require a state license or registration or (ii) include a business model, delivery mechanism, or element that may require a state license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 6.2, or other related provisions. "Financial product or service" does not include those products and services governed by the Securities Act (§ 13.1-501 et seq.).

"Hackathon" means a conference or meeting in collaboration with industry specialists with the express intention of solving specific concerns of a market within the Commonwealth or a region of the Commonwealth.

"Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism to consumers.

"Innovative offering" means an offering that includes an innovation.

"Offering" means a product, production method, or service. "Offering" does not include those products and services governed by the Securities Act (§ 13.1-501 et seq.).

"Participant" means a person whose application to participate in the Program is approved in accordance with the provisions of this section.

"Product" means a commercially distributed good that is (i) tangible personal property, (ii) the result of a production process, and (iii) passed through the distribution channel before consumption.

"Production" means the method or process of creating or obtaining a good, which may include assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.

"Program" means the Virginia Regulatory Sandbox Program created by this section, which allows a person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws or regulations.

**B. There is created within the Department the Virginia Regulatory Sandbox Program. With respect to the Program, the Department shall (i) administer the provisions of this section pursuant to the Program and (ii) act as a liaison between private businesses and applicable agencies to identify state laws or regulations that could potentially be waived or suspended under the Program.**

**The Department may:**

**1. Review state laws and regulations that may inhibit the creation and success of new businesses or**

60 industries and provide recommendations to the Governor and the General Assembly on modifying such  
61 state laws or regulations;

62 2. Create a framework for analyzing the risk level to the health, safety, and financial well-being of  
63 consumers related to permanently removing or temporarily waiving laws and regulations that may be  
64 inhibiting the creation or success of new and existing businesses or industries;

65 3. Propose potential reciprocity agreements between states that have established or are proposing to  
66 establish programs similar to that established in this section;

67 4. Make rules regarding the administration of the Program, including making rules regarding the  
68 application process and the reporting requirements of participants;

69 5. Create an advisory committee whose membership, appointed by the Director, shall represent a  
70 variety of business and industry interests, applicable agencies, and the General Assembly, and whose  
71 sole purpose is to make recommendations to the Department in the review of applications for  
72 participation in the Program; and

73 6. Cooperate and consult with applicable agencies in the administration of the Program.

74 C. In administering the Program, the Department (i) shall (a) consult with each applicable agency  
75 and (b) establish procedures to enable a person or business to obtain legal protections and limited  
76 access to the market in the Commonwealth to test an innovative offering without obtaining a license or  
77 other authorization that might otherwise be required and (ii) may (a) enter into agreements with or  
78 adopt the best practices of corresponding federal regulatory agencies or other states that are  
79 administering similar programs; (b) consult with businesses in the Commonwealth about existing or  
80 potential proposals for the Program; and (c) host or participate in industry hackathons or conferences  
81 to aid in the development of innovative offerings for use within the Program. Nothing in this section  
82 shall be deemed to waive any licensure, certification, or registration requirements by the Department of  
83 Health Professions.

84 D. Any individual or business seeking to participate in the Program shall submit an application, on  
85 a form prescribed by the Department for this purpose, for the innovative offering that the applicant  
86 seeks to demonstrate. A separate application shall be submitted for each innovative offering. The  
87 Department may require payment of an application fee in an amount not to exceed \$50. The application  
88 for participation in the Program shall require the applicant to:

89 1. Confirm the applicant is subject to the jurisdiction of the Commonwealth;

90 2. Confirm that the applicant has established a physical or virtual location that is adequately  
91 accessible to the Department and from which the demonstration of an innovative offering will be  
92 developed and performed and where all required records, documents, and data will be maintained;

93 3. Confirm that the applicant has the necessary personnel, financial and technical expertise, and  
94 access to capital and a developed plan to test, monitor, and assess the demonstration of an innovative  
95 offering;

96 4. Disclose any criminal convictions of the applicant and any participating personnel;

97 5. Identify the applicable agencies that regulate the applicant's business or industry;

98 6. Provide a description of the innovative offering to be demonstrated. Such description shall include  
99 statements regarding the following:

100 a. How the offering is subject to licensing, legal prohibition, or other authorization requirements  
101 outside of the Program, including a specific list of all state laws, regulations, and licensing or other  
102 requirements that the applicant is seeking to have waived or suspended during the demonstration  
103 period;

104 b. How the offering would benefit consumers;

105 c. How the offering is different from other offerings available in the Commonwealth;

106 d. The potential risks to consumers that use or purchase the offering;

107 e. How participating in the Program would enable a successful demonstration of the offering; and

108 f. How the applicant will end the demonstration and protect consumers if the demonstration fails,  
109 including providing evidence of sufficient liability coverage and financial reserves to protect consumers  
110 and to protect against insolvency by the applicant;

111 7. Provide a description of the proposed demonstration plan, including estimated time periods for  
112 initiating and concluding the demonstration and obtaining necessary licensure or authorizations after  
113 the conclusion of the demonstration;

114 8. Provide an overview of the applicant's ongoing duties, if any, and how the applicant will perform  
115 such duties after the conclusion of the demonstration; and

116 9. Provide any additional information requested or required by the Department.

117 E. 1. After an application is filed and before approving an application, the Department may seek any  
118 additional information from the applicant that the Department, from its own research or in consultation  
119 with the applicable agencies, determines is necessary, including (i) proof of sufficient assets, accounts,  
120 liability coverage, surety bond coverage, or other preparation by the applicant to ensure that consumers  
121 are protected and that the applicant will be able to cover ongoing duties, if any, when the

demonstration ends or if the demonstration ends early and (ii) industry ratings and past performance of the applicant.

The Department shall inform the applicant as to whether the application is approved for entry into the Program no later than 90 days after a complete application is received by the Department. However, the Department and an applicant may mutually agree to extend the 90-day period for the Department to determine whether an application is approved. In reviewing an application pursuant to this subsection, the Department may consult with each applicable agency before admitting an applicant into the Program, including seeking information about whether:

- a. The applicable agency has previously issued a license or other authorization to the applicant;
- b. The applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant;
- c. Whether the applicant could obtain a license or other authorization from the applicable agency after exiting the Program; or
- d. Whether certain licensures, authorizations, or other laws or regulations should not be waived even if the applicant is accepted into the Program.

2. No later than 30 days after the day on which applicable agency has been consulted or asked to review an application to the Program, the applicable agency shall provide a written report of its findings to the Director. The report shall (i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant licensure, authorization, law, or regulation protects against and (ii) make a recommendation to the Department that the applicant's participation in the Program be approved or denied. If the applicable agency recommends that an applicant be denied participation in the Program, the written report shall include a description of the reason for the recommendation, including why a temporary waiver or suspension of the relevant licensure, authorizations, laws, or regulations would potentially significantly harm the health, safety, or financial well-being of consumers of the public and the likelihood of such harm occurring. If the applicable agency determines that the health, safety, or well-being of consumers or the public can be protected through less restrictive means than the existing licensure, authorizations, laws, or regulations, then the applicable agency shall provide a recommendation of how that can be achieved within the context of the Program. If an applicable agency fails to provide a written report as described in this subsection, the Director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant licensure, authorizations, laws, or regulations for an applicant seeking to participate in the Program.

In reviewing an application pursuant to this subsection, the Department shall consider whether a competitor to the applicant is or has been a Program participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a participant. An applicant becomes a Program participant if and when the Director, in consultation with the Joint Commission on Administrative Rules, approves admission into the Program and enters into a written agreement with the applicant describing the specific licensure, authorizations, laws, or regulations that are waived or suspended as part of participation in the Program. When an applicant is approved for participation in the Program, the director may provide notice of the approval to competitors of the applicant and to the public.

3. Notwithstanding any other provision of this section, and within the 90-day period described in this subsection, the Director may deny any application if the Director determines, in consultation with the Joint Commission on Administrative Rules, that:

- a. The applicant's offering fails to comply with standards and specifications (i) required by federal law or regulation or (ii) previously approved for use by a federal agency;
- b. An applicant or participant has been convicted of, entered a plea of nolo contendere for, or entered a plea of guilty or nolo contendere held in abeyance for a crime (i) involving theft, fraud, or dishonesty or (ii) that bears a substantial relationship to the applicant's ability to safely or competently participate in the Program; or
- c. An applicant's participation in the program is deemed to create a substantial risk of harm to the health, safety, or financial well-being of the public, or create an unreasonable expense for taxpayers in the Commonwealth, including the Director's assessment of the applicant's ability to protect consumers in the case of a failed demonstration or at the end of the demonstration period.

If the Department denies an application submitted pursuant to this subsection, the Department shall provide to the applicant a written description of the reason for the denial within the same 90-day period described in this subsection.

If the Director determines that a participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this subsection, that constitutes a violation of a law or regulation for which suspension or waiver has not been granted, or that constitutes a violation of a state or federal criminal law, the Director may immediately remove the participant from the Program. The denial of an application submitted pursuant to this subsection is not subject to agency or judicial

183 review.

184 Notwithstanding any other provision of this section, the Department may not enter into a written  
185 agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the  
186 Department of Taxation or that is described in Title 58.1.

187 F. 1. If the Director approves an application under subsection E, the participant has 24 months after  
188 the day on which the application was approved to demonstrate the offering described in the participant's  
189 application. The Department and a participant may mutually agree to extend such 24-month period if  
190 deemed appropriate to the successful demonstration of an innovative offering. Such agreement shall not  
191 extend beyond 30 months from the participant's date of entry into the Program.

192 A participant demonstrating an innovative offering within the Program is subject to the following:

193 a. Consumers shall be residents of the Commonwealth;

194 b. No law or regulation may be waived or suspended if doing so would prevent a consumer from  
195 seeking restitution in the event that the consumer is harmed; and

196 c. The Department may, on a case-by-case basis, specify liability coverage requirements and  
197 minimum financial reserve requirements that the participant shall meet during the demonstration of the  
198 innovative offering.

199 This subsection does not restrict a participant who holds a license or other authorization in another  
200 jurisdiction from acting in accordance with that license or other authorization.

201 A participant, solely by way of being a participant in the Program, is deemed to possess an  
202 appropriate license or authorization under the laws of the Commonwealth for the purposes of any  
203 provision of federal law requiring state licensure or authorization for the duration of the demonstration  
204 period.

205 2. Notwithstanding any other provision of this section, a participant does not have immunity related  
206 to any criminal offense committed during the participant's participation in the Program; however:

207 a. A participant that is demonstrating an innovative offering within the context of the Program is not  
208 subject to state laws, regulations, licensing requirements, or authorization requirements that were  
209 identified in the written agreement between the Department and the participant pursuant to subsection  
210 E;

211 b. An attorney for the Commonwealth or the Attorney General may not file or pursue charges  
212 pertaining to a law or regulation identified in the written agreement between the Department and  
213 participant pursuant to subsection E that occurs during the demonstration period; and

214 c. A state agency may not file or pursue any punitive action against a participant, including a fine  
215 or license suspension or revocation, for the violation of a law or regulation that (i) is identified as  
216 being waived or suspended in the written agreement between the Department and the participant  
217 pursuant to subsection E and (ii) occurs during the demonstration period.

218 By written notice, the Department may end a participant's participation in the Program at any time  
219 and for any reason, including if the Director determines a participant is not operating in good faith to  
220 bring an innovative offering to market in the Commonwealth. The Department and the employees of any  
221 applicable agency or related department are not liable for any business losses, or the recouping of  
222 application expenses, related to the Program, including in the cases of (a) denying an applicant's  
223 application to participate in the Program for any reason or (b) ending a participant's participation in  
224 the Program at any time.

225 G. Prior to providing an innovative offering to a consumer, a participant shall disclose the following  
226 to the consumer:

227 1. The name and contact information of the participant;

228 2. That the offering is authorized pursuant to the Program;

229 3. That the offering is undergoing demonstration and may not function as intended, potentially  
230 exposing the consumer to risk;

231 4. That the provider of the offering is not immune from civil liability for any losses or damages  
232 caused by the offering;

233 5. That the participant is not immune from criminal prosecution for violations of state law or  
234 regulations that are not suspended or waived as permitted by the Program;

235 6. That the Commonwealth does not endorse or recommend the offering;

236 7. That the offering is a temporary demonstration that may be discontinued at the end of the  
237 demonstration period;

238 8. The expected end date of the demonstration period; and

239 9. That a consumer may contact the Department to file a complaint regarding the offering being  
240 demonstrated and provide the Department's telephone number and website address where a complaint  
241 may be filed.

242 Such required disclosures shall be provided to a consumer in a clear and conspicuous manner and,  
243 for an Internet or application-based offering, a consumer shall acknowledge receipt of the disclosure  
244 before a transaction may be completed. The Department may require that a participant make additional

disclosures to a consumer.

H. Not later than 30 days before the end of the Program demonstration period, a participant may request an extension of the testing period for the purpose of obtaining a license or other authorization required by law. The Department shall grant or deny a request for an extension by the end of the Program demonstration period. The Department may grant an extension in accordance with this subsection for not more than six months after the end of the Program demonstration period.

A participant that obtains an extension in accordance with this subsection shall provide the Department with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorizations, rejected applications, or issued licenses or other authorizations.

I. A participant shall retain records, documents, and data produced in the ordinary course of business regarding the innovative offering demonstrated in the Program. If an innovative offering fails or ceases to provide an offering before the end of the demonstration period, the participant shall notify the Department and report on actions taken by the participant to ensure that consumers have not been harmed as a result.

The Department shall establish quarterly reporting requirements for a participant, including information about any consumer complaints. The Department may request records, documents, and data from a participant, and, upon the Department's request, a participant shall make such records, documents, and data available for inspection by the Department. The participant shall notify the Department and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer. If the participant fails to notify the Department and each applicable agency of any incidents pursuant to this subsection, or the Department or an applicable agency has evidence that significant harm to a consumer has occurred, the Director may immediately remove the participant from the Program.

No later than 30 days after the day on which the participant exits the Program, the participant shall submit a written report to the Department providing an overview of the participant's demonstration, including any:

1. Incidents of harm to consumers;
2. Legal action filed against the participant as a result of the participant's demonstration; and
3. Complaints filed with the Department or an applicable agency as a result of the participant's demonstration.

By October 1 of each year, the Director shall report to the General Assembly (i) information regarding each Program participant, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced; (ii) information regarding outcomes for consumers; and (iii) recommendations regarding the effectiveness of the Program or the permanent modification of any laws or regulations that should be permanently modified.

**§ 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

306 individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

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

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

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

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

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

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

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

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

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

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

354 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local  
355 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a  
356 trust established by one or more local public bodies to invest funds for post-retirement benefits other  
357 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the  
358 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of  
359 visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the  
360 Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or  
361 disposition of a security or other ownership interest in an entity, where such security or ownership  
362 interest is not traded on a governmentally regulated securities exchange, if disclosure of such  
363 information would (i) reveal confidential analyses prepared for the board of visitors of the University of  
364 Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared  
365 by the retirement system, a local finance board or board of trustees, or the Virginia College Savings  
366 Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia  
367 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 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 federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g,

429 unless the public body has undertaken the parental notification and opt-out requirements provided by  
430 such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian  
431 of such person, unless the parent's parental rights have been terminated or a court of competent  
432 jurisdiction has restricted or denied such access. For such information of persons who are emancipated,  
433 the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the  
434 subject of the information may waive, in writing, the protections afforded by this subdivision. If the  
435 protections are so waived, the public body shall open such information for inspection and copying.

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

442 23. Information held by the Judicial Inquiry and Review Commission made confidential by  
443 § 17.1-913.

444 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local  
445 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement  
446 system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

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

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

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

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

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

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

472 28. Information maintained in connection with fundraising activities by the Veterans Services  
473 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone  
474 number, social security number or other identification number appearing on a driver's license or other  
475 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another  
476 jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be  
477 denied to the person who is the subject of the information. Nothing in this subdivision, however, shall  
478 be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of  
479 the pledge or donation or the identity of the donor, unless the donor has requested anonymity in  
480 connection with or as a condition of making a pledge or donation. The exclusion provided by this  
481 subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or  
482 contracting with the foundation for the performance of services or other work or (ii) the terms and  
483 conditions of such grants or contracts.

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

489 30. Information provided to the Department of Aviation by other entities of the Commonwealth in  
490 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.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

38. *Any part of an application for participation in the Virginia Regulatory Sandbox Program pursuant to § 2.2-1502.2 that the Governor or his designee determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant. However, this subdivision shall not be construed to mean that a record evidencing a final contract or approval decision is excluded pursuant to this section.*