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SENATE BILL NO. 1143

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 2.2-419, 2.2-2455, 2.2-2456, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.6, 2.2-3705.7, 2.2-3711, 2.2-4002, 3.2-102, 4.1-100, 8.01-195.11, 8.01-216.3, 8.01-534, 9.1-101, as it is currently effective and as it shall become effective, 9.1-801, 15.2-912.2, 18.2-308.016, 18.2-325, 18.2-334.2, 18.2-334.4, 19.2-215.1, 19.2-389, 52-53, 52-54, 58.1-3, 58.1-302, 58.1-322.02, as it is currently effective and as it shall become effective, 58.1-460, 58.1-3732.1, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4004, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4015.1, 58.1-4019.1, 58.1-4020.1, 58.1-4022, 58.1-4025, 58.1-4027, 58.1-4030, 58.1-4100, 58.1-4103, 58.1-4108, 58.1-4123, 59.1-148.3, 59.1-365, 59.1-369, and 59.1-392 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.3 and by adding in Chapter 40 of Title 58.1 articles numbered 3 and 4, consisting of sections numbered 58.1-4048 through 58.1-4087; and to repeal Article 1.1:1 (§§ 18.2-340.15 through 18.2-340.37) of Chapter 8 of Title 18.2 of the Code of Virginia, relating to regulation of charitable gaming and historical horse racing.

Patron—McPike

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-2455, 2.2-2456, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.6, 2.2-3705.7, 2.2-3711, 2.2-4002, 3.2-102, 4.1-100, 8.01-195.11, 8.01-216.3, 8.01-534, 9.1-101, as it is currently effective and as it shall become effective, 9.1-801, 15.2-912.2, 18.2-308.016, 18.2-325, 18.2-334.2, 18.2-334.4, 19.2-215.1, 19.2-389, 52-53, 52-54, 58.1-3, 58.1-302, 58.1-322.02, as it is currently effective and as it shall become effective, 58.1-460, 58.1-3732.1, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4004, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4015.1, 58.1-4019.1, 58.1-4020.1, 58.1-4022, 58.1-4025, 58.1-4027, 58.1-4030, 58.1-4100, 58.1-4103, 58.1-4108, 58.1-4123, 59.1-148.3, 59.1-365, 59.1-369, and 59.1-392 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 11-16.3 and by adding in Chapter 40 of Title 58.1 articles numbered 3 and 4, consisting of sections numbered 58.1-4048 through 58.1-4087, 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

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59 to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

60 "Compensation" means:

61 1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift,
62 pledge, or transfer of money or anything of value; or

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

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

68 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in
69 § 30-355.

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

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

77 "Executive official" means:

78 1. The Governor;

79 2. The Lieutenant Governor;

80 3. The Attorney General;

81 4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General
82 other than a clerical or secretarial employee;

83 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
84 executive agency; or

85 6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100,
86 however selected.

87 "Expenditure" means:

88 1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third
89 party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything
90 of value for any purpose;

91 2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person
92 employing, retaining, or contracting for the services of the lobbyist separately or jointly with other
93 persons;

94 3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct
95 payment of expenses incurred at the request or suggestion of the lobbyist;

96 4. A payment that directly benefits an executive or legislative official or a member of the official's
97 immediate family;

98 5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses
99 of an employee for or in connection with direct communication with an executive or legislative official;

100 6. A payment for or in connection with soliciting or urging other persons to enter into direct
101 communication with an executive or legislative official; or

102 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
103 this chapter.

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

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

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

113 "Gift" does not mean:

114 1. Printed informational or promotional material;

115 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
116 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
117 tax purposes;

118 3. A devise or inheritance;

119 4. A gift of a value of less than \$20;

120 5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or

pass is used;

6. Any food or beverages provided to an individual at an event at which the individual is performing official duties related to his public service;

7. Any food and beverages received at or registration or attendance fees waived for any event at which the individual is a featured speaker, presenter, or lecturer;

8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall 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
4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.

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

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

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

"Secretary" means the Secretary of the Commonwealth.

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

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

§ 2.2-2455. Charitable Gaming Board; membership; terms; quorum; compensation; staff.

A. The Charitable Gaming Board (the Board) is hereby established as an advisory board within the meaning of § 2.2-2100 in the executive branch of state government. The purpose of the Board is to advise the *Virginia Lottery and Gaming Department of Agriculture and Consumer Services (the Department)* on all aspects of the conduct of charitable gaming in Virginia.

B. The Board shall consist of nine members who shall be appointed by the Governor subject to confirmation by the General Assembly as follows: one member who is a member of a charitable organization subject to Article 1.1-1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1 in good standing with the Department; one member who is a charitable gaming supplier registered and in good standing with the Department; one member who is an owner, lessor, or lessee of premises where charitable gaming is conducted; at least one member who is or has been a law-enforcement officer in Virginia but who (i) is not a charitable gaming supplier registered with the Department, (ii) is not a lessor of premises where charitable gaming is conducted, (iii) is not a member of a charitable organization, or (iv) does not have an interest in or is not affiliated with such supplier or charitable organization or owner, lessor, or lessee of premises where charitable gaming is conducted; and five citizens who do not have an interest in or are not affiliated with a charitable organization, charitable gaming supplier, or owner, lessor, or lessee of premises where charitable gaming is conducted.

To the extent practicable, the Board shall consist of individuals from different geographic regions of the Commonwealth. Each member of the Board shall have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office. Members shall be appointed for four-year terms. Vacancies shall be filled by the Governor in the same manner as the original appointment for the unexpired portion of the term. Each Board member shall be eligible for reappointment for a second consecutive term at the discretion of the Governor. Persons who are first appointed to initial terms of less than four years shall thereafter be eligible for reappointment to two consecutive terms of four years each. No sitting member of the General Assembly shall be eligible for appointment to the Board. The members of the Board shall serve at the pleasure of the Governor.

C. The Board shall elect from among its members a chairman and vice-chairman from among its members.

D. A quorum shall consist of five members. The decision of a majority of those members present and voting shall constitute a decision of the Board.

E. For each day or part thereof spent in the performance of his duties, each member of the Board shall receive such compensation and reimbursement for his reasonable expenses as provided in § 2.2-2104.

F. The Board shall adopt rules and procedures for the conduct of its business, including a provision that Board members shall abstain or otherwise recuse themselves from voting on any matter in which

they or a member of their immediate family have a personal interest in a transaction as defined in § 2.2-3101. The Board shall meet at least four times a year, and other meetings may be held at any time or place determined by the Board or upon call of the chairman or upon a written request to the chairman by any two members. Except for emergency meetings, all members shall be duly notified of the time and place of any regular or other meeting at least 10 days in advance of such meeting.

G. Staff to the Board shall be provided by the Department of Agriculture and Consumer Services.

§ 2.2-2456. Duties of the Charitable Gaming Board.

The Board shall:

1. Advise the *Virginia Lottery and Gaming Department of Agriculture and Consumer Services* on the conduct of charitable gaming in Virginia and recommend changes to Article 1-1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1;

2. Advise on other matters related to charitable gaming that the *Virginia Lottery and Gaming Department of Agriculture and Consumer Services* may request or the Board may deem necessary; and

3. Keep a complete and accurate record of its proceedings. A copy of such record and any other public records not exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.) shall be available for public inspection and copying during regular office hours at the *Virginia Lottery and Gaming Department of Agriculture and Consumer Services*.

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

The provisions of this chapter shall not apply to:

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

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

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

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

5. Members of boards and commissions however selected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

305 22. Officers and employees of the Virginia Port Authority;
306 23. Employees of the Virginia College Savings Plan;
307 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental
308 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to
309 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure
310 (§ 2.2-3000 et seq.);
311 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as
312 state employees for purposes of participation in the Virginia Retirement System, health insurance, and
313 all other employee benefits offered by the Commonwealth to its classified employees;
314 26. Employees of the Virginia Indigent Defense Commission;
315 27. Any chief of a campus police department that has been designated by the governing body of a
316 public institution of higher education as exempt, pursuant to § 23.1-809;
317 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage
318 Control Authority; and
319 29. Officers and employees of the Fort Monroe Authority.

320 **§ 2.2-3114. Disclosure by state officers and employees.**
321 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant
322 Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of
323 any circuit court, judges and substitute judges of any district court, members of the State Corporation
324 Commission, members of the Virginia Workers' Compensation Commission, members of the
325 Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement
326 System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority,
327 members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery and
328 Gaming Oversight Board and other persons occupying such offices or positions of trust or employment
329 in state government, including members of the governing bodies of authorities, as may be designated by
330 the Governor, or officers or employees of the legislative branch, as may be designated by the Joint
331 Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office
332 or employment, a disclosure statement of their personal interests and such other information as is
333 required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a
334 statement annually on or before February 1.
335 B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all
336 policy and supervisory boards, commissions and councils in the executive branch of state government,
337 other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia
338 Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia
339 Lottery and Gaming Oversight Board, shall file with the Council, as a condition to assuming office, a
340 disclosure form of their personal interests and such other information as is required on the form
341 prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or
342 before February 1. Nonsalaried citizen members of other boards, commissions and councils, including
343 advisory boards and authorities, may be required to file a disclosure form if so designated by the
344 Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.
345 C. The disclosure forms required by subsections A and B shall be made available by the Council at
346 least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council
347 in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as
348 public records for five years in the office of the Council. Such forms shall be made public no later than
349 six weeks after the filing deadline.
350 D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a
351 disclosure statement of their personal interests as required by § 24.2-502.
352 E. Any officer or employee of state government who has a personal interest in any transaction before
353 the governmental or advisory agency of which he is an officer or employee and who is disqualified
354 from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to
355 disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full
356 name and address of the business and the address or parcel number for the real estate if the interest
357 involves a business or real estate, and his disclosure shall also be reflected in the public records of the
358 agency for five years in the office of the administrative head of the officer's or employee's governmental
359 agency or advisory agency or, if the agency has a clerk, in the clerk's office.
360 F. An officer or employee of state government who is required to declare his interest pursuant to
361 subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the
362 nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a
363 member of a business, profession, occupation, or group the members of which are affected by the
364 transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public
365 interest. The officer or employee shall either make his declaration orally to be recorded in written
366 minutes for his agency or file a signed written declaration with the clerk or administrative head of his

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

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, 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 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

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

§ 2.2-3202. Eligibility for transitional severance benefit.

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

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

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

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

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

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

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. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery and Gaming Department pursuant to Chapter 40 (§ 58.1-4000 et seq.) and Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to Article 1.1-1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by

any health regulatory board in the Commonwealth pursuant to § 54.1-108.

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.

13. Records of active investigations being conducted by the Department of Behavioral Health and Developmental Services pursuant to Chapter 4 (§ 37.2-400 et seq.) of Title 37.2.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

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. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad

Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

(1) Invoking such exclusion 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 responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services,

adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the *Virginia Lottery and Gaming Department of Agriculture and Consumer Services* (i) pursuant to subsection E of § 18.2-340.34 58.1-4070 and (ii) pursuant to regulations promulgated by the *Commissioner of Agriculture and Consumer Services Virginia Lottery and Gaming Oversight Board* related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector

674 General:

675 a. Invoking such exclusion upon submission of the data or other materials for which protection from
676 disclosure is sought;

677 b. Identifying with specificity the data or other materials for which protection is sought; and

678 c. Stating the reasons why protection is necessary.

679 The State Inspector General shall determine whether the requested exclusion from disclosure is
680 necessary to protect the trade secrets or financial information of the private entity. The State Inspector
681 General shall make a written determination of the nature and scope of the protection to be afforded by it
682 under this subdivision.

683 23. Information relating to a grant application, or accompanying a grant application, submitted to the
684 Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial
685 information of a grant applicant that is not a public body, including balance sheets and financial
686 statements, that are not generally available to the public through regulatory disclosure or otherwise, or
687 (c) research-related information produced or collected by the applicant in the conduct of or as a result of
688 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when
689 such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful
690 to the competitive position of the applicant; and memoranda, staff evaluations, or other information
691 prepared by the Commission or its staff exclusively for the evaluation of grant applications. The
692 exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in
693 furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

694 In order for the information specified in this subdivision to be excluded from the provisions of this
695 chapter, the applicant shall make a written request to the Commission:

696 a. Invoking such exclusion upon submission of the data or other materials for which protection from
697 disclosure is sought;

698 b. Identifying with specificity the data, information or other materials for which protection is sought;
699 and

700 c. Stating the reasons why protection is necessary.

701 The Commission shall determine whether the requested exclusion from disclosure is necessary to
702 protect the trade secrets, financial information, or research-related information of the applicant. The
703 Commission shall make a written determination of the nature and scope of the protection to be afforded
704 by it under this subdivision.

705 24. a. Information held by the Commercial Space Flight Authority relating to rate structures or
706 charges for the use of projects of, the sale of products of, or services rendered by the Authority if
707 disclosure of such information would adversely affect the financial interest or bargaining position of the
708 Authority or a private entity providing the information to the Authority; or

709 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of
710 such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the
711 private entity, including balance sheets and financial statements, that are not generally available to the
712 public through regulatory disclosure or otherwise; or (c) other information submitted by the private
713 entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private
714 entity.

715 In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded
716 from the provisions of this chapter, the private entity shall make a written request to the Authority:

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

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

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

721 The Authority shall determine whether the requested exclusion from disclosure is necessary to protect
722 the trade secrets or financial information of the private entity. To protect other information submitted by
723 the private entity from disclosure, the Authority shall determine whether public disclosure would
724 adversely affect the financial interest or bargaining position of the Authority or private entity. The
725 Authority shall make a written determination of the nature and scope of the protection to be afforded by
726 it under this subdivision.

727 25. Information of a proprietary nature furnished by an agricultural landowner or operator to the
728 Department of Conservation and Recreation, the Department of Environmental Quality, the Department
729 of Agriculture and Consumer Services, or any political subdivision, agency, or board of the
730 Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part
731 of a state or federal regulatory enforcement action.

732 26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of
733 § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the
734 submitting party shall (i) invoke this exclusion upon submission of the data or materials for which
735 protection from disclosure is sought, (ii) identify the data or materials for which protection is sought,

and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the Authority, or any other entity designated by the Authority to review such applications, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment applications, including any scoring or prioritization documents prepared for and forwarded to the Authority.

29. Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services or carbon sequestration agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.

In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

30. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

31. Trade secrets, including, but not limited to, financial information, including balance sheets and financial statements that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia Department of Transportation in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

b. Identifying with specificity the data or other materials for which protection is sought; and

c. Stating the reasons why protection is necessary.

The Virginia Department of Transportation shall determine whether the requested exclusion from disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

32. Information related to a grant application, or accompanying a grant application, submitted to the

797 Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b)
798 financial information of a grant applicant that is not a public body, including balance sheets and
799 financial statements, that are not generally available to the public through regulatory disclosure or
800 otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or
801 as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly
802 issues, when such information has not been publicly released, published, copyrighted, or patented, and
803 (ii) be harmful to the competitive position of the applicant. The exclusion provided by this subdivision
804 shall only apply to grants administered by the Department, the Director of the Department, or pursuant
805 to § 36-139, Article 26 (§ 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative
806 as authorized by the appropriations act.

807 In order for the information submitted by the applicant and specified in this subdivision to be
808 excluded from the provisions of this chapter, the applicant shall make a written request to the
809 Department:

810 a. Invoking such exclusion upon submission of the data or other materials for which protection from
811 disclosure is sought;

812 b. Identifying with specificity the data, information, or other materials for which protection is sought;
813 and

814 c. Stating the reasons why protection is necessary.

815 The Department shall determine whether the requested exclusion from disclosure is necessary to
816 protect the trade secrets or confidential proprietary information of the applicant. The Department shall
817 make a written determination of the nature and scope of the protection to be afforded by it under this
818 subdivision.

819 33. Financial and proprietary records submitted with a loan application to a locality for the
820 preservation or construction of affordable housing that is related to a competitive application to be
821 submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia
822 Housing Development Authority (VHDA), when the release of such records would adversely affect the
823 bargaining or competitive position of the applicant. Such records shall not be withheld after they have
824 been made public by HUD or VHDA.

825 34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy
826 benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a
827 manufacturer pursuant to § 54.1-3442.02.

828 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**
829 **other limited exclusions.**

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

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

836 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or
837 the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
838 Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any
839 political subdivision of the Commonwealth; or the president or other chief executive officer of any
840 public institution of higher education in the Commonwealth. However, no information that is otherwise
841 open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been
842 attached to or incorporated within any working paper or correspondence. Further, information publicly
843 available or not otherwise subject to an exclusion under this chapter or other provision of law that has
844 been aggregated, combined, or changed in format without substantive analysis or revision shall not be
845 deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of
846 any resumes or applications submitted by persons who are appointed by the Governor pursuant to
847 § 2.2-106 or 2.2-107.

848 As used in this subdivision:

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

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

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

856 3. Information contained in library records that can be used to identify (i) both (a) any library patron
857 who has borrowed or accessed material or resources from a library and (b) the material or resources
858 such patron borrowed or accessed 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

920 construed to prevent the disclosure of information relating to the identity of any investment held, the
921 amount invested, or the present value of such investment.

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

925 14. Information held by the Virginia Commonwealth University Health System Authority pertaining
926 to any of the following: an individual's qualifications for or continued membership on its medical or
927 teaching staffs; proprietary information gathered by or in the possession of the Authority from third
928 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
929 awarding contracts for construction or the purchase of goods or services; information of a proprietary
930 nature produced or collected by or for the Authority or members of its medical or teaching staffs;
931 financial statements not publicly available that may be filed with the Authority from third parties; the
932 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid
933 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
934 determination of marketing and operational strategies where disclosure of such strategies would be
935 harmful to the competitive position of the Authority; and information of a proprietary nature produced
936 or collected by or for employees of the Authority, other than the Authority's financial or administrative
937 records, in the conduct of or as a result of study or research on medical, scientific, technical, or
938 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body
939 or a private concern, when such information has not been publicly released, published, copyrighted, or
940 patented. This exclusion shall also apply when such information is in the possession of Virginia
941 Commonwealth University.

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

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

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

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

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

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

973 21. Information held by state or local park and recreation departments and local and regional park
974 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
975 subdivision shall operate to prevent the disclosure of information defined as directory information under
976 regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g,
977 unless the public body has undertaken the parental notification and opt-out requirements provided by
978 such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian
979 of such person, unless the parent's parental rights have been terminated or a court of competent
980 jurisdiction has restricted or denied such access. For such information of persons who are emancipated,
981 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 former § 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 other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, 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.

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 *and Gaming Department* 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 *and Gaming Department* concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

§ 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 State Board of Local and Regional Jails 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.

1166 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
1167 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
1168 trustees of a trust established by one or more local public bodies to invest funds for postemployment
1169 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
1170 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
1171 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
1172 holding or disposition of a security or other ownership interest in an entity, where such security or
1173 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
1174 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
1175 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
1176 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
1177 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
1178 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
1179 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
1180 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
1181 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
1182 of information relating to the identity of any investment held, the amount invested or the present value
1183 of such investment.

1184 21. Those portions of meetings in which individual child death cases are discussed by the State Child
1185 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
1186 individual child death cases are discussed by a regional or local child fatality review team established
1187 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
1188 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
1189 which individual adult death cases are discussed by the state Adult Fatality Review Team established
1190 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
1191 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
1192 meetings in which individual death cases are discussed by overdose fatality review teams established
1193 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are
1194 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
1195 meetings in which individual death cases of persons with developmental disabilities are discussed by the
1196 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

1197 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
1198 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
1199 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
1200 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
1201 proprietary, business-related information pertaining to the operations of the University of Virginia
1202 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
1203 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
1204 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
1205 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
1206 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
1207 Medical School, as the case may be.

1208 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
1209 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
1210 disposition by the Authority of real property, equipment, or technology software or hardware and related
1211 goods or services, where disclosure would adversely affect the bargaining position or negotiating
1212 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
1213 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
1214 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
1215 affect the competitive position of the Authority; and members of the Authority's medical and teaching
1216 staffs and qualifications for appointments thereto.

1217 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
1218 the Department of Health Professions to the extent such discussions identify any practitioner who may
1219 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

1220 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
1221 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
1222 by or on behalf of individuals who have requested information about, applied for, or entered into
1223 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
1224 of Title 23.1 is discussed.

1225 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
1226 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §
1227 56-484.12, related to the provision of wireless E-911 service.

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

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

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

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

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

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.

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

1289 contained in grant applications.

1290 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
1291 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
1292 charges for the use of projects of, the sale of products of, or services rendered by the Authority and
1293 certain proprietary information of a private entity provided to the Authority.

1294 45. Discussion or consideration of personal and proprietary information related to the resource
1295 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
1296 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of
1297 records that contain information that has been certified for release by the person who is the subject of
1298 the information or transformed into a statistical or aggregate form that does not allow identification of
1299 the person who supplied, or is the subject of, the information.

1300 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
1301 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to
1302 investigations of applicants for licenses and permits and of licensees and permittees.

1303 47. Discussion or consideration of grant, loan, or investment application records subject to the
1304 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11
1305 (§ 2.2-2351 et seq.) of Chapter 22.

1306 48. Discussion or development of grant proposals by a regional council established pursuant to
1307 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth
1308 and Opportunity Board.

1309 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
1310 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
1311 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
1312 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
1313 §§ 15.2-1627.5 and 63.2-1605.

1314 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
1315 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
1316 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
1317 subdivision 33 of § 2.2-3705.7.

1318 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
1319 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
1320 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
1321 § 60.2-114.

1322 52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority
1323 (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority,
1324 of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

1325 53. Deliberations of the Virginia Lottery and Gaming Oversight Board conducted pursuant to
1326 § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to
1327 issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion,
1328 consideration, or review of matters related to investigations excluded from mandatory disclosure under
1329 subdivision 1 of § 2.2-3705.3.

1330 54. Deliberations of the Virginia Lottery and Gaming Oversight Board in an appeal conducted
1331 pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any
1332 license or permit related to sports betting and any discussion, consideration, or review of matters related
1333 to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

1334 55. *Deliberations of the Virginia Lottery and Gaming Oversight Board in an appeal conducted*
1335 *pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any*
1336 *authorization, permit, registration, or license related to charitable gaming and any discussion,*
1337 *consideration, or review of matters related to investigations excluded from mandatory disclosure under*
1338 *subdivision 1 of § 2.2-3705.3.*

1339 56. *Deliberations of the Virginia Lottery and Gaming Oversight Board in an appeal conducted*
1340 *pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a*
1341 *license related to historical horse racing and any discussion, consideration, or review of matters related*
1342 *to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.*

1343 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
1344 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
1345 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
1346 motion that shall have its substance reasonably identified in the open meeting.

1347 C. Public officers improperly selected due to the failure of the public body to comply with the other
1348 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
1349 obtain notice of the legal defect in their election.

1350 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 Wildlife Resources 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 Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

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

25. 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, any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and any operating procedures for review of the deaths of persons with a developmental disability developed by the Developmental Disabilities Mortality Review Committee pursuant to § 37.2-314.1.

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 Department of Agriculture and Consumer Services Virginia Lottery and Gaming Oversight 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 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1 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.

§ 3.2-102. General powers and duties of the Commissioner.

A. The Commissioner shall be vested with the powers and duties set out in § 2.2-601, the powers and duties herein provided, and such other powers and duties as may be prescribed by law, including those prescribed in Title 59.1. He shall be the executive officer of the Board, and shall see that its orders are carried out. He shall see to the proper execution of laws relating to the Department. Unless

the Governor expressly reserves such power to himself, the Commissioner shall promote, protect, and develop the agricultural interests of the Commonwealth. The Commissioner shall develop, implement, and maintain programs within the Department including those that promote the development and marketing of the Commonwealth's agricultural products in domestic and international markets, including promotions, market development and research, marketing assistance, market information, and product grading and certification; promote the creation of new agribusiness including new crops, biotechnology and new uses of agricultural products, and the expansion of existing agribusiness within the Commonwealth; develop, promote, and maintain consumer protection programs that protect the safety and quality of the Commonwealth's food supply through food and dairy inspection activities, industry and consumer education, and information on food safety; preserve the Commonwealth's agricultural lands; ensure animal health and protect the Commonwealth's livestock industries through disease control and surveillance, maintaining animal health diagnostic laboratories, and encouraging the humane treatment and care of animals; protect public health and the environment through regulation and proper handling of pesticides, agricultural stewardship, and protection of endangered plant and insect species; protect crop and plant health and productivity; ensure consumer protection and fair trade practices in commerce; develop plans and emergency response protocols to protect the agriculture industry from bioterrorism, plant and animal diseases, and agricultural pests; assist as directed by the Governor in the Commonwealth's response to natural disasters; develop and implement programs and inspection activities to ensure that the Commonwealth's agricultural products move freely in trade domestically and internationally; and enter into agreements with federal, state, and local governments, land grant universities, and other organizations that include marketing, plant protection, pest control, pesticides, and meat and poultry inspection.

B. In addition, the Commissioner shall:

1. Establish and maintain a farm-to-school website. The purpose of the website shall be to facilitate and promote the purchase of Virginia farm products by schools, universities, and other educational institutions under the jurisdiction of the State Department of Education. The website shall present such current information as the availability of Virginia farm products, including the types and amount of products, and the names of and contact information for farmers, farm organizations, and businesses marketing such products; *and*

2. Establish and operate a nonprofit, nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as a public instrumentality exercising public and essential governmental functions to promote, develop, and sustain markets for licensed Virginia wineries and farm wineries, as defined in § 4.1-100. Such corporation shall provide wholesale wine distribution services for wineries and farm wineries licensed in accordance with § 4.1-206.1. The board of directors of such corporation shall be composed of the Commissioner and four members appointed by the Board, including one owner or manager of a winery or farm winery licensee that is not served by a wholesaler when the owner or manager is appointed to the board; one owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year; and two owners or managers of wine wholesaler licensees. In making appointments to the board of directors, the Board shall consider nominations of winery and farm winery licensees submitted by the Virginia Wineries Association and wine wholesaler licensees submitted by the Virginia Wine Wholesalers Association. The Commissioner shall require such corporation to report to him at least annually on its activities, including reporting the quantity of wine distributed for each winery and farm winery during the preceding year. The provisions of the Virginia Public Procurement Act shall not apply to the establishment of such corporation nor to the exercise of any of its powers granted under this section; *and*

3. ~~Promulgate regulations in accordance with the Administrative Process Act (§ 2-2-4000 et seq.) not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2. Such regulations may include penalties for violations.~~

§ 4.1-100. Definitions.

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the

four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this subtitle.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. For purposes of the licensing requirements of this subtitle, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Bus" means a motor vehicle that (i) is operated by a common carrier licensed under Chapter 20 (§ 46.2-2000 et seq.) of Title 46.2 to transport passengers for compensation over the highways of the Commonwealth on regular or irregular routes of not less than 100 miles, (ii) seats no more than 24 passengers, (iii) is 40 feet in length or longer, (iv) offers wireless Internet services, (v) is equipped with charging stations at every seat for cellular phones or other portable devices, and (vi) during the transportation of passengers, is staffed by an attendant who has satisfied all training requirements set forth in this subtitle or Board regulation.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1-1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 10 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.

"Container" means any barrel, bottle, carton, keg, vessel, or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this subtitle, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of

1597 payment have not been fulfilled in accordance with the contract. The contract winemaking facility may
 1598 charge the farm winery for its services.

1599 "Convenience grocery store" means an establishment that (i) has an enclosed room in a permanent
 1600 structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items
 1601 intended for human consumption consisting of a variety of such items of the types normally sold in
 1602 grocery stores.

1603 "Culinary lodging resort" means a facility (i) having not less than 13 overnight guest rooms in a
 1604 building that has at least 20,000 square feet of indoor floor space; (ii) located on a farm in the
 1605 Commonwealth with at least 1,000 acres of land zoned agricultural; (iii) equipped with a full-service
 1606 kitchen; and (iv) offering to the public, for compensation, at least one meal per day, lodging, and
 1607 recreational and educational activities related to farming, livestock, and other rural activities.

1608 "Delicatessen" means an establishment that sells a variety of prepared foods or foods requiring little
 1609 preparation, such as cheeses, salads, cooked meats, and related condiments.

1610 "Designated area" means a room or area approved by the Board for on-premises licensees.

1611 "Dining area" means a public room or area in which meals are regularly served.

1612 "Drugstore" means an establishment that sells medicines prepared by a licensed pharmacist pursuant
 1613 to a prescription and other medicines and items for home and general use.

1614 "Establishment" means any place where alcoholic beverages of one or more varieties are lawfully
 1615 manufactured, sold, or used.

1616 "Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned
 1617 agricultural with a producing vineyard, orchard, or similar growing area and with facilities for
 1618 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
 1619 not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned
 1620 agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing
 1621 grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for
 1622 fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains
 1623 not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher
 1624 education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine
 1625 manufactured by the institution shall be used solely for research and educational purposes, (c) the wine
 1626 manufactured by the institution shall be stored on the premises of such farm winery that shall be
 1627 separate and apart from all other facilities of the institution, and (d) such farm winery is operated in
 1628 strict conformance with the requirements of this clause (ii) and Board regulations. As used in this
 1629 definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of
 1630 individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a
 1631 farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the
 1632 individual members of the cooperative as long as such land is located in the Commonwealth. For
 1633 purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or
 1634 classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this
 1635 definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for
 1636 the limitation on land zoned "residential conservation," nothing in the definition of "land zoned
 1637 agricultural" shall otherwise limit or affect local zoning authority.

1638 "Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty
 1639 items relating to history, original and handmade arts and products, collectibles, crafts, and floral
 1640 arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure
 1641 where stock is displayed and offered for sale and which has facilities to properly secure any stock of
 1642 wine or beer. Such shop may be located (i) on the premises or grounds of a government registered
 1643 national, state or local historic building or site or (ii) within the premises of a museum. The Board shall
 1644 consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be
 1645 considered a gift shop.

1646 "Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may
 1647 lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such
 1648 persons facilities for manufacturing, fermenting and bottling such wine or beer.

1649 "Gourmet oyster house" means an establishment that (i) is located on the premises of a commercial
 1650 marina, (ii) is permitted by the Department of Health to serve oysters and other fresh seafood for
 1651 consumption on the premises, and (iii) offers to the public events for the purpose of featuring and
 1652 educating the consuming public about local oysters and other seafood products.

1653 "Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage
 1654 facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and
 1655 beers of various types and sizes and related products such as cheeses and gourmet foods are habitually
 1656 furnished to persons.

1657 "Government store" means a store established by the Authority for the sale of alcoholic beverages.

1658 "Grocery store" means an establishment that sells food and other items intended for human
1659 consumption, including a variety of ingredients commonly used in the preparation of meals.

1660 "Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of
1661 the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of
1662 showing motion pictures to the public.

1663 "Hotel" means any duly licensed establishment, provided with special space and accommodation,
1664 where, in consideration of payment, food and lodging are habitually furnished to persons, and which has
1665 four or more bedrooms. It shall also mean the person who operates such hotel.

1666 "Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order
1667 pursuant to this subtitle.

1668 "Internet wine and beer retailer" means a person who owns or operates an establishment with
1669 adequate inventory, shelving, and storage facilities, where, in consideration of payment, Internet or
1670 telephone orders are taken and shipped directly to consumers and which establishment is not a retail
1671 store open to the public.

1672 "Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to
1673 observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

1674 "Licensed" means the holding of a valid license granted by the Authority.

1675 "Licensee" means any person to whom a license has been granted by the Authority.

1676 "Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol
1677 content of 25 percent by volume.

1678 "Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol
1679 by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits
1680 mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit
1681 juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by
1682 fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of
1683 this subtitle, except that low alcohol beverage coolers may be manufactured by a licensed distiller or a
1684 distiller located outside the Commonwealth.

1685 "Marina store" means an establishment that is located on the same premises as a marina, is operated
1686 by the owner of such marina, and sells food and nautical and fishing supplies.

1687 "Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona
1688 fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments
1689 specializing in full course meals with a single substantial entree.

1690 "Member of a club" means (i) a person who maintains his membership in the club by the payment of
1691 monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii)
1692 a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal
1693 descendants of a bona fide member, whether alive or deceased, of a national or international
1694 organization to which an individual lodge holding a club license is an authorized member in the same
1695 locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the
1696 annual dues of resident members of the club, the full amount of such contribution being paid in advance
1697 in a lump sum.

1698 "Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of
1699 spirits.

1700 "Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials,
1701 and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives
1702 which are not commonly consumed unless combined with alcoholic beverages, whether or not such
1703 ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a
1704 Virginia corporation.

1705 "Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and
1706 which is the county seat of Smyth County.

1707 "Place or premises" means the real estate, together with any buildings or other improvements thereon,
1708 designated in the application for a license as the place at which the manufacture, bottling, distribution,
1709 use or sale of alcoholic beverages shall be performed, except that portion of any such building or other
1710 improvement actually and exclusively used as a private residence.

1711 "Principal stockholder" means any person who individually or in concert with his spouse and
1712 immediate family members beneficially owns or controls, directly or indirectly, five percent or more of
1713 the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse
1714 and immediate family members has the power to vote or cause the vote of five percent or more of any
1715 such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the
1716 Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial
1717 markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

1718 "Public place" means any place, building, or conveyance to which the public has, or is permitted to
1719 have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels,

and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

"Public place" does not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property; (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski, and other recreational facilities both to its members and to the general public; or (iii) operated by a corporation that operates as a management company which, as its primary function, makes available (a) vacation accommodations, guest rooms, or dwelling units and (b) golf, ski, and other recreational facilities to members of the managed entities and the general public. The hotel or corporation shall have or manage a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres, whether or not contiguous to the licensed premises; if the guest rooms or dwelling units are located on property that is not contiguous to the licensed premises, such guest rooms and dwelling units shall be located within the same locality. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage that contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients, but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, including cider, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. "Wine" includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

1781 "With or without meals" means the selling and serving of alcoholic beverages by retail licensees for
1782 on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio
1783 required by § 4.1-206.3, or the monthly food sale requirement established by Board regulation, is met by
1784 such retail licensee.

1785 **§ 8.01-195.11. Compensation for wrongful incarceration.**

1786 A. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth
1787 and is wrongfully incarcerated for such felony may be awarded compensation for each year of
1788 incarceration, or portion thereof. The amount of compensation per year shall be \$55,000, adjusted
1789 annually by the percentage increase in the Chained Consumer Price Index for All Urban Consumers
1790 (C-CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or any
1791 predecessor or successor index, compared with the prior calendar year. Calculations made pursuant to
1792 this section shall be made by the State Treasurer.

1793 B. Any compensation computed pursuant to subsection A and approved by the General Assembly
1794 shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to
1795 have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum
1796 equal to 25 percent of the compensation award with the remaining 75 percent of the principal of the
1797 compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated
1798 company, including any A+ rated company from which the Virginia Lottery and Gaming Department
1799 may purchase an annuity, to provide equal monthly payments to such person for a period certain of 10
1800 years commencing no later than one year after the effective date of the appropriation; however, if such
1801 person's life expectancy, as calculated pursuant to the provisions of § 8.01-419 based on his age on the
1802 effective date of the appropriation, is less than 10 years, then, upon his election, the annuity period shall
1803 be equal to his life expectancy. The annuity shall provide that it shall not be sold, discounted, or used as
1804 securitization for loans and mortgages by the person awarded compensation. The annuity shall, however,
1805 contain beneficiary provisions providing for the annuity's continued disbursement in the event of the
1806 death of the person awarded compensation. All payments or costs of annuities under this section shall be
1807 made by check issued by the State Treasurer on warrant of the Comptroller.

1808 Notwithstanding the foregoing, in the event that the person wrongfully incarcerated is 60 years of
1809 age or older or is terminally ill, the General Assembly may (i) pay 100 percent of the compensation
1810 computed pursuant to subsection A as a lump sum to the person wrongfully incarcerated or (ii) purchase
1811 an annuity for a period certain that is less than 10 years. For the purposes of this section, "terminally
1812 ill" means that the individual has a medical prognosis, as certified by a licensed physician, that his life
1813 expectancy is five years or less if the illness runs its normal course.

1814 C. In addition to the compensation awarded pursuant to subsection A, the General Assembly may
1815 pay to the person wrongfully incarcerated the amount of any unreimbursed fine, fee, court cost, or
1816 restitution imposed and paid and reasonable attorney fees and costs incurred to receive an award
1817 pursuant to this section.

1818 D. Any person who is convicted of a felony by a county or city circuit court of the Commonwealth
1819 and is wrongfully incarcerated for such felony shall receive a transition assistance grant of \$15,000 to be
1820 paid from the Criminal Fund, which amount shall be deducted from any award received pursuant to
1821 subsection B, within 30 days of receipt of the written request for the disbursement of the transition
1822 assistance grant to the Executive Secretary of the Supreme Court of Virginia. Payment of the transition
1823 assistance grant from the Criminal Fund shall be made by the State Treasurer on warrants issued by the
1824 Comptroller upon written request signed by the Executive Secretary of the Supreme Court of Virginia.
1825 In addition, such person shall be entitled to receive reimbursement up to \$10,000 for tuition for career
1826 and technical training within the Virginia Community College System contingent upon successful
1827 completion of the training. Reimbursement for tuition shall be provided by the comprehensive
1828 community college at which the career or technical training was completed.

1829 **§ 8.01-216.3. False claims; civil penalty.**

1830 A. Any person who:

1831 1. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or
1832 approval;

1833 2. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a
1834 false or fraudulent claim;

1835 3. Conspires to commit a violation of subdivision 1, 2, 4, 5, 6, 7, 8, or 9;

1836 4. Has possession, custody, or control of property or money used, or to be used, by the
1837 Commonwealth and knowingly delivers, or causes to be delivered, less than all such money or property;

1838 5. Has possession, custody, or control of an illegal gambling device, as defined in § 18.2-325,
1839 knowing such device is illegal, and knowingly conceals, avoids, or decreases an obligation to pay or
1840 transmit money to the Commonwealth that is derived from the operation of such device;

1841 6. Manufactures for sale, sells, or distributes an illegal gaming device knowing that such device is or
1842 is intended to be operated in the Commonwealth in violation of Article 1 (§ 18.2-325 et seq.) or Article

~~1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1;~~

7. Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Commonwealth and, intending to defraud the Commonwealth, makes or delivers the receipt without completely knowing that the information on the receipt is true;

8. Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the Commonwealth who lawfully may not sell or pledge the property; or

9. Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Commonwealth or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Commonwealth;

shall be liable to the Commonwealth for a civil penalty of not less than \$10,957 and not more than \$21,916, except that these lower and upper limits on liability shall automatically be adjusted to equal the amounts allowed under the Federal False Claims Act, 31 U.S.C. § 3729 et seq., as amended, as such penalties in the Federal False Claims Act are adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. § 2461 Note, P.L. 101-410), plus three times the amount of damages sustained by the Commonwealth.

A person violating this section shall be liable to the Commonwealth for reasonable attorney fees and costs of a civil action brought to recover any such penalties or damages. All such fees and costs shall be paid to the Attorney General's Office by the defendant and shall not be included in any damages or civil penalties recovered in a civil action based on a violation of this section.

B. If the court finds that (i) the person committing the violation of this section furnished officials of the Commonwealth responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the defendant first obtained the information; (ii) such person fully cooperated with any Commonwealth investigation of such violation; (iii) at the time such person furnished the Commonwealth with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation; and (iv) the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than two times the amount of damages that the Commonwealth sustains because of the act of that person. A person violating this section shall also be liable to the Commonwealth for the costs of a civil action brought to recover any such penalty or damages.

C. For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information, (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information and require no proof of specific intent to defraud.

D. Except as provided in subdivision A 5, this section shall not apply to claims, records, or statements relating to state or local taxes.

§ 8.01-534. Grounds of action for pretrial levy or seizure of attachment.

A. It shall be sufficient ground for an action for pretrial levy or seizure or an attachment that the principal defendant or one of the principal defendants:

1. Is a foreign corporation, or is not a resident of this Commonwealth, and has estate or has debts owing to such defendant within the county or city in which the attachment is, or that such defendant being a nonresident of this Commonwealth, is entitled to the benefit of any lien, legal or equitable, on property, real or personal, within the county or city in which the attachment is. The word "estate," as herein used, includes all rights or interests of a pecuniary nature which can be protected, enforced, or proceeded against in courts of law or equity;

2. Is removing or is about to remove himself out of this Commonwealth with intent to change his domicile;

3. Intends to remove, or is removing, or has removed the specific property sued for, or his own estate, or the proceeds of the sale of his property, or a material part of such estate or proceeds, out of this Commonwealth so that there will probably not be therein effects of such debtor sufficient to satisfy the claim when judgment is obtained therefor should only the ordinary process of law be used to obtain the judgment;

4. Is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities or evidences of debt with intent to hinder, delay, or defraud his creditors;

5. Has assigned or disposed of or is about to assign or dispose of his estate, or some part thereof, with intent to hinder, delay or defraud his creditors;

6. Has absconded or is about to abscond or has concealed or is about to conceal himself or his property to the injury of his creditors, or is a fugitive from justice;

7. Has conducted, financed, managed, supervised, directed, sold, or owned a gambling device that is

1904 located in an unregulated location pursuant to § 18.2-331.1;

1905 8. Has violated any provision of law related to charitable gaming pursuant to Article ~~4-1-1~~
1906 (~~§ 18.2-340.15 et seq.~~) of ~~Chapter 8 of Title 18.2 3~~ (~~§ 58.1-4048 et seq.~~) of ~~Chapter 40 of Title 58.1.~~

1907 The intent mentioned in subdivisions 4 and 5 may be stated either in the alternative or conjunctive.

1908 B. It shall be sufficient ground for an action for pretrial levy or seizure or an attachment if the
1909 specific personal property sought to be levied or seized:

1910 1. Will be sold, removed, secreted or otherwise disposed of by the defendant, in violation of an
1911 obligation to the plaintiff, so as not to be forthcoming to answer the final judgment of the court
1912 respecting the same; or

1913 2. Will be destroyed, or materially damaged or injured if permitted to remain in the possession of the
1914 principal defendant or one of the principal defendants or other person or persons claiming under them.

1915 C. In an action for rent, it also shall be a sufficient ground if there is an immediate danger that the
1916 property subject to the landlord's lien for rent will be destroyed or concealed.

1917 **§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**

1918 **Definitions.**

1919 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires
1920 a different meaning:

1921 "Administration of criminal justice" means performance of any activity directly involving the
1922 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
1923 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
1924 storage, and dissemination of criminal history record information.

1925 "Board" means the Criminal Justice Services Board.

1926 "Conviction data" means information in the custody of any criminal justice agency relating to a
1927 judgment of conviction, and the consequences arising therefrom, in any court.

1928 "Correctional status information" means records and data concerning each condition of a convicted
1929 person's custodial status, including probation, confinement, work release, study release, escape, or
1930 termination of custody through expiration of sentence, parole, pardon, or court decision.

1931 "Criminal history record information" means records and data collected by criminal justice agencies
1932 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
1933 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
1934 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
1935 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
1936 status information.

1937 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
1938 which as its principal function performs the administration of criminal justice and any other agency or
1939 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for
1940 the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,
1941 within the context of its criminal justice activities, employs special conservators of the peace appointed
1942 under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency
1943 requires its officers or special conservators to meet compulsory training standards established by the
1944 Criminal Justice Services Board and submits reports of compliance with the training standards and (b)
1945 the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only
1946 to the extent that the private corporation or agency so designated as a criminal justice agency performs
1947 criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities
1948 otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil
1949 Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

1950 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to
1951 § 18.2-271.2.

1952 "Criminal justice agency" includes the Department of Criminal Justice Services.

1953 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

1954 "Criminal justice agency" includes the Virginia State Crime Commission.

1955 "Criminal justice information system" means a system including the equipment, facilities, procedures,
1956 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of
1957 criminal history record information. The operations of the system may be performed manually or by
1958 using electronic computers or other automated data processing equipment.

1959 "Department" means the Department of Criminal Justice Services.

1960 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
1961 means. The term shall not include access to the information by officers or employees of a criminal
1962 justice agency maintaining the information who have both a need and right to know the information.

1963 "Law-enforcement officer" means any full-time or part-time employee of a police department or
1964 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
1965 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 Wildlife Resources; (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 of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

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

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

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints

2027 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission
2028 within the content of the submitted information.

2029 **§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.**

2030 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires
2031 a different meaning:

2032 "Administration of criminal justice" means performance of any activity directly involving the
2033 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,
2034 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,
2035 storage, and dissemination of criminal history record information.

2036 "Board" means the Criminal Justice Services Board.

2037 "Conviction data" means information in the custody of any criminal justice agency relating to a
2038 judgment of conviction, and the consequences arising therefrom, in any court.

2039 "Correctional status information" means records and data concerning each condition of a convicted
2040 person's custodial status, including probation, confinement, work release, study release, escape, or
2041 termination of custody through expiration of sentence, parole, pardon, or court decision.

2042 "Criminal history record information" means records and data collected by criminal justice agencies
2043 on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
2044 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
2045 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
2046 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
2047 status information.

2048 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
2049 which as its principal function performs the administration of criminal justice and any other agency or
2050 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for
2051 the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,
2052 within the context of its criminal justice activities, employs special conservators of the peace appointed
2053 under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency
2054 requires its officers or special conservators to meet compulsory training standards established by the
2055 Criminal Justice Services Board and submits reports of compliance with the training standards and (b)
2056 the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only
2057 to the extent that the private corporation or agency so designated as a criminal justice agency performs
2058 criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities
2059 otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil
2060 Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

2061 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to
2062 § 18.2-271.2.

2063 "Criminal justice agency" includes the Department of Criminal Justice Services.

2064 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

2065 "Criminal justice agency" includes the Virginia State Crime Commission.

2066 "Criminal justice information system" means a system including the equipment, facilities, procedures,
2067 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of
2068 criminal history record information. The operations of the system may be performed manually or by
2069 using electronic computers or other automated data processing equipment.

2070 "Department" means the Department of Criminal Justice Services.

2071 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
2072 means. The term shall not include access to the information by officers or employees of a criminal
2073 justice agency maintaining the information who have both a need and right to know the information.

2074 "Law-enforcement officer" means any full-time or part-time employee of a police department or
2075 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
2076 thereof, or any full-time or part-time employee of a private police department, and who is responsible
2077 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
2078 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
2079 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
2080 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
2081 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the
2082 security division of the Virginia Lottery and Gaming Department; (vi) conservation officer of the
2083 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
2084 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to
2085 § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus
2086 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of
2087 the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
2088 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 of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

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

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

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

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

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail

2150 officer; a regional jail or jail farm superintendent; a member of any fire company or department or
2151 nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or
2152 resolution of the governing body of any county, city, or town of the Commonwealth as an integral part
2153 of the official safety program of such county, city, or town; an arson investigator; a member of the
2154 Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia
2155 National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the
2156 United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police
2157 agent appointed under the provisions of § 56-353; any regular or special conservation police officer who
2158 receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to
2159 § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or
2160 employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to
2161 § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter
2162 regional hazardous materials emergency response team member; any investigator who is a full-time
2163 sworn member of the security division of the Virginia Lottery and Gaming Department; any full-time
2164 sworn member of the enforcement division of the Department of Motor Vehicles meeting the
2165 Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any
2166 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
2167 Title 23.1; and any conservation officer of the Department of Conservation and Recreation
2168 commissioned pursuant to § 10.1-115.

2169 **§ 11-16.3. Exemption; authorized historical horse racing.**

2170 *This chapter shall not apply to any historical horse racing or related activity that is lawful under*
2171 *Article 4 (§ 58.1-4077 et seq.) of Chapter 40 of Title 58.1.*

2172 **§ 15.2-912.2. Proceeds exempt from local taxation.**

2173 No locality may impose a gross receipts, entertainment, admission, or any other tax based on
2174 revenues of qualified organizations derived from the conduct of charitable gaming.

2175 The definitions set forth in § ~~18.2-340.16~~ 58.1-4049 shall apply to this section.

2176 **§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

2177 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

2178 1. Any State Police officer retired from the Department of State Police, any officer retired from the
2179 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control
2180 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
2181 retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority,
2182 any employee with internal investigations authority designated by the Department of Corrections
2183 pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation
2184 police officer retired from the Department of Wildlife Resources, any conservation officer retired from
2185 the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law
2186 Enforcement Division of the Virginia Marine Resources Commission, any campus police officer
2187 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police
2188 department, any retired member of the enforcement division of the Department of Motor Vehicles
2189 appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia
2190 Lottery and Gaming Department, other than an officer or agent terminated for cause, (i) with a
2191 service-related disability; (ii) following at least 10 years of service with any such law-enforcement
2192 agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv)
2193 who is on long-term leave from such law-enforcement agency or board due to a service-related injury,
2194 provided such officer carries with him written proof of consultation with and favorable review of the
2195 need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency
2196 from which the officer retired or the agency that employs the officer or, in the case of special agents,
2197 issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A
2198 copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or
2199 Board to the Department of State Police for entry into the Virginia Criminal Information Network. The
2200 chief law-enforcement officer shall not without cause withhold such written proof if the retired
2201 law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause
2202 (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof
2203 of consultation upon return to work as a law-enforcement officer or upon termination of employment
2204 with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State
2205 Police for entry into the Virginia Criminal Information Network. However, if such officer retires on
2206 disability because of the service-related injury, and would be eligible under clause (i) for written proof
2207 of consultation to carry a concealed handgun, he may retain the previously issued written proof of
2208 consultation.

2209 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement
2210 agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such
2211 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.

§ 18.2-325. Definitions.

1. "Illegal gambling" means the making, placing, or receipt of any bet or wager in the Commonwealth of money or other consideration or thing of value, made in exchange for a chance to win a prize, stake, or other consideration or thing of value, dependent upon the result of any game, contest, or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest, or event occurs or is to occur inside or outside the limits of the Commonwealth.

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling

device as described in subdivision 3 b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

"Illegal gambling" also means the playing or offering for play of any skill game.

2. "Interstate gambling" means the conduct of an enterprise for profit that engages in the purchase or sale within the Commonwealth of any interest in a lottery of another state or country whether or not such interest is an actual lottery ticket, receipt, contingent promise to pay, order to purchase, or other record of such interest.

3. "Gambling device" includes:

a. Any device, machine, paraphernalia, equipment, or other thing, including books, records, and other papers, which are actually used in an illegal gambling operation or activity;

b. Any machine, apparatus, implement, instrument, contrivance, board, or other thing, or electronic or video versions thereof, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape, or color, shall not be deemed gambling devices within the meaning of this subsection; and

c. Skill games.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

4. "Operator" includes any person, firm, or association of persons, who conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling enterprise, activity, or operation.

5. "Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person.

6. "Skill game" 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 any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash or cash equivalents whether the payoff is made automatically from the device or manually. "Skill game" includes (i) a device that contains a meter or measurement device that records the number of free games or portions of games that are rewarded and (ii) a device designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than the amount that is ordinarily required to play the game. "Skill game" does not include any amusement device, as defined in § 18.2-334.6.

7. "Unregulated location" means any location that is not regulated or operated by the Virginia Lottery and Gaming Department or Virginia Lottery and Gaming Oversight Board, the Department of Agriculture and Consumer Services, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 18.2-334.2. Same; bingo games, raffles, duck races, and Texas Hold'em poker tournaments conducted by certain organizations.

Nothing in this article shall apply to any bingo game, instant bingo, network bingo, raffle, duck race, or Texas Hold'em poker tournament conducted solely by organizations as defined in § 18.2-340.16 58.1-4049 which have received a permit as set forth in § 18.2-340.25 58.1-4055, or which are exempt from the permit requirement under § 18.2-340.23 58.1-4053.

§ 18.2-334.4. Exemptions to article; pari-mutuel wagering; historical horse racing.

Nothing in this article shall be construed to make it illegal to participate in any (i) race meeting or pari-mutuel wagering conducted in accordance with Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or (ii) historical horse racing conducted in accordance with Article 4 (§ 58.1-4077 et seq.) of Chapter 40 of Title 58.1.

§ 19.2-215.1. Functions of a multi-jurisdiction grand jury.

The functions of a multi-jurisdiction grand jury are:

1. To investigate any condition that involves or tends to promote criminal violations of:

a. Title 10.1 for which punishment as a felony is authorized;

b. § 13.1-520;

c. §§ 18.2-47 and 18.2-48;

d. §§ 18.2-111 and 18.2-112;

e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;

f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;
 g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;
 h. Article 1 (§ 18.2-325 et seq.) and ~~Article 1.1.1 (§ 18.2-340.15 et seq.)~~ of Chapter 8 of Title 18.2,
Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1, Chapter 29 (§ 59.1-364 et seq.) of Title 59.1
 or any other provision prohibiting, limiting, regulating, or otherwise affecting gaming or gambling
 activity;
 i. § 18.2-434, when violations occur before a multi-jurisdiction grand jury;
 j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;
 k. § 18.2-460 for which punishment as a felony is authorized;
 l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;
 m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;
 n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;
 o. Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;
 p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
 q. Article 2.1 (§ 18.2-46.1 et seq.) and Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2;
 r. Article 5 (§ 18.2-186 et seq.) and Article 6 (§ 18.2-191 et seq.) of Chapter 6 of Title 18.2;
 s. Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1;
 t. § 18.2-178 where the violation involves insurance fraud;
 u. § 18.2-346.01, 18.2-348, or 18.2-349 for which punishment as a felony is authorized or
 § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1;
 v. Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2;
 w. Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2;
 x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of
 Chapter 4 of Title 18.2;
 y. Article 5 (§ 18.2-58 et seq.) of Chapter 4 of Title 18.2;
 z. Felonious sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
 aa. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony
 violation of § 18.2-79;
 ab. Chapter 13 (§ 18.2-512 et seq.) of Title 18.2;
 ac. § 18.2-246.14 and Chapter 10 (§ 58.1-1000 et seq.) of Title 58.1;
 ad. Subsection A or B of § 18.2-57 where the victim was selected because of his race, religious
 conviction, gender, disability, gender identity, sexual orientation, color, or national origin;
 ae. § 18.2-121 for which punishment as a felony is authorized;
 af. Article 5 (§ 18.2-420 et seq.) of Chapter 9 of Title 18.2; and
 ag. Any other provision of law when such condition is discovered in the course of an investigation
 that a multi-jurisdiction grand jury is otherwise authorized to undertake and to investigate any condition
 that involves or tends to promote any attempt, solicitation, or conspiracy to violate the laws enumerated
 in this section.
 2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court
 reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the
 Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or
 investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be
 prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, when
 appropriate, to the Attorney General.
 3. To consider bills of indictment prepared by a special counsel to determine whether there is
 sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which
 allege an offense enumerated in subdivision 1 may be submitted to a multi-jurisdiction grand jury.
 4. The provisions of this section shall not abrogate the authority of an attorney for the
 Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.
§ 19.2-389. 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, 4, and 6 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

2396 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
2397 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
2398 Commonwealth for the purposes of the administration of criminal justice;

2399 2. Such other individuals and agencies that require criminal history record information to implement
2400 a state or federal statute or executive order of the President of the United States or Governor that
2401 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
2402 conduct, except that information concerning the arrest of an individual may not be disseminated to a
2403 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
2404 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
2405 pending;

2406 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
2407 services required for the administration of criminal justice pursuant to that agreement which shall
2408 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
2409 security and confidentiality of the data;

2410 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
2411 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
2412 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
2413 security of the data;

2414 5. Agencies of state or federal government that are authorized by state or federal statute or executive
2415 order of the President of the United States or Governor to conduct investigations determining
2416 employment suitability or eligibility for security clearances allowing access to classified information;

2417 6. Individuals and agencies where authorized by court order or court rule;

2418 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
2419 owned, operated or controlled by any political subdivision, and any public service corporation that
2420 operates a public transit system owned by a local government for the conduct of investigations of
2421 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
2422 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
2423 conviction record would be compatible with the nature of the employment, permit, or license under
2424 consideration;

2425 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
2426 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
2427 position of employment whenever, in the interest of public welfare or safety and as authorized in the
2428 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
2429 with a conviction record would be compatible with the nature of the employment under consideration;

2430 8. Public or private agencies when authorized or required by federal or state law or interstate
2431 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
2432 adult members of that individual's household, with whom the agency is considering placing a child or
2433 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
2434 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
2435 the data shall not be further disseminated to any party other than a federal or state authority or court as
2436 may be required to comply with an express requirement of law;

2437 9. To the extent permitted by federal law or regulation, public service companies as defined in
2438 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
2439 personal contact with the public or when past criminal conduct of an applicant would be incompatible
2440 with the nature of the employment under consideration;

2441 10. The appropriate authority for purposes of granting citizenship and for purposes of international
2442 travel, including, but not limited to, issuing visas and passports;

2443 11. A person requesting a copy of his own criminal history record information as defined in
2444 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
2445 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
2446 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
2447 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
2448 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
2449 Solvers or Crime Line program as defined in § 15.2-1713.1;

2450 12. Administrators and board presidents of and applicants for licensure or registration as a child
2451 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
2452 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
2453 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
2454 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data
2455 shall not be further disseminated by the facility or agency to any party other than the data subject, the
2456 Commissioner of Social Services' representative or a federal or state authority or court as may be
2457 required to comply with an express requirement of law for such further dissemination; however, nothing

in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

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.), investigations as set forth in Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1, and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) 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 investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

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

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

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

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

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

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

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

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

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

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support

2519 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
2520 name, address, demographics and social security number of the data subject shall be released;

2521 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
2522 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
2523 purpose of determining if any applicant who accepts employment in any direct care position or requests
2524 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
2525 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
2526 under contract with the provider to serve in a direct care position has been convicted of a crime that
2527 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,
2528 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

2529 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
2530 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
2531 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

2532 31. The Chairman of the Senate Committee on the Judiciary or the House Committee for Courts of
2533 Justice for the purpose of determining if any person being considered for election to any judgeship has
2534 been convicted of a crime;

2535 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
2536 determining an individual's fitness for employment in positions designated as sensitive under Department
2537 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

2538 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
2539 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
2540 Violent Predators Act (§ 37.2-900 et seq.);

2541 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
2542 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
2543 companies, for the conduct of investigations of applications for employment or for access to facilities,
2544 by contractors, leased laborers, and other visitors;

2545 35. Any employer of individuals whose employment requires that they enter the homes of others, for
2546 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

2547 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
2548 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
2549 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
2550 subject to the restriction that the data shall not be further disseminated by the agency to any party other
2551 than a federal or state authority or court as may be required to comply with an express requirement of
2552 law for such further dissemination, subject to limitations set out in subsection G;

2553 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
2554 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
2555 or have accepted a position related to the provision of transportation services to enrollees in the
2556 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
2557 program administered by the Department of Medical Assistance Services;

2558 38. The State Corporation Commission for the purpose of investigating individuals who are current
2559 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
2560 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of
2561 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
2562 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,
2563 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
2564 information to the applicant or its designee;

2565 39. The Department of Professional and Occupational Regulation for the purpose of investigating
2566 individuals for initial licensure pursuant to § 54.1-2106.1;

2567 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
2568 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
2569 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
2570 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

2571 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

2572 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
2573 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

2574 43. The Department of Education or its agents or designees for the purpose of screening individuals
2575 seeking to enter into a contract with the Department of Education or its agents or designees for the
2576 provision of child care services for which child care subsidy payments may be provided;

2577 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
2578 a juvenile's household when completing a predispositional or postdispositional report required by §
2579 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

2580 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;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, 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 Superintendent of Public Instruction's 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; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039; and

47. 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, except as otherwise provided in subdivision A 46.

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.

§ 52-53. Definitions.

2642 As used in this chapter, unless the context requires a different meaning:

2643 "Coordinator" means the position of the Gaming Enforcement Coordinator established pursuant to
2644 § 52-54.

2645 "Department" means the Department of State Police.

2646 "Gaming laws" means the laws regulating gambling under Article 1 (§ 18.2-325 et seq.) of Chapter 8
2647 of Title 18.2, ~~charitable gaming under Article 1-1-1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,~~
2648 lottery games under Article 1 (§ 58.1-4000 et seq.) of Chapter 40 of Title 58.1, sports betting under
2649 Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1, *charitable gaming under Article 3*
2650 *(§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1, historical horse racing under Article 4 (§ 58.1-4077 et*
2651 *seq.),* casino gaming under Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, ~~fantasy contests under Chapter~~
2652 ~~51 (§ 59.1-556 et seq.) of Title 59.1,~~ horse racing and pari-mutuel wagering under Chapter 29
2653 (§ 59.1-364 et seq.) of Title 59.1, *fantasy contests under Chapter 51 (§ 59.1-556 et seq.) of Title 59.1,*
2654 any regulations promulgated pursuant to such laws, and any other federal, state, or local laws the
2655 Gaming Enforcement Coordinator deems relevant.

2656 "Superintendent" means the Superintendent of State Police.

2657 **§ 52-54. Office of the Gaming Enforcement Coordinator established; purpose; duties.**

2658 A. The Superintendent shall designate a Department employee to serve as the Gaming Enforcement
2659 Coordinator. The purpose of the office of the Coordinator shall be to synchronize the enforcement of
2660 gaming laws by state and local law enforcement, and to serve as a liaison between such agencies and
2661 federal law enforcement.

2662 B. The Coordinator shall have the following duties:

2663 1. Coordinating enforcement of the Commonwealth's gaming laws by the Department, the *Virginia*
2664 *Lottery and Gaming* Department of ~~Agriculture and Consumer Services~~, and all other state agencies;
2665 attorneys for the Commonwealth; and local law enforcement;

2666 2. Acting as a liaison between the federal government and the agencies identified in subdivision 1 for
2667 purposes of any federal investigation into gaming activities;

2668 3. Establishing, advertising, and administering a tip line, which may be accessed by phone and by
2669 Internet, for members of the public to report concerns about, or suspected instances of, gaming
2670 activities; and

2671 4. Performing any other duties as are necessary to promote and enable the equitable enforcement of
2672 gaming laws in the Commonwealth.

2673 **§ 58.1-3. Secrecy of information; penalties.**

2674 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
2675 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
2676 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section
2677 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices
2678 shall not divulge any information acquired by him in the performance of his duties with respect to the
2679 transactions, property, including personal property, income or business of any person, firm or
2680 corporation. Such prohibition specifically includes any copy of a federal return or federal return
2681 information required by Virginia law to be attached to or included in the Virginia return. This
2682 prohibition shall apply to any reports, returns, financial documents or other information filed with the
2683 Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2.
2684 Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions
2685 of this subsection shall not be applicable, however, to:

2686 1. Matters required by law to be entered on any public assessment roll or book;

2687 2. Acts performed or words spoken, published, or shared with another agency or subdivision of the
2688 Commonwealth in the line of duty under state law;

2689 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a
2690 duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to
2691 its study, provided that any such information obtained shall be privileged;

2692 4. The sales price, date of construction, physical dimensions or characteristics of real property, or any
2693 information required for building permits;

2694 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
2695 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent
2696 or by the commissioner of accounts making a settlement of accounts filed in such estate;

2697 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when
2698 requested by the General Assembly or any duly constituted committee of the General Assembly;

2699 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
2700 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the
2701 Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow
2702 fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the
2703 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 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in

§ 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery and Gaming Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the ~~Commissioner~~ Director of the Virginia Lottery and Gaming Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services and the Department of Social Services, upon entering into a written agreement, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3

reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

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

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

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

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

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

§ 58.1-302. Definitions.

2888 For the purpose of this chapter and unless otherwise required by the context:

2889 "Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to
2890 each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or
2891 others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same
2892 interests.

2893 "Compensation" means wages, salaries, commissions and any other form of remuneration paid or
2894 accrued to employees for personal services.

2895 "Corporation" includes associations, joint stock companies and insurance companies.

2896 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends
2897 to return even though he may actually reside elsewhere. In determining domicile, consideration may be
2898 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not
2899 limited to, financial independence, business pursuits, employment, income sources, residence for federal
2900 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of
2901 personal and real property owned by the applicant, motor vehicle and other personal property
2902 registration, residence for purposes of voting as proven by registration to vote, if any, and such other
2903 factors as may reasonably be deemed necessary to determine the person's domicile.

2904 "Foreign source income" means:

2905 1. Interest, other than interest derived from sources within the United States;

2906 2. Dividends, other than dividends derived from sources within the United States;

2907 3. Rents, royalties, license, and technical fees from property located or services performed without
2908 the United States or from any interest in such property, including rents, royalties, or fees for the use of
2909 or the privilege of using without the United States any patents, copyrights, secret processes and
2910 formulas, good will, trademarks, trade brands, franchises, and other like properties;

2911 4. Gains, profits, or other income from the sale of intangible or real property located without the
2912 United States; and

2913 5. The amount of an individual's share of net income attributable to a foreign source qualified
2914 business unit of an electing small business corporation (S corporation). For purposes of this subsection,
2915 qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such
2916 income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

2917 In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the
2918 Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

2919 "Income and deductions from Virginia sources" includes:

2920 1. Items of income, gain, loss and deduction attributable to:

2921 a. The ownership of any interest in real or tangible personal property in Virginia;

2922 b. A business, trade, profession or occupation carried on in Virginia; or

2923 c. Prizes paid by the Virginia Lottery and Gaming Department, and gambling winnings from wagers
2924 placed or paid at a location in Virginia.

2925 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
2926 gains from the disposition of intangible personal property to the extent that such income is from
2927 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

2928 "Income tax return preparer" means any person who prepares for compensation, or who employs one
2929 or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for
2930 refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion
2931 of a return or claim for refund shall be treated as if it were the preparation of the return or claim for
2932 refund. A person shall not be an "income tax return preparer" merely because the person:

2933 1. Furnishes typing, reproducing, or other mechanical assistance;

2934 2. Prepares a return or claim for refund of the employer (or of an officer or employee of the
2935 employer) by whom he is regularly and continuously employed;

2936 3. Prepares as a fiduciary a return or claim for refund for any person; or

2937 4. Prepares an application for correction of an erroneous assessment or a protective claim for refund
2938 for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in
2939 response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the
2940 taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly
2941 affects the tax liability of such taxpayer.

2942 "Individual" means all natural persons whether married or unmarried and fiduciaries acting for
2943 natural persons, but not fiduciaries acting for trusts or estates.

2944 "Intangible expenses and costs" means:

2945 1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or
2946 indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any
2947 other disposition of intangible property to the extent such amounts are allowed as deductions or costs in
2948 determining taxable income;

2949 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 taxpayer's outstanding stock;

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

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

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

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

"Resident estate or trust" means:

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

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

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

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

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

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

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

§ 58.1-322.02. (Effective until date pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.

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

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to

the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

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

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

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

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

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

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

8. The wages or salaries received by any person for active and inactive service in the National Guard 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 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, 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. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

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

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

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

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

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

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided

3134 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
3135 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
3136 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
3137 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
3138 shall be eligible for the subtraction under this subdivision for an investment in the same business.

3139 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
3140 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
3141 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
3142 and (ii) interest income or other income for federal income tax purposes attributable to such person's
3143 first-time home buyer savings account.

3144 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
3145 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
3146 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
3147 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
3148 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
3149 year that was used for other than the payment of eligible costs, computed by multiplying the amount
3150 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
3151 the account at the time of the withdrawal to the total balance in the account at such time.

3152 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
3153 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
3154 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
3155 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)
3156 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified
3157 beneficiary.

3158 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
3159 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

3160 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year
3161 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
3162 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
3163 Revenue Code.

3164 27. a. Income, including investment services partnership interest income (otherwise known as
3165 investment partnership carried interest income), attributable to an investment in a Virginia venture
3166 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or
3167 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this
3168 subdivision for an investment in a company that is owned or operated by a family member or an
3169 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
3170 claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

3171 b. As used in this subdivision 27:

3172 "Qualified portfolio company" means a company that (i) has its principal place of business in the
3173 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
3174 service other than the management or investment of capital; and (iii) provides equity in the company to
3175 the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company"
3176 does not include a company that is an individual or sole proprietorship.

3177 "Virginia venture capital account" means an investment fund that has been certified by the
3178 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
3179 account, the operator of the investment fund shall register the investment fund with the Department prior
3180 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
3181 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
3182 investor who has at least four years of professional experience in venture capital investment or
3183 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
3184 an undergraduate degree from an accredited college or university in economics, finance, or a similar
3185 field of study. The Department may require an investment fund to provide documentation of the
3186 investor's training, education, or experience as deemed necessary by the Department to determine
3187 substantial equivalency. If the Department determines that the investment fund employs at least one
3188 investor with the experience set forth herein, the Department shall certify the investment fund as a
3189 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
3190 of the capital committed to its fund in qualified portfolio companies.

3191 28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a
3192 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
3193 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a
3194 family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for
3195 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.

30. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of Chapter 3 of Title 8.01.

§ 58.1-322.02. (Effective pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.

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

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

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

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

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

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

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

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

8. The wages or salaries received by any person for active and inactive service in the National Guard 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 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, 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

3257 pass through to such partners, shareholders, and members.

3258 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or
3259 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account
3260 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as
3261 defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the
3262 contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the
3263 extent the contributions to such plan or program were subject to taxation under the income tax in
3264 another state.

3265 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
3266 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
3267 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
3268 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
3269 scholarship.

3270 13. All military pay and allowances, to the extent included in federal adjusted gross income and not
3271 otherwise subtracted, deducted, or exempted under this section, earned by military personnel while
3272 serving by order of the President of the United States with the consent of Congress in a combat zone or
3273 qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112
3274 of the Internal Revenue Code.

3275 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
3276 of real property or the sale or exchange of an easement to real property which results in the real
3277 property or the easement thereto being devoted to open-space use, as that term is defined in §
3278 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in
3279 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
3280 shall be allowed for three years following the year in which the subtraction is taken.

3281 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active
3282 duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar
3283 by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero
3284 if such military basic pay amount is equal to or exceeds \$30,000.

3285 16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all
3286 employment for the taxable year is \$15,000 or less.

3287 17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

3288 18. a. Any amount received as military retirement income by an individual awarded the
3289 Congressional Medal of Honor.

3290 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to
3291 \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before
3292 January 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1,
3293 2024, but before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on
3294 and after January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b,
3295 "military benefits" means any (i) military retirement income received for service in the Armed Forces of
3296 the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue
3297 Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States
3298 under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv)
3299 military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States.
3300 The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an
3301 individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit,
3302 exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any
3303 other provision of Virginia or federal law.

3304 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from,
3305 hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii)
3306 damages, reparations, or other consideration received by a victim or target of Nazi persecution to
3307 compensate such individual for performing labor against his will under the threat of death, during World
3308 War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such
3309 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
3310 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The
3311 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
3312 of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child
3313 or stepchild of such victim.

3314 As used in this subdivision:

3315 "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those
3316 European countries allied with Nazi Germany, or any other neutral European country or area in Europe
3317 under the influence or threat of Nazi invasion.

3318 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by

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

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

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

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

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

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

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

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

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

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

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

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture

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.

30. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received by the taxpayer under the Rebuild Virginia program established by the Governor and administered by the Department of Small Business and Supplier Diversity.

31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of Chapter 3 of Title 8.01.

§ 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:

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

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

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

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

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

§ 58.1-3732.1. Limitation on gross receipts; pari-mutuel wagering.

Gross receipts for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) shall not include the license and admission taxes established under §§ 59.1-392 and 59.1-393, respectively, nor shall it include pari-mutuel wagering pools as established under Article 1-1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 3 (§ 58.1-4048 et seq.) of Chapter 40 or § 59.1-392.

CHAPTER 40.

VIRGINIA LOTTERY AND GAMING LAW; SPORTS BETTING.

Article 1.

Powers and Duties of Virginia Lottery and Gaming Oversight Board; Administration of Tickets and Prizes.

§ 58.1-4000. Short title.

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

§ 58.1-4002. Definitions.

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

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

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs and any other activity that is authorized by the Board as a wagering game or device under Chapter 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Department" means the *Virginia Lottery and Gaming Department, which is the independent agency responsible for the administration of the Virginia Lottery pursuant to this article and the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), charitable gaming pursuant to Article 3 (§ 58.1-4048 et seq.), historical horse racing pursuant to Article 4 (§ 58.1-4077 et seq.), and casino gaming pursuant to Chapter 41 (§ 58.1-4100 et seq.).*

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

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

3503 "On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a
 3504 casino gaming establishment using a computer network of both federal and nonfederal interoperable
 3505 packet-switched data networks through which the casino gaming operator may offer casino gaming to
 3506 individuals who have established an on-premises mobile casino gaming account with the casino gaming
 3507 operator and who are physically present on the premises of the casino gaming establishment, as
 3508 authorized by regulations promulgated by the Board.

3509 "Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

3510 "Ticket courier service" means a service operated for the purpose of purchasing Virginia Lottery
 3511 lottery tickets on behalf of individuals located within or outside the Commonwealth and delivering or
 3512 transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit
 3513 delivery service.

3514 "Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1
 3515 that allows individuals to voluntarily exclude themselves from engaging in the activities described in
 3516 subdivision B 1 of § 58.1-4015.1 by placing their name on a voluntary exclusion list and following the
 3517 procedures set forth by the Board.

3518 **§ 58.1-4003. Virginia Lottery and Gaming Department established.**

3519 Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any
 3520 other provision of law, there is hereby established as an independent agency of the Commonwealth,
 3521 exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery and
 3522 Gaming Department, which shall include a Director and a Virginia Lottery and Gaming Oversight
 3523 Board, for the purpose of operating a state lottery pursuant to this article and regulating sports betting
 3524 pursuant to Article 2 (§ 58.1-4030 et seq.), charitable gaming pursuant to Article 3 (§ 58.1-4048 et
 3525 seq.), and historical horse racing pursuant to Article 4 (§ 58.1-4077 et seq.).

3526 **§ 58.1-4004. Virginia Lottery and Gaming Oversight Board established; membership;**
 3527 **appointment; terms; vacancies; removal; expenses.**

3528 A. The Virginia Lottery and Gaming Oversight Board is established and shall consist have a total
 3529 membership of ~~seven~~ nine members, all of whom that shall consist of seven nonlegislative citizen
 3530 members and two ex officio members. Nonlegislative citizen members shall be citizens and residents of
 3531 the Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor,
 3532 subject to confirmation by a majority of the members elected to each house of the General Assembly if
 3533 in session when the appointment is made, and if not in session, then at its next succeeding session. At
 3534 Of the nonlegislative citizen members appointed by the Governor, at least one member shall be a
 3535 law-enforcement officer, and at least one member shall be a certified public accountant authorized to
 3536 practice in the Commonwealth. Prior to the appointment of any Board members, the Governor shall
 3537 consider the political affiliation and the geographic residence of the Board members. The members shall
 3538 be appointed for terms of five years. The members shall annually elect one member as chairman of the
 3539 Board.

3540 The Governor shall appoint one member of the Virginia Racing Commission and one member of the
 3541 Charitable Gaming Board to serve ex officio with voting privileges. Ex officio members shall serve at
 3542 the pleasure of the Governor.

3543 B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be
 3544 filled for the unexpired term in the same manner as the original term.

3545 C. The members of the Board shall receive such compensation as provided in § 2.2-2813, shall be
 3546 subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the
 3547 performance of their official duties.

3548 D. Before entering upon the discharge of their duties, the members of the Board shall take an oath
 3549 that they will faithfully and honestly execute the duties of the office during their continuance therein and
 3550 they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful
 3551 discharge of their duties. The premium on such bond shall be paid out of the Virginia Lottery Fund.

3552 E. No member of the Board shall:

3553 1. Have any direct or indirect financial, ownership, or management interest in any gaming activities,
 3554 including any casino gaming operation, charitable gaming, pari-mutuel wagering, or lottery.

3555 2. Receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities,
 3556 including any casino gaming operation, charitable gaming, pari-mutuel wagering, or lottery.

3557 3. Have an interest in any contract for the manufacture or sale of gaming devices, the conduct of any
 3558 gaming activity, or the provision of independent consulting services in connection with any gaming
 3559 establishment or gaming activity.

3560 **§ 58.1-4006. Powers of the Director.**

3561 A. The Director shall supervise and administer:

3562 1. The operation of the lottery and the regulation of sports betting, charitable gaming, and historical
 3563 horse racing in accordance with the provisions of this chapter and with the rules and regulations
 3564 promulgated hereunder; and

2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.).
- 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 *sports betting, charitable gaming, historical horse racing, and* casino gaming; 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 *sports betting, charitable gaming, historical horse racing, and* casino gaming.
 5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.
 6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41 (§ 58.1-4100 et seq.).
 7. Eject or exclude from a casino gaming establishment any person, whether or not he possesses a license or permit, whose conduct or reputation is such that his presence may, in the opinion of the Director, reflect negatively on the honesty and integrity of casino gaming or interfere with the orderly gaming operations.
 8. *Eject or exclude from the area of a satellite facility where pari-mutuel wagering on historical horse racing is conducted any person, whether or not he possesses an operator's license, whose conduct or reputation is such that his presence may, in the opinion of the Director, reflect negatively on the honesty and integrity of historical horse racing or interfere with the orderly pari-mutuel wagering operations.*
 9. Immediately upon the receipt of a credible complaint of an alleged criminal violation of *Article 3* (§ 58.1-4048 et seq.), *Article 4* (§ 58.1-4077 et seq.), or Chapter 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for appropriate action.
 - ~~9-~~ 10. Inspect and investigate, and have free access to, the offices, facilities, or other places of business of any licensee or permit holder and may compel the production of any of the books, documents, records, or memoranda of any licensee or permit holder for the purpose of ensuring compliance with *Article 3* (§ 58.1-4048 et seq.), *Article 4* (§ 58.1-4077 et seq.), Chapter 41 (§ 58.1-4100 et seq.), and Department regulations.
 - ~~10-~~ 11. Compel any person holding a license or permit pursuant to Chapter 41 (§ 58.1-4100 et seq.) to file with the Department such information as shall appear to the Director to be necessary for the performance of the Department's functions, including financial statements and information relative to principals and all others with any pecuniary interest in such person.
 - ~~11-~~ 12. Impose a fine or penalty not to exceed \$1 million upon any person determined, in proceedings commenced pursuant to § 58.1-4105, to have violated any of the provisions of Chapter 41 (§ 58.1-4100 et seq.) or regulations promulgated by the Board.
 - ~~12-~~ 13. Enter into arrangements with any foreign or domestic governmental agency for the purposes of exchanging information or performing any other act to better ensure the proper conduct of casino gaming operations or the efficient conduct of the Director's duties.
 - ~~13-~~ 14. 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.
 - ~~14-~~ 15. 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.
 - ~~15-~~ 16. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations 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, as well as a separate financial statement of the expenses incurred in the regulation of (i) *charitable gaming, as defined in § 58.1-4049; (ii) historical horse racing, as defined in § 58.1-4078; and (iii) casino gaming operations, as defined in § 58.1-4100*, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter and Chapter 41 (§ 58.1-4100 et seq.) as the Director and Board deem necessary

3626 or desirable.

3627 ~~16.~~ 17. Report immediately to the Governor and the General Assembly any matters that require
3628 immediate changes in the laws of the Commonwealth in order to prevent abuses and evasions of this
3629 chapter and Chapter 41 (§ 58.1-4100 et seq.) or the rules and regulations adopted hereunder or to rectify
3630 undesirable conditions in connection with the administration or operation of the lottery.

3631 ~~17.~~ 18. Notify prize winners and appropriate state and federal agencies of the payment of prizes in
3632 excess of \$600 in the manner required by the lottery rules and regulations.

3633 ~~18.~~ 19. Provide for the withholding of the applicable amount of state and federal income tax of
3634 persons claiming a prize for a winning ticket in excess of \$5,001.

3635 C. The Director and the director of security or investigators appointed by the Director shall be vested
3636 with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department
3637 and to investigate violations of the statutes and regulations that the Director is required to enforce.

3638 D. The Director may authorize temporary bonus or incentive programs for payments to licensed sales
3639 agents that he determines will be cost effective and support increased sales of lottery products.

3640 **§ 58.1-4007. Powers of the Board.**

3641 A. The Board shall have the power to adopt regulations governing the establishment and operation of
3642 (i) a lottery pursuant to this article ~~and~~, (ii) sports betting pursuant to Article 2 (§ 58.1-4030 et seq.),
3643 (iii) *charitable gaming pursuant to Article 3 (§ 58.1-4048 et seq.), and (iv) historical horse racing*
3644 *pursuant to Article 4 (§ 58.1-4077 et seq.).* The regulations governing the establishment and operation of
3645 the lottery ~~and~~, sports betting, *charitable gaming, and historical horse racing* shall be promulgated by
3646 the Board after consultation with the Director. Such regulations shall be in accordance with the
3647 Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary
3648 or desirable for the efficient, honest, and economical operation and administration of the lottery ~~and~~,
3649 sports betting, *charitable gaming, and historical horse racing* and for the convenience of the purchasers
3650 of tickets or shares, the holders of winning tickets or shares, ~~and~~ sports bettors, *and persons*
3651 *participating in charitable gaming and historical horse racing.* The regulations, which may be amended,
3652 repealed, or supplemented as necessary, shall include the following:

3653 1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.

3654 2. The price or prices of tickets or shares in the lottery.

3655 3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the
3656 public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes
3657 and (ii) returned to the Commonwealth as net revenues.

3658 4. The manner of selecting the winning tickets or shares.

3659 5. The manner of payment of prizes to the holders of winning tickets or shares.

3660 6. The frequency of the drawings or selections of winning tickets or shares without limitation.

3661 7. Without limitation as to number, the type or types of locations at which tickets or shares may be
3662 sold.

3663 8. The method to be used in selling tickets or shares, including the sale of tickets or shares over the
3664 Internet.

3665 9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

3666 10. The licensing of agents to sell tickets or shares who will best serve the public convenience and
3667 promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A
3668 licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at
3669 the agent's place of business so long as the employee is supervised in the selling or vending of tickets
3670 by the manager or supervisor in charge at the location where the tickets are being sold. Employment of
3671 such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

3672 11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to
3673 provide for the adequate availability of tickets or shares to prospective buyers and for the convenience
3674 of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to
3675 approve temporary bonus or incentive programs for payments to licensed sales agents.

3676 12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other
3677 sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022.

3678 13. Such other matters necessary or desirable for the efficient and economical operation and
3679 administration of the lottery.

3680 14. The operation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.). In adopting such
3681 regulations, the Board shall establish a consumer protection program and publish a consumer protection
3682 bill of rights. Such program and bill of rights shall include measures to protect sports bettors, as defined
3683 in § 58.1-4030, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and
3684 any other consumer protection measure the Board determines to be reasonable.

3685 15. *The operation of charitable gaming pursuant to Article 3 (§ 58.1-4048 et seq.).*

3686 16. *The operation of historical horse racing pursuant to Article 4 (§ 58.1-4077 et seq.).*

3687 17. The administration of a voluntary exclusion program as provided in § 58.1-4015.1.

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

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

B. The Board shall carry on a continuous study and investigation of the lottery and, sports betting, charitable gaming, and historical horse racing throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery and, sports betting, charitable gaming, and historical horse racing and any evasions of such provisions.

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

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

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

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws that may be in effect in other states or countries, (ii) any literature on the subject that may be published or available, (iii) any federal laws that may affect the operation of the lottery and, sports betting, charitable gaming, and historical horse racing, and (iv) the reaction of Virginia citizens to the potential features of the lottery and, sports betting, charitable gaming, and historical horse racing with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision A 10 of this section and subdivision B 5 of § 58.1-4006. The Board shall hear and decide an appeal of any penalty, denial of a permit or renewal, or suspension or revocation of a permit imposed by the Director pursuant to Article 2 (§ 58.1-4030 et seq.), Article 3 (§ 58.1-4048 et seq.), or Article 4 (§ 58.1-4077 et seq.).

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

F. The Board may adjust the percentage of uncollectible gaming receivables allowed to be subtracted from adjusted gross revenue, as defined in § 58.1-4030, if it determines that a different percentage is reasonable and customary in the sports betting industry.

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

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

3749 B. For the purposes of this section, the term "person" means an individual, association, partnership,
 3750 corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee,
 3751 or any other person acting in a fiduciary or representative capacity, whether appointed by a court or
 3752 otherwise, and any combination of individuals. "Person" also means all departments, commissions,
 3753 agencies, and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies,
 3754 and instrumentalities thereof.

3755 C. The chief security officer of the *Virginia Lottery Department* shall conduct a background
 3756 investigation, to include a Virginia Criminal History Records search, and fingerprints that shall be
 3757 submitted to the Federal Bureau of Investigation if the Director deems a National Criminal Records
 3758 search necessary, on applicants for licensure as lottery sales agents. The Director may refuse to issue a
 3759 license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted
 3760 of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling,
 3761 (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v)
 3762 engaged in conduct prejudicial to public confidence in the Lottery. The Director may refuse to grant a
 3763 license or may suspend, revoke, or refuse to renew a license issued pursuant to this chapter to a
 3764 partnership or corporation, if he determines that any general or limited partner, or officer or director of
 3765 such partnership or corporation has been (a) convicted of a crime involving moral turpitude, (b)
 3766 convicted of bookmaking or other forms of illegal gambling, (c) found guilty of any fraud or
 3767 misrepresentation in any connection, (d) convicted of a felony, or (e) engaged in conduct prejudicial to
 3768 public confidence in the Lottery. Whoever knowingly and willfully falsifies, conceals or misrepresents a
 3769 material fact or knowingly and willfully makes a false, fictitious or fraudulent statement or
 3770 representation in any application for licensure to the *Virginia Lottery Department* for lottery sales agent
 3771 is guilty of a Class 1 misdemeanor.

3772 D. In the event an applicant is a former lottery sales agent whose license was suspended, revoked, or
 3773 refused renewal pursuant to this section or § 58.1-4012, no application for a new license to sell lottery
 3774 tickets or shares shall be considered for a minimum period of 90 days following the suspension,
 3775 revocation, or refusal to renew.

3776 E. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety
 3777 company entitled to do business in this Commonwealth in such amount and penalty as may be
 3778 prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory
 3779 to the Director, payable to the *Virginia Lottery Department* and conditioned upon the faithful
 3780 performance of his duties.

3781 F. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the
 3782 regulations of the Department.

3783 **§ 58.1-4011. Meaning of "gross receipts."**

3784 A. Notwithstanding the provisions of Chapter 37 (§ 58.1-3700 et seq.) or § 58.1-4025 relating to
 3785 local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation
 3786 actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent
 3787 with the provisions of subdivision A 11 of § 58.1-4007.

3788 B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental
 3789 payments for the business premises on which state lottery tickets are sold on the basis of retail sales
 3790 shall have that portion of rental payment based on sales of state lottery tickets or shares computed on
 3791 the basis of the compensation received as a lottery agent from the *Virginia Lottery Department*.

3792 **§ 58.1-4015.1. Voluntary exclusion program.**

3793 A. The Board shall adopt regulations to establish and implement a voluntary exclusion program.

3794 B. The regulations shall include the following provisions:

3795 1. Except as provided by regulation of the Board, a person who participates in the voluntary
 3796 exclusion program agrees to refrain from (i) playing any account-based lottery game authorized under
 3797 the provisions of this article; (ii) participating in sports betting, as defined in § 58.1-4030; (iii) engaging
 3798 in any form of casino gaming that may be allowed under the laws of the Commonwealth; (iv)
 3799 participating in charitable gaming, as defined in § 18.2-340.16 58.1-4049; (v) participating in fantasy
 3800 contests, as defined in § 59.1-556; ~~or~~ (vi) wagering on horse racing, as defined in § 59.1-365; *or* (vii)
 3801 *wagering on historical horse racing, as defined in § 58.1-4078*. Any state agency, at the request of the
 3802 Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of
 3803 this section.

3804 2. A person who participates in the voluntary exclusion program may choose an exclusion period of
 3805 two years, five years, or lifetime.

3806 3. Except as provided by regulation of the Board, a person who participates in the voluntary
 3807 exclusion program may not petition the Board for removal from the program for the duration of his
 3808 exclusion period.

3809 4. The name of a person participating in the program shall be included on a list of excluded persons.
 3810 The list of persons entering the voluntary exclusion program and the personal information of the

participants shall be confidential, with dissemination by the Department limited to sales agents and permit holders, as defined in § 58.1-4030, and any other parties the Department deems necessary for purposes of enforcement. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

5. Sales agents and permit holders shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude sales agents and permit holders from seeking the payment of a debt incurred by a person before entering the program. In addition, a permit holder may share the names of individuals who self-exclude across its corporate enterprise, including sharing such information with any of its affiliates.

§ 58.1-4019.1. License required for "instant ticket" games or contests.

No person who owns or is employed by any retail establishment in the Commonwealth shall use any "instant ticket" game or contest for the purpose of promoting or furthering the sale of any product without first obtaining a license to do so from the Director. For the purposes of this section, an "instant ticket" game or contest means a game of chance played on a paper ticket or card where (i) a person may receive gifts, prizes, or gratuities and (ii) winners are determined by preprinted concealed letters, numbers, or symbols which, when exposed, reveal immediately whether the player has won a prize or entry into a prize drawing, but shall not include any "instant ticket" game or contest licensed by the Department of Agriculture and Consumer Services Director pursuant to Article 1-1-1 (§ 18.2-340.15 et seq.) of Title 18.2 3 (§ 58.1-4048 et seq.). The fact that no purchase is required in order to participate shall not exclude such game or contest from the provisions of this section; however, nothing in this section shall prohibit any retail establishment from using a Virginia lottery ticket to promote or further the sale of any products except those having both a federal and state excise tax placed on them. Any person convicted of a violation of this section shall be is guilty of a Class 3 misdemeanor.

§ 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.

3872 6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21
3873 (§ 58.1-520 et seq.) of Chapter 3 of this title.

3874 B. The Commonwealth, the ~~Virginia Lottery Department~~, and any employee or representative of
3875 either shall be indemnified and held harmless upon payment of amounts due as set forth in the court
3876 order.

3877 C. The ~~Lottery Department~~ may establish a reasonable fee to process the assignments provided for in
3878 this section and to receive, review, and file the registration required by subsection E and confirm
3879 compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs
3880 of processing the assignments or registrations.

3881 D. Notwithstanding the provisions of this section, the Commonwealth and the ~~Virginia Lottery~~
3882 ~~Department~~ shall not accept any assignment if either of the following has occurred:

3883 1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the
3884 year the lottery prize is won for all installment lottery prize winners. "~~Federal~~ For purposes of this
3885 subdivision, "federal law" includes statutory law, rulings of courts of competent jurisdiction, and
3886 published rulings by the Internal Revenue Service.

3887 2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year
3888 the lottery prize is won for all installment lottery prize winners. "~~State~~ For purposes of this subdivision,
3889 "state law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by
3890 the Department of Taxation.

3891 E. An assignee, prospective assignee, lender, or prospective lender shall not make any representation
3892 in any written or oral communications with a lottery winner that implies that the assignee, prospective
3893 assignee, lender, or prospective lender is associated with or an agent of the ~~Virginia Lottery Department~~.
3894 Every prospective assignee or prospective lender shall register with the ~~Virginia Lottery Department~~,
3895 prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i)
3896 the assignee's or lender's standard information packet or materials given or sent to prospective assignees
3897 or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's
3898 federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public
3899 financial statement. The Director may deny, suspend, or revoke a registration for a violation of this
3900 chapter or for such other reason as the Board, by regulation, may establish.

3901 **§ 58.1-4022. Virginia Lottery Fund.**

3902 A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and
3903 compensation of agents as authorized by regulation and any other revenues received under this chapter,
3904 shall be placed in a special fund known as the "Virginia Lottery Fund." Notwithstanding any other
3905 provisions of law, interest earned from moneys in the Virginia Lottery Fund shall accrue to the benefit
3906 of such Fund.

3907 B. The total costs for the operation and administration of the lottery shall be funded from the
3908 Virginia Lottery Fund and shall be in such amount as provided in the general appropriation act.
3909 Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive
3910 of agent compensation, shall at no time exceed 10 percent of the total annual estimated gross revenues
3911 to be generated from lottery sales. However, should it be anticipated at any time by the Director that
3912 such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the
3913 Director shall immediately report such information to the Board, the Governor, and the Chairmen of the
3914 Senate Committee on Finance and Appropriations and the House Committee on Appropriations. From
3915 the moneys in the Fund, the Comptroller shall establish a special reserve fund in such amount as shall
3916 be provided by regulation of the Department for (i) operation of the lottery, (ii) use if the game's
3917 pay-out liabilities exceed its cash on hand, or (iii) enhancement of the prize pool with income derived
3918 from lending securities held for payment of prize installments, which lending of securities shall be
3919 conducted in accordance with lending programs approved by the Department of the Treasury.

3920 C. The Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 58.1-4022.1,
3921 less the special reserve fund, the audited balances of the Virginia Lottery Fund at the close of each
3922 fiscal year. The transfer for each year shall be made in two parts: (i) on or before June 30, the
3923 Comptroller shall transfer balances of the Virginia Lottery Fund for the fiscal year, based on an estimate
3924 determined by the ~~Virginia Lottery Department~~, and (ii) no later than 10 days after receipt of the annual
3925 audit report required by § 58.1-4023, the Comptroller shall transfer to the Lottery Proceeds Fund the
3926 remaining audited balances of the Virginia Lottery Fund for the fiscal year. If such annual audit
3927 discloses that the actual revenue is less than the estimate on which the transfer was based, the State
3928 Comptroller shall transfer the difference between the actual revenue and the estimate from the Lottery
3929 Proceeds Fund to the Virginia Lottery Fund.

3930 D. In addition to such other funds as may be appropriated, 100 percent of the lottery revenues
3931 transferred to the Lottery Proceeds Fund shall be appropriated entirely and solely for the purpose of
3932 public education in the Commonwealth unless otherwise redirected pursuant to Article X, Section 7-A of
3933 the Constitution of Virginia. The additional appropriation of lottery revenues to local school divisions

for public education purposes consistent with this provision shall be used for operating, capital outlay, or debt service expenses, as determined by the appropriation act. The additional appropriation of lottery revenues shall not be used by any local school division to reduce its total local expenditures for public education in accordance with the provisions of the general appropriation act.

E. As a function of the administration of this chapter, funds may be expended for the purposes of reasonably informing the public concerning (i) the facts embraced in the subjects contained in subdivisions A 1 through 7 of § 58.1-4007 and (ii) the fact that the net proceeds are paid into the Lottery Proceeds Fund of the Commonwealth, but no funds shall be expended for the primary purpose of inducing persons to participate in the lottery.

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

Except as provided in Chapter 3 of Title 58.1 (§ 58.1-300 et seq.) 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, denying a license or registration or in~~, suspending, or revoking any license or registration under the provisions of this article ~~and~~; (ii) granting, denying, suspending, or revoking any permit or imposing any penalty pursuant to Article 2 (§ 58.1-4030 et seq.); (iii) *granting, denying, suspending, or revoking any authorization, license, permit, or registration or imposing any penalty pursuant to Article 3 (§ 58.1-4048 et seq.); and (iv) granting, denying, suspending, or revoking any license or imposing any penalty pursuant to Article 4 (§ 58.1-4077 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.

§ 58.1-4030. Definitions.

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

"Adjusted gross revenue" means gross revenue minus:

1. All cash and the cash value of merchandise paid out as winnings to bettors, and the value of all bonuses or promotions provided to patrons as an incentive to place or as a result of their having placed Internet sports betting wagers;

2. Uncollectible gaming receivables, which shall not exceed two percent, or a different percentage as determined by the Board pursuant to subsection F of § 58.1-4007, of gross revenue minus all cash paid out as winnings to bettors;

3. If the permit holder is a significant infrastructure limited licensee, as defined in § 59.1-365, any funds paid into the horsemen's purse account pursuant to the provisions of subdivision 14 of § 59.1-369; and

4. All excise taxes on sports betting paid pursuant to federal law.

"Amateur sports" means any sports or athletic event that is not professional sports, college sports, Virginia college sports, or youth sports. "Amateur sports" includes domestic, international, and Olympic sports or athletic events. "Amateur sports" does not include charitable gaming, as defined in § 18.2-340.16 ~~58.1-4049~~; *historical horse racing, as defined in § 58.1-4078*; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

"College sports" means an athletic event (i) in which at least one participant is a team from a public or private institution of higher education, regardless of where such institution is located, and (ii) that does not include a team from a Virginia public or private institution of higher education.

"Covered persons" means athletes; umpires, referees, and officials; personnel associated with clubs, teams, leagues, and athletic associations; medical professionals and athletic trainers who provide services to athletes and players; and the immediate family members and associates of such persons.

"Gross revenue" means the total of all cash, property, or any other form of remuneration, whether collected or not, received by a permittee from its sports betting operations.

"Major league sports franchise" means a professional baseball, basketball, football, hockey, or soccer team that is at the highest-level league of play for its respective sport.

"Motor sports facility" means an outdoor motor sports facility that hosts a National Association for Stock Car Auto Racing (NASCAR) national touring race.

"Official league data" means statistics, results, outcomes, and other data relating to a professional sports event obtained by a permit holder under an agreement with a sports governing body or with an entity expressly authorized by a sports governing body for determining the outcome of tier 2 bets.

"Permit holder" means a person to which the Director issues a permit pursuant to §§ 58.1-4032 and 58.1-4033.

"Personal biometric data" means any information about an athlete that is derived from his DNA, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone levels,

3995 glucose levels, hydration levels, vitamin levels, bone density, muscle density, or sleep patterns, or other
3996 information as may be prescribed by the Board by regulation.

3997 "Principal" means any individual who solely or together with his immediate family members (i) owns
3998 or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a
3999 permit holder or (ii) has the power to vote or cause the vote of five percent or more of the voting
4000 securities or other ownership interests of such entity. "Principal" includes any individual who is
4001 employed in a managerial capacity for a sports betting platform or sports betting facility on behalf of a
4002 permit holder.

4003 "Professional sports" means an athletic event involving at least two human competitors who receive
4004 compensation, in excess of their expenses, for participating in such event. "Professional sports" does not
4005 include charitable gaming, as defined in § 18.2-340.16 58.1-4049; *historical horse racing, as defined in*
4006 *§ 58.1-4078*; fantasy contests, as defined in § 59.1-556; or horse racing, as defined in § 59.1-365.

4007 "Prohibited conduct" means any statement, action, or other communication intended to influence,
4008 manipulate, or control a betting outcome of a sports event or of any individual occurrence or
4009 performance in a sports event in exchange for financial gain or to avoid financial or physical harm.
4010 "Prohibited conduct" includes statements, actions, and communications made to a covered person by a
4011 third party. "Prohibited conduct" does not include statements, actions, or communications made or
4012 sanctioned by a sports team or sports governing body.

4013 "Proposition bet" means a bet on an individual action, statistic, occurrence, or non-occurrence to be
4014 determined during an athletic event and includes any such action, statistic, occurrence, or non-occurrence
4015 that does not directly affect the final outcome of the athletic event to which it relates.

4016 "Sports betting" means placing wagers on professional sports, college sports, amateur sports, sporting
4017 events, or any other event approved by the Director, and any portion thereof, and includes placing
4018 wagers related to the individual performance statistics of athletes in such sports and events. "Sports
4019 betting" includes any system or method of wagering approved by the Director, including single-game
4020 bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play
4021 bets, proposition bets, and straight bets. "Sports betting" does not include ~~participating in charitable~~
4022 ~~gaming authorized by Article 1.1-1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; participating in~~
4023 ~~any lottery game authorized under Article 1 (§ 58.1-4000 et seq.); participating in charitable gaming~~
4024 ~~authorized by Article 3 (§ 58.1-4048 et seq.); wagering on historical horse racing authorized by Article~~
4025 ~~4 (§ 58.1-4077 et seq.); wagering on horse racing authorized by Chapter 29 (§ 59.1-364 et seq.) of Title~~
4026 ~~59.1; or participating in fantasy contests authorized by Chapter 51 (§ 59.1-556 et seq.) of Title 59.1.~~
4027 "Sports betting" does not include placing a wager on a college sports event in which a Virginia public
4028 or private institution of higher education is a participant.

4029 "Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment
4030 licensed pursuant to Chapter 41 (§ 58.1-4100 et seq.) that is designated for sports betting.

4031 "Sports betting permit" means a permit to operate a sports betting platform or sports betting facility
4032 issued pursuant to the provisions of §§ 58.1-4032, 58.1-4033, and 58.1-4034.

4033 "Sports betting platform" means a website, app, or other platform accessible via the Internet or
4034 mobile, wireless, or similar communications technology that sports bettors use to participate in sports
4035 betting.

4036 "Sports betting program" means the program established by the Board to allow sports betting as
4037 described in this article.

4038 "Sports bettor" means a person physically located in Virginia who participates in sports betting.

4039 "Sports event" or "sporting event" means professional sports, college sports, amateur sports, and any
4040 athletic event, motor race event, electronic sports event, competitive video game event, or any other
4041 event approved by the Director.

4042 "Sports governing body" means an organization, headquartered in the United States, that prescribes
4043 rules and enforces codes of conduct with respect to a professional sports or college sports event and the
4044 participants therein. "Sports governing body" includes a designee of the sports governing body.

4045 "Stadium" means the physical facility that is the primary location at which a major league sports
4046 franchise hosts athletic events and any appurtenant facilities.

4047 "Tier 1 bet" means a bet that is placed using the Internet and that is not a tier 2 bet.

4048 "Tier 2 bet" means a bet that is placed using the Internet and that is placed after the event it
4049 concerns has started.

4050 "Virginia college sports" means an athletic event in which at least one participant is a team from a
4051 Virginia public or private institution of higher education.

4052 "Youth sports" means an athletic event (i) involving a majority of participants under age 18 or (ii) in
4053 which at least one participant is a team from a public or private elementary, middle, or secondary
4054 school, regardless of where such school is located. However, if an athletic event meets the definition of
4055 college sports or professional sports, such event shall not be considered youth sports regardless of the
4056 age of the participants. An international athletic event organized by the International Olympic Committee

shall not be considered to be youth sports, regardless of the age of the participants.

Article 3.

Charitable Gaming.

§ 58.1-4048. State control of charitable gaming.

A. Charitable gaming as authorized pursuant to this article shall be permitted in the Commonwealth as a means of funding qualified organizations but shall be conducted only in strict compliance with the provisions of this article. The Department is vested with control of all charitable gaming in the Commonwealth. The Board shall have the power to prescribe regulations and conditions under which such gaming shall be conducted to ensure that it is conducted in a manner consistent with the purpose for which it is permitted.

B. The conduct of any charitable gaming is a privilege that may be granted, denied, or revoked by the Director in his discretion in order to effectuate the purposes set forth in this article.

§ 58.1-4049. Definitions.

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

"Bingo" means a specific game of chance played with (i) individual cards having randomly numbered squares ranging from one to 75, (ii) Board-approved electronic devices that display facsimiles of bingo cards and are used for the purpose of marking and monitoring players' cards as numbers are called, or (iii) Board-approved cards, in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random.

"Bona fide member" means an individual who participates in activities of a qualified organization other than such organization's charitable gaming activities.

"Charitable gaming" or "charitable games" means those raffles, Texas Hold'em poker tournaments, and games of chance explicitly authorized by this article. Unless otherwise specified, "charitable gaming" includes electronic gaming authorized by this article.

"Charitable gaming permit" or "permit" means a permit issued by the Director to an organization that authorizes such organization to conduct charitable gaming, and if such organization is qualified as a social organization, electronic gaming.

"Charitable gaming supplies" includes bingo cards or sheets, devices for selecting bingo numbers, instant bingo cards, pull-tab cards and seal cards, playing cards for Texas Hold'em poker, poker chips, and any other equipment or product manufactured for or intended to be used in the conduct of charitable games. However, for the purposes of this article, charitable gaming supplies shall not include items incidental to the conduct of charitable gaming such as markers, wands, or tape.

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets, (ii) calling bingo games, (iii) distributing prizes, and (iv) any other services provided by volunteer workers.

"Electronic gaming" or "electronic games" means any instant bingo, pull tabs, or seal card gaming that is conducted primarily by use of an electronic device. "Electronic gaming" does not include (i) the game of chance identified in clause (ii) of the definition of "bingo" or (ii) network bingo.

"Electronic gaming adjusted gross receipts" means the gross receipts derived from electronic gaming less the total amount in prize money paid out to players.

"Electronic gaming manufacturer" means a manufacturer of electronic devices used to conduct electronic gaming.

"Fair market rental value" means the rent that a rental property will bring when offered for lease by a lessor who desires to lease the property but is not obligated to do so and leased by a lessee under no necessity of leasing.

"Gaming expenses" means prizes, supplies, costs of publicizing gaming activities, audit and administration or permit fees, and a portion of the rent, utilities, accounting and legal fees, and such other reasonable and proper expenses as are directly incurred for the conduct of charitable gaming.

"Gross receipts" means the total amount of money generated by an organization from charitable gaming before the deduction of expenses, including prizes.

"Instant bingo," "pull tabs," or "seal cards" means specific games of chance played by the random selection of one or more individually prepacked cards with winners being determined by the preprinted or predetermined appearance of concealed letters, numbers, or symbols that must be exposed by the player to determine wins and losses and may include the use of a seal card that conceals one or more numbers or symbols that have been designated in advance as prize winners. Such cards may be dispensed by mechanical equipment.

"Jackpot" means a bingo game that the organization has designated on its game program as a jackpot game in which the prize amount is greater than \$100.

"Landlord" means any person or his agent, firm, association, organization, partnership, or corporation, employee, or immediate family member thereof, which owns and leases, or leases any

4118 premises devoted in whole or in part to the conduct of bingo games or other charitable gaming
4119 pursuant to this article, and any person residing in the same household as a landlord.

4120 "Management" means the provision of oversight of a gaming operation, which may include the
4121 responsibilities of applying for and maintaining a permit or authorization, compiling, submitting, and
4122 maintaining required records and financial reports, and ensuring that all aspects of the operation are in
4123 compliance with all applicable statutes and regulations.

4124 "Network bingo" means a specific bingo game in which pari-mutuel play is permitted.

4125 "Network bingo provider" means a person licensed by the Director to operate network bingo.

4126 "Operation" means the activities associated with production of a charitable gaming or electronic
4127 gaming activity, which may include (i) the direct on-site supervision of the conduct of charitable gaming
4128 and electronic gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming
4129 and electronic gaming designated by the organization's management.

4130 "Organization" means any one of the following:

4131 1. A volunteer fire department or volunteer emergency medical services agency or auxiliary unit
4132 thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the
4133 political subdivision where the volunteer fire department or volunteer emergency medical services
4134 agency is located as being a part of the safety program of such political subdivision;

4135 2. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
4136 Code, is operated, and has always been operated, exclusively for educational purposes, and awards
4137 scholarships to accredited public institutions of higher education or other postsecondary schools
4138 licensed or certified by the Board of Education or the State Council of Higher Education for Virginia;

4139 3. An athletic association or booster club or a band booster club established solely to raise funds for
4140 school-sponsored athletic or band activities for a public school or private school accredited pursuant to
4141 § 22.1-19 or to provide scholarships to students attending such school;

4142 4. An association of war veterans or auxiliary units thereof organized in the United States;

4143 5. A fraternal association or corporation operating under the lodge system;

4144 6. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
4145 Code and is operated, and has always been operated, exclusively to provide services and other
4146 resources to older Virginians, as defined in § 51.5-116;

4147 7. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
4148 Code and is operated, and has always been operated, exclusively to foster youth amateur sports;

4149 8. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
4150 Code and is operated, and has always been operated, exclusively to provide health care services or
4151 conduct medical research;

4152 9. An accredited public institution of higher education or other postsecondary school licensed or
4153 certified by the Board of Education or the State Council of Higher Education for Virginia that is exempt
4154 from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

4155 10. A church or religious organization that is exempt from income tax pursuant to § 501(c)(3) of the
4156 Internal Revenue Code;

4157 11. An organization that is exempt from income tax pursuant to § 501(c)(3) or 501(c)(4) of the
4158 Internal Revenue Code and is operated, and has always been operated, exclusively to (i) create and
4159 foster a spirit of understanding among the people of the world; (ii) promote the principles of good
4160 government and citizenship; (iii) take an active interest in the civic, cultural, social, and moral welfare
4161 of the community; (iv) provide a forum for the open discussion of matters of public interest; (v)
4162 encourage individuals to serve the community without personal financial reward; and (vi) encourage
4163 efficiency and promote high ethical standards in commerce, industries, professions, public works, and
4164 private endeavors;

4165 12. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
4166 Code and is operated, and has always been operated, exclusively to (i) raise awareness of
4167 law-enforcement officers who died in the line of duty; (ii) raise funds for the National Law Enforcement
4168 Officers Memorial and Museum; and (iii) raise funds for the charitable causes of other organizations
4169 that are exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue Code;

4170 13. An organization that is exempt from income tax pursuant to § 501(c)(3) of the Internal Revenue
4171 Code and is operated, and has always been operated, exclusively to (i) promote the conservation of the
4172 environment, caves, or other natural resources; (ii) promote or develop opportunities for the use of
4173 science and technology to advance the conservation of the environment, caves, or other natural
4174 resources; and (iii) raise funds for the conservation of the environment, caves, or other natural
4175 resources or provide grant opportunities to other nonprofit organizations that are devoted to such
4176 conservation efforts;

4177 14. A local chamber of commerce; or

4178 15. Any other nonprofit organization that is exempt from income tax pursuant to § 501(c) of the
4179 Internal Revenue Code and that raises funds by conducting raffles, bingo, instant bingo, pull tabs, or

seal cards that generate annual gross receipts of \$40,000 or less, provided that such gross receipts, less expenses and prizes, are used exclusively for charitable, educational, religious, or community purposes. Notwithstanding § 58.1-4059, proceeds from instant bingo, pull tabs, and seal cards shall be included when calculating an organization's annual gross receipts for the purposes of this subdivision.

"Pari-mutuel play" means an integrated network comprised of participating charitable organizations for the conduct of network bingo games in which the purchase of a network bingo card by a player automatically includes the player in a pool with all other players in the network, and where the prize to the winning player is awarded based on a percentage of the total amount of network bingo cards sold in a particular network.

"Qualified organization" means any organization to which a valid permit has been issued by the Director to conduct charitable gaming or any organization that is exempt pursuant to § 58.1-4053.

"Raffle" means a lottery in which the prize is won by (i) a random drawing of the name or prearranged number of one or more persons purchasing chances or (ii) a random contest in which the winning name or preassigned number of one or more persons purchasing chances is determined by a race involving inanimate objects floating on a body of water, commonly referred to as a "duck race."

"Reasonable and proper business expenses" means business expenses actually incurred by a qualified organization in the conduct of charitable gaming and not otherwise allowed under this article or under Board regulations on real estate and personal property tax payments, travel expenses, payments of utilities and trash collection services, legal and accounting fees, costs of business furniture, fixtures and office equipment and costs of acquisition, maintenance, repair, or construction of an organization's real property. For the purpose of this definition, salaries and wages of employees whose primary responsibility is to provide services for the principal benefit of an organization's members may qualify as a business expense, if so determined by the Director. However, payments made pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund shall be deemed a reasonable and proper business expense.

"Social organization" means any qualified organization that provides certification to the Director that it is:

1. An accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia qualified under § 501(c)(3) of the Internal Revenue Code;

2. A fraternal beneficiary society, order, or association qualified under § 501(c)(8) of the Internal Revenue Code;

3. A domestic fraternal society, order, or association qualified under § 501(c)(10) of the Internal Revenue Code; or

4. A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization qualified under § 501(c)(19) of the Internal Revenue Code.

"Social quarters" means, in addition to any specifications prescribed by the Board, an area at a social organization's primary location that (i) such organization designates to be used predominantly by its members for social and recreational activities, (ii) is accessible exclusively to members of the social organization and their guests, and (iii) is not advertised or open to the general public. It shall not disqualify the area from being considered social quarters if guests occasionally accompany members into the area, so long as such guests do not spend their own funds to participate in charitable gaming or electronic gaming activities conducted in the area. In determining if an area is social quarters for purposes of § 58.1-4065, the Director may rely on publications of the Internal Revenue Service regarding the allowable participation of guests in an organization's social and recreational activities for purposes of § 501 of the Internal Revenue Code.

"Supplier" means any person who offers to sell, sells, or otherwise provides charitable gaming supplies to any qualified organization.

"Texas Hold'em poker game" means a variation of poker in which (i) players receive two cards facedown that may be used individually, (ii) five cards shown face up are shared among all players in the game, (iii) players combine any number of their individual cards with the shared cards to make the highest five-card hand to win the value wagered during the game, and (iv) the ranking of hands and the rules of the game are governed by the official rules of the Poker Tournament Directors Association.

"Texas Hold'em poker tournament" or "tournament" means an organized competition of players (i) who pay a fixed fee for entry into the competition and for a certain amount of poker chips for use in the competition; (ii) who may be allowed to pay an additional fee, during set preannounced times of the competition, to receive additional poker chips for use in the competition; (iii) who may be seated at one or more tables simultaneously playing Texas Hold'em poker games; (iv) who upon running out of poker chips are eliminated from the competition; and (v) a pre-set number of whom are awarded prizes of value according to how long such players remain in the competition.

4241 **§ 58.1-4050. Powers and duties of the Director related to charitable gaming.**

4242 *The Director shall have all powers and duties necessary to carry out the provisions of this article*
4243 *and to exercise the control of charitable gaming as set forth in § 58.1-4048. Such powers and duties*
4244 *shall include the following:*

4245 *1. The Director is vested with jurisdiction and supervision over all charitable gaming authorized*
4246 *under the provisions of this article and including all persons that conduct or provide goods, services, or*
4247 *premises used in the conduct of charitable gaming. He may employ such persons as are necessary to*
4248 *ensure that charitable gaming is conducted in conformity with the provisions of this article and Board*
4249 *regulations. The Director shall designate such agents and employees as he deems necessary and*
4250 *appropriate who shall be sworn to enforce the provisions of this article and the criminal laws of the*
4251 *Commonwealth and who shall be law-enforcement officers as defined in § 9.1-101.*

4252 *2. The Director, agents and employees of the Department, and any law-enforcement officers charged*
4253 *with the enforcement of charitable gaming laws shall have free access to the offices, facilities, or any*
4254 *other place of business of any organization, including any premises devoted in whole or in part to the*
4255 *conduct of charitable gaming. These individuals may enter such places or premises for the purpose of*
4256 *carrying out any duty imposed by this article, securing records required to be maintained by an*
4257 *organization, investigating complaints, or conducting audits.*

4258 *3. The Director may compel the production of any books, documents, records, or memoranda of any*
4259 *organization, electronic gaming manufacturer, or supplier involved in the conduct of charitable gaming*
4260 *for the purpose of satisfying itself that this article and its regulations are strictly complied with. In*
4261 *addition, the Director may require the production of an annual balance sheet and operating statement of*
4262 *any person granted a permit pursuant to the provisions of this article and may require the production of*
4263 *any contract to which such person is or may be a party.*

4264 *4. The Director may issue subpoenas for the attendance of witnesses before the Department,*
4265 *administer oaths, and compel production of records or other documents and testimony of such witnesses*
4266 *whenever, in the judgment of the Director, it is necessary to do so for the effectual discharge of his*
4267 *duties.*

4268 *5. The Director may compel any person conducting charitable gaming to file with the Department*
4269 *such documents, information, or data as shall appear to the Director to be necessary for the*
4270 *performance of his duties.*

4271 *6. The Director may enter into arrangements with any governmental agency of this or any other*
4272 *state or any locality in the Commonwealth or any agency of the federal government for the purposes of*
4273 *exchanging information or performing any other act to better ensure the proper conduct of charitable*
4274 *gaming.*

4275 *7. The Director may issue a charitable gaming permit while the permittee's tax-exempt status is*
4276 *pending approval by the Internal Revenue Service.*

4277 *8. The Director shall report annually to the Governor and the General Assembly, which report shall*
4278 *include a financial statement of the operation of the Department and any recommendations for*
4279 *legislation applicable to charitable gaming in the Commonwealth.*

4280 *9. The Director and agents and employees of the Department may conduct such audits, in addition to*
4281 *those required by § 58.1-4069, as they deem necessary and desirable.*

4282 *10. The Director may limit the number of organizations for which a person may manage, operate, or*
4283 *conduct charitable games.*

4284 *11. The Director may report any alleged criminal violation of this article to the appropriate attorney*
4285 *for the Commonwealth for appropriate action.*

4286 *12. Beginning July 1, 2024, and at least once every five years thereafter, the Director, or his*
4287 *designee, shall convene a stakeholder work group to review the limitations on prize amounts and*
4288 *provide any recommendations to the General Assembly by November 30 of the year in which the*
4289 *stakeholder work group is convened.*

4290 **§ 58.1-4051. Powers and duties of the Board related to charitable gaming.**

4291 *A. The Board shall have the power and duty to:*

4292 *1. Require, as a condition of receiving a charitable gaming permit or authorization to conduct*
4293 *electronic gaming, that the applicant use a predetermined percentage of its receipts for (i) those lawful*
4294 *religious, charitable, community, or educational purposes for which the organization is specifically*
4295 *chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance, or*
4296 *repair of any interest in real property involved in the operation of the organization and used for lawful*
4297 *religious, charitable, community, or educational purposes, as follows:*

4298 *a. With respect to charitable gaming, other than electronic gaming, a predetermined percentage of*
4299 *its gross receipts.*

4300 *b. With respect to electronic gaming, a predetermined percentage of its electronic gaming adjusted*
4301 *gross receipts.*

4302 *2. Specify the conditions under which a complete list of the organization's members who participate*

in the management, operation, or conduct of charitable gaming may be required in order for the Director to ascertain the percentage of Virginia residents in accordance with subdivision A 3 of § 58.1-4054.

Membership lists furnished to the Board in accordance with this subdivision shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

3. Prescribe fees for processing applications for charitable gaming permits and authorizing social organizations to conduct electronic gaming. Such fees may reflect the nature and extent of the charitable gaming activity proposed to be conducted.

4. Establish requirements for the audit of all reports required in accordance with §§ 58.1-4067 and 58.1-4068.

5. Define electronic and mechanical equipment used in the conduct of charitable gaming. Board regulations shall include capacity for such equipment to provide full automatic daubing as numbers are called. For the purposes of this subdivision, electronic or mechanical equipment for instant bingo, pull tabs, or seal cards shall include such equipment that displays facsimiles of instant bingo, pull tabs, or seal cards and are used solely for the purpose of dispensing or opening such paper or electronic cards, or both; but shall not include (i) devices operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to rest, or (ii) other similar devices that display flashing lights or illuminations, or bells, whistles, or other sounds, solely intended to entice players to play. Such regulations shall not prohibit the use of multiple video monitors or touchscreens on an electronic gaming device.

6. Prescribe the conditions under which a qualified organization may (i) provide food and nonalcoholic beverages to its members who participate in the management, operation, or conduct of bingo; (ii) permit members who participate in the management, operation, or conduct of bingo to play bingo; and (iii) subject to the provisions of subdivision 12 of § 58.1-4073, permit nonmembers to participate in the conduct of bingo so long as the nonmembers are under the direct supervision of a bona fide member of the organization during the bingo game.

7. Prescribe the conditions under which a qualified organization may sell raffle tickets for a raffle drawing that will be held outside the Commonwealth pursuant to subsection B of § 58.1-4058.

8. Prescribe the conditions under which persons who are bona fide members of a qualified organization or a child, above the age of 13 years, of a bona fide member of such organization may participate in the conduct or operation of bingo games.

9. Prescribe the conditions under which a person below the age of 18 years may play bingo, provided that such person is accompanied by his parent or legal guardian.

10. Require all qualified organizations that are subject to Board regulations to post in a conspicuous place in every place where charitable gaming is conducted a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers.

11. Prescribe the conditions under which a qualified organization may sell network bingo cards in accordance with § 58.1-4061 and establish a percentage of proceeds derived from network bingo sales to be allocated to (i) prize pools, (ii) the organization conducting the network bingo, and (iii) the network bingo provider. The regulations shall also establish procedures for the retainage and ultimate distribution of any unclaimed prize.

12. Prescribe the conditions under which a qualified organization may manage, operate, or contract with operators of, or conduct Texas Hold'em poker tournaments.

13. Prescribe the conditions under which a qualified organization may lease the premises of a permitted social organization for the purpose of conducting bingo, network bingo, instant bingo, pull tabs, seal cards, and electronic gaming permitted under this article and establish requirements for proper financial reporting of all disbursements, gross receipts, and electronic gaming adjusted gross receipts and payment of all fees required under this article.

14. Require any landlord that leases to a qualified organization any premises devoted in whole or in part to the conduct of bingo games or any other charitable gaming to register with the Board.

B. The Board may, by regulation, approve variations to the card formats for bingo games, provided that such variations result in bingo games that are conducted in a manner consistent with the provisions of this article. Board-approved variations may include bingo games commonly referred to as player selection games and 90-number bingo.

§ 58.1-4052. Permitted forms of gaming; prizes not gaming contracts.

A. This article permits qualified organizations to conduct (i) raffles, bingo, network bingo, instant bingo games, and Texas Hold'em poker tournaments and (ii) electronic gaming authorized pursuant to

4364 the provisions of § 58.1-4065. All games not explicitly authorized by this article or Board regulations
 4365 adopted in accordance with § 58.1-4051 are prohibited. Nothing herein shall be construed to authorize
 4366 the Board to approve the conduct of any other form of poker in the Commonwealth.

4367 B. The award of any prize money for any charitable game shall not be deemed to be part of any
 4368 gaming contract within the purview of § 11-14.

4369 C. Nothing in this article shall prohibit an organization from using the Department's Pick-3 number
 4370 or any number or other designation selected by the Department in connection with any lottery operated
 4371 pursuant to Article 1 (§ 58.1-4000 et seq.), as the basis for determining the winner of a raffle.

4372 **§ 58.1-4053. Organizations exempt from certain fees and reports.**

4373 A. No organization that reasonably expects, based on prior charitable gaming annual results or any
 4374 other quantifiable method, to realize gross receipts of \$40,000 or less in any 12-month period from
 4375 raffles conducted in accordance with the provisions of this article shall be required to (i) notify the
 4376 Director of its intention to conduct raffles or (ii) comply with Board regulations governing raffles. If
 4377 any organization's actual gross receipts from raffles for the 12-month period exceed \$40,000, the
 4378 Director shall require the organization to file by a specified date the report required by § 58.1-4067.

4379 B. Any (i) organization described in subdivision 15 of the definition of "organization" in § 58.1-4049
 4380 or (ii) volunteer fire department or volunteer emergency medical services agency or auxiliary unit
 4381 thereof that has been recognized in accordance with § 15.2-955 by an ordinance or resolution of the
 4382 political subdivision where the volunteer fire department or volunteer emergency medical services
 4383 agency is located as being part of the safety program of such political subdivision shall be exempt from
 4384 the payment of application fees required by § 58.1-4055 and the payment of audit fees required by
 4385 § 58.1-4069. Any such organization, department, agency, or unit that conducts electronic gaming shall
 4386 be subject to such application fees and audit fees for its electronic gaming activities; however, in
 4387 accordance with the provisions of § 58.1-4069, any audit fees may be paid by either the organization or
 4388 the electronic gaming manufacturer whose electronic gaming devices are present on the premises of the
 4389 organization, department, agency, or unit. Nothing in this subsection shall be construed as exempting
 4390 any organizations described in subdivision 15 of the definition of "organization" in § 58.1-4049,
 4391 volunteer fire departments, or volunteer emergency medical services agencies from any other provisions
 4392 of this article or other Board regulations.

4393 C. Nothing in this section shall prevent the Director from conducting any investigation or audit it
 4394 deems appropriate to ensure an organization's compliance with the provisions of this article and, to the
 4395 extent applicable, Board regulations.

4396 **§ 58.1-4054. Eligibility for permit; exceptions; where valid.**

4397 A. To be eligible for a permit to conduct charitable gaming, an organization shall:

4398 1. Have been in existence and met on a regular basis in the Commonwealth for a period of at least
 4399 three years immediately prior to applying for a permit.

4400 The three-year residency requirement shall not apply (i) to any lodge or chapter of a national or
 4401 international fraternal order or of a national or international civic organization which is exempt under
 4402 § 501(c) of the United States Internal Revenue Code and which has a lodge or chapter holding a
 4403 charitable gaming permit issued under the provisions of this article anywhere within the
 4404 Commonwealth; (ii) to booster clubs which have been operating for less than three years and which
 4405 have been established solely to raise funds for school-sponsored activities in public schools or private
 4406 schools accredited pursuant to § 22.1-19; (iii) to recently established volunteer fire and rescue
 4407 companies or departments, after county, city, or town approval; or (iv) to an organization which
 4408 relocates its meeting place on a permanent basis from one jurisdiction to another, complies with the
 4409 requirements of subdivision 2 of this section, and was the holder of a valid permit at the time of its
 4410 relocation.

4411 2. Be operating currently and have always been operated as a nonprofit organization.

4412 3. Have at least 50 percent of its membership consist of residents of the Commonwealth; however, if
 4413 an organization (i) does not consist of bona fide members and (ii) is exempt under § 501(c)(3) of the
 4414 United States Internal Revenue Code, the Director shall exempt such organizations from the
 4415 requirements of this subdivision.

4416 B. Any organization whose gross receipts from all charitable gaming exceeds or can be expected to
 4417 exceed \$40,000 in any calendar year shall have been granted tax-exempt status pursuant to § 501(c) of
 4418 the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal
 4419 Revenue Service, the same documentation may be filed with the Director in conjunction with an
 4420 application for a charitable gaming permit. If such documentation is filed, the Director may, after
 4421 reviewing such documentation it deems necessary, issue a charitable gaming permit.

4422 C. A permit shall be valid only for the dates and times designated in the permit.

4423 **§ 58.1-4055. Permit required; application fee; form of application.**

4424 A. Except as provided for in § 58.1-4053, prior to the commencement of any charitable game, an
 4425 organization shall obtain a permit from the Director.

B. All complete applications for a permit shall be acted upon by the Director within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Director, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than two years. The application shall be a matter of public record.

All permits shall be subject to regulation by the Board to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Director. The Director may require any prospective employee, permit holder, or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with employee's, licensee's, or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder, or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, licensee, or applicant record or notification that no record exists, shall forward the report to the Director. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Board and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of permits shall be made in accordance with Board regulations. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Director has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 58.1-4054 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

§ 58.1-4056. Denial, suspension, or revocation of permit; hearings and appeals.

A. The Director may deny, suspend, or revoke the permit of any organization found not to be in strict compliance with the provisions of this article and Board regulations. The action of the Director in denying, suspending, or revoking any permit shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

B. Except as provided in §§ 8.01-534, 58.1-4055, 58.1-4067, 58.1-4068, and subsections D and E of 58.1-4056, no permit to conduct charitable gaming or authorization to conduct electronic gaming shall be denied, suspended, or revoked, and no charitable games or funds from charitable gaming operations shall be seized, except upon notice stating the proposed basis for such action and the time and place for the hearing. At the discretion of the Director, hearings may be conducted by hearing officers who shall be selected from the list prepared by the Executive Secretary of the Supreme Court. After a hearing on the issues, the Director may refuse to issue or may suspend or revoke any such permit or authorization if he determines that the organization has not complied with the provisions of this article or Board regulations.

C. Any person aggrieved by a refusal of the Director to issue any permit, the suspension or revocation of a permit, or any other action of the Director may seek review of such action in accordance with Article 4 (§ 2.2-4025 et seq.) of the Administrative Process Act.

D. When any officer charged with the enforcement of the charitable gaming laws of the Commonwealth has reasonable cause to believe that the conduct of charitable gaming is being conducted by an organization in violation of this article or Board regulations, he may apply to any judge, magistrate, or other person having authority to issue criminal warrants for the immediate suspension of the permit of the organization conducting the bingo game or raffle. If the judge, magistrate, or person to whom such application is presented is satisfied that probable cause exists to suspend the permit, he shall suspend the permit. Immediately upon such suspension, the officer shall notify the organization in writing of such suspension.

E. Written notice specifying the particular basis for the immediate suspension issued pursuant to subsection D shall be provided by the officer to the organization within one business day of the suspension and a hearing held thereon by the Director or his designated hearing officer within 10 days of the suspension unless the organization consents to a later date. No charitable gaming shall be conducted by the organization until the suspension has been lifted by the Director or a court of competent jurisdiction.

§ 58.1-4057. Authorization to conduct electronic gaming required; fee.

A. In addition to a charitable gaming permit, a social organization shall receive authorization from the Director prior to conducting any electronic gaming pursuant to the provisions of § 58.1-4065. A social organization may request such authorization from the Director by providing certain information,

4487 as determined by the Board on a form prescribed by the Board.

4488 B. All requests for authorization to conduct electronic gaming shall be acted upon by the Director
4489 within 45 days from the date of the request. A social organization that meets the necessary requirements
4490 pursuant to this article may be, at the discretion of the Director, authorized to conduct electronic
4491 gaming pursuant to the provisions of § 58.1-4065. Any such authorization granted by the Director shall
4492 be noted on the social organization's charitable gaming permit and shall be valid for the time specified
4493 in the permit unless it is sooner suspended or revoked. No authorization to conduct electronic gaming
4494 shall be valid for longer than two years. All requests received by the Director shall be a matter of
4495 public record.

4496 All authorizations to conduct electronic gaming shall be subject to regulation by the Board to ensure
4497 the public safety and welfare in the operation of electronic games. The authorization shall only be
4498 granted after a reasonable investigation has been conducted by the Director.

4499 C. In no case shall a social organization be authorized to conduct electronic gaming at more than
4500 one location.

4501 D. Requests for authorization to conduct electronic gaming shall be made on forms prescribed by the
4502 Board and shall be accompanied by payment of a fee.

4503 E. Requests for renewal of such authorizations shall be made in accordance with Board regulations.
4504 If a complete renewal request is received 45 days or more prior to the expiration of the authorization,
4505 the authorization shall continue to be effective until such time as the Director has taken final action.
4506 Otherwise, the authorization shall expire at the end of its term.

4507 **§ 58.1-4058. Sale of raffle tickets; drawings.**

4508 A. Except as provided in subsection B, a qualified organization may sell raffle tickets both in and out
4509 of the jurisdiction designated in its permit and shall conduct the drawing within the Commonwealth.

4510 B. A qualified organization may sell raffle tickets for a raffle drawing which will be held outside the
4511 Commonwealth, provided the raffle is conducted in accordance with (i) Board regulations and (ii) the
4512 laws and regulations of the jurisdiction in which the raffle drawing will be held.

4513 C. Before a prize drawing, each stub or other detachable section of each ticket sold or won through
4514 some other authorized charitable game conducted by the same organization holding the raffle, shall be
4515 placed into a receptacle from which the winning tickets are drawn. The receptacle shall be designed so
4516 that each ticket placed in it has an equal chance of being drawn.

4517 **§ 58.1-4059. Sale of instant bingo, pull tabs, or seal cards.**

4518 A. Instant bingo, pull tabs, or seal cards may be sold only (i) by a qualified organization, as defined
4519 in § 58.1-4049, (ii) upon premises that are owned or exclusively and entirely leased by the qualified
4520 organization or leased by the qualified organization pursuant to subsection C, and (iii) at such times
4521 that the premises in which the instant bingo, pull tabs, or seal cards are sold is open only to members
4522 and their guests via controlled access. Except as provided in subsection C, no organization may sell
4523 instant bingo, pull tabs, or seal cards (a) at a location outside of the county, city, or town in which the
4524 organization's principal office, as registered with the State Corporation Commission, is located or in an
4525 adjoining county, city, or town or (b) at an establishment that has been granted a license pursuant to
4526 Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization. Nothing in this
4527 article shall be construed to prohibit the conduct of games of chance involving the sale of pull tabs, or
4528 seal cards, commonly known as last sale games, conducted in accordance with this section or, if such
4529 games are electronic games, in accordance with § 58.1-4065.

4530 B. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards
4531 except as permitted under § 58.1-4065.

4532 C. Notwithstanding the provisions of subsection A, a qualified organization may lease the premises of
4533 any social organization authorized pursuant to § 58.1-4065 for the purpose of selling instant bingo, pull
4534 tabs, or seal cards.

4535 **§ 58.1-4060. Sale of instant bingo, pull tabs, or seal cards by certain booster clubs.**

4536 As a part of its annual fund-raising event, any qualified organization that is an athletic association
4537 or booster club or a band booster club may sell instant bingo, pull tabs, or seal cards, provided that (i)
4538 the sale is limited to a single event in a calendar year and (ii) the event is open to the public. The
4539 Director may require organizations authorized under this section to make such financial reporting as it
4540 deems necessary.

4541 Nothing in this section shall be construed as exempting organizations authorized to sell instant
4542 bingo, pull tabs, or seal cards under this section from any other provisions of this article or other
4543 Board regulations.

4544 **§ 58.1-4061. Sale of network bingo cards.**

4545 A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may
4546 also sell network bingo cards; however, network bingo shall be sold only at such times designated in
4547 the permit for regular bingo games and only at locations at which the organization is authorized to
4548 conduct regular bingo games pursuant to subsections E and F of § 58.1-4062.

B. Any organization selling network bingo cards shall maintain a record of the date and quantity of network bingo cards purchased from a licensed network bingo provider. The organization shall also maintain a written invoice or receipt from a licensed supplier verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization or by electronic fund transfer. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where network bingo cards are sold.

C. No qualified organization shall sell any network bingo cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or redeem any network bingo cards.

D. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in any network bingo game. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in network bingo games.

E. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in network bingo games.

F. No qualified organization shall conduct network bingo more frequently than one day in any calendar week, which shall not be the same day of each week.

G. No qualified organization shall sell network bingo cards on the Internet or other online service or allow the play of network bingo on the Internet or other online service. However, the location where network bingo games are conducted shall be equipped with a video monitor, television, or video screen, or any other similar means of visually displaying a broadcast or signal, that relays live, real-time video of the numbers as they are called by a live caller. The Internet or other online service may be used to relay information about winning players.

H. Qualified organizations may award network bingo prizes on a graduated scale; however, no single network bingo prize shall exceed \$25,000.

I. Nothing in this section shall be construed to prohibit an organization from participating in more than one network bingo network.

§ 58.1-4062. Conduct of bingo games.

A. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in bingo games.

C. Bingo games may be held by qualified organizations on any calendar day.

D. Qualified organizations may hold an unlimited number of bingo sessions on any calendar day.

E. Except as provided in subsection F, no organization may conduct bingo games (i) at a location outside of the county, city, or town in which its principal office, as registered with the State Corporation Commission, is located or in an adjoining county, city, or town or (ii) at an establishment that has been granted a license pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 unless such license is held by the organization.

F. Notwithstanding the provisions of subsection E, a qualified organization may lease the premises of any social organization authorized pursuant to § 58.1-4065 for the purpose of conducting bingo games.

§ 58.1-4063. Conduct of instant bingo, network bingo, pull tabs, and seal cards.

A. Any organization qualified to conduct bingo games pursuant to the provisions of this article may also play instant bingo, network bingo, pull tabs, or seal cards; however, such games shall be played only at such times designated in the permit for regular bingo games and only at locations at which the organization is authorized to conduct regular bingo games pursuant to subsections E and F of § 58.1-4062. It is prohibited to use an electronic device to conduct instant bingo, pull tabs, or seal cards except as permitted under § 58.1-4065.

B. Any organization conducting instant bingo, network bingo, pull tabs, or seal cards shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection. Such supplies shall be paid for only by check drawn on the gaming account of the organization. A complete inventory of all such gaming supplies shall be maintained by the organization on the premises where the gaming is being conducted.

C. No qualified organization shall sell any instant bingo, network bingo, pull tabs, or seal cards to any individual younger than 18 years of age. No individual younger than 18 years of age shall play or

4610 redeem any instant bingo, network bingo, pull tabs, or seal cards.

4611 D. No qualified organization or any person on the premises shall extend lines of credit or accept any
4612 credit or other electronic fund transfer other than debit cards in payment of any charges or assessments
4613 for players to participate in instant bingo, network bingo, pull tabs, or seal cards.

4614 **§ 58.1-4064. Joint operation of bingo games; written reports; joint permit required.**

4615 A. Any two or more qualified organizations may jointly organize and conduct bingo games provided
4616 both have fully complied with all other provisions of this article.

4617 B. Any two or more qualified organizations jointly conducting such games shall be (i) subject to the
4618 same restrictions and prohibitions contained in this article that would apply to a single organization
4619 conducting bingo games and (ii) required to furnish to the Director a written report setting forth the
4620 location where such games will be held, the division of manpower, costs, and proceeds for each game to
4621 be jointly conducted.

4622 Upon a finding that the division of manpower and costs for each game bears a reasonable
4623 relationship to the division of proceeds, the Director shall issue a joint permit.

4624 C. No bingo game shall be jointly conducted until the joint permit issued pursuant to subsection B is
4625 obtained by the organizations.

4626 **§ 58.1-4065. Electronic gaming; penalty.**

4627 A. The Director may authorize a social organization to conduct electronic gaming (i) within its
4628 social quarters and (ii) elsewhere on the premises of its primary location. Any such authorized social
4629 organization may lease its premises to any qualified organization for the purpose of conducting
4630 electronic gaming. A qualified organization that leases the premises of a social organization pursuant to
4631 this section shall be subject to the rules and regulations prescribed by the Board. No other electronic
4632 gaming shall be allowed under this article. Any person who conducts or participates in electronic
4633 gaming that is not authorized under this section shall be subject to the penalties specified in
4634 § 58.1-4075.

4635 B. A social organization may request authorization from the Director to conduct electronic gaming
4636 pursuant to this section in accordance with the procedures established under §§ 58.1-4055 and
4637 58.1-4056. Any fee charged by the Director for the purpose of such authorization shall be in addition to
4638 any fee charged for a charitable gaming permit. Any charitable gaming permit that also authorizes a
4639 social organization to conduct electronic gaming shall identify the expiration date of such authorization
4640 and the number of electronic gaming devices authorized at the location.

4641 C. A social organization and any qualified organization that leases the premises of a social
4642 organization pursuant to this section are prohibited from advertising any electronic gaming activities to
4643 the general public.

4644 D. The Board may authorize a maximum of 18 electronic gaming devices at a location. Each such
4645 device shall bear a mark indicating it has been authorized and approved by the Board.

4646 E. An electronic gaming manufacturer that has been issued a permit by the Director in accordance
4647 with § 58.1-4070 shall report all electronic gaming adjusted gross receipts pursuant to the provisions of
4648 § 58.1-4068.

4649 F. The use of electronic gaming devices utilizing multiple video monitors or touchscreens shall be
4650 limited to one player at a time.

4651 G. No social organization or qualified organization leasing the premises of a social organization
4652 shall allow any individual younger than 21 years of age to participate in electronic gaming. No
4653 individual younger than 21 years of age shall participate in electronic gaming or otherwise use an
4654 electronic device to play or redeem any instant bingo, pull tabs, or seal cards.

4655 H. No social organization or any qualified organization leasing the premises of a social organization
4656 shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards
4657 in payment of any charges or assessments for players to participate in electronic gaming.

4658 **§ 58.1-4066. Conduct of Texas Hold'em poker tournaments by qualified organizations; limitation
4659 of operator fee; conditions.**

4660 A. Any organization qualified to conduct bingo games on or after July 1, 2019, may conduct Texas
4661 Hold'em poker tournaments; however, no such organization may conduct individual Texas Hold'em
4662 poker games. The Board shall promulgate regulations establishing circumstances under which
4663 organizations qualified to conduct bingo games prior to July 1, 2019, may conduct Texas Hold'em poker
4664 tournaments.

4665 B. A qualified organization may contract with an operator to administer Texas Hold'em poker
4666 tournaments. Limitations on operator fees shall be established by Board regulations.

4667 C. A qualified organization shall accept only cash or, at its option, checks in payment of any
4668 charges or assessments for players to participate in Texas Hold'em poker tournaments. However, no
4669 such organization shall accept postdated checks in payment of any charges or assessments for players to
4670 participate in Texas Hold'em poker tournaments.

4671 D. No qualified organization or any person on the premises shall extend lines of credit or accept any

credit or debit card or other electronic fund transfer in payment of any charges or assessments for players to participate in Texas Hold'em poker tournaments.

E. No qualified organization shall allow any individual younger than 18 years of age to participate in Texas Hold'em poker tournaments.

§ 58.1-4067. Reports of gross receipts, electronic gaming adjusted gross receipts, and disbursements required; form of reports; failure to file.

A. 1. Each qualified organization shall keep a complete record of all:

a. Inventory of charitable gaming supplies purchased.

b. Receipts from its charitable gaming operation, including a breakdown of receipts attributable to each type of game offered.

c. Electronic gaming adjusted gross receipts.

d. Disbursements related to charitable gaming and electronic gaming operations, including a breakdown of disbursements for each purpose specified in subdivision 1 of § 58.1-4073.

2. Except as provided in §§ 58.1-4053 and 58.1-4068, each qualified organization shall file under penalty of perjury and at least annually, on a form prescribed by the Board, a report of all receipts and disbursements specified in subdivision 1, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report, and any other information related to its charitable gaming operation that the Board may require. In addition, the Director, by regulation, may require any qualified organization whose net receipts exceed a specified amount during any three-month period to file a report of its receipts and disbursements for such period. All reports filed pursuant to this section shall be a matter of public record.

B. All reports required by this section shall be filed on or before the date prescribed by the Board. The Director, by regulation, shall establish a schedule of late fees to be assessed for any organization that fails to submit required reports by the due date.

C. Except as provided in § 58.1-4053, each qualified organization shall designate or compensate an outside individual or group who shall be responsible for filing an annual, and, if required, quarterly, financial report if the organization goes out of business or otherwise ceases to conduct charitable gaming activities. The Director shall require such reports as he deems necessary until all proceeds of any charitable gaming have been used for the purposes specified in § 58.1-4051 or have been disbursed in a manner approved by the Board.

D. Each qualified organization shall maintain for three years a complete written record of (i) all charitable gaming sessions using Board prescribed forms or reasonable facsimiles thereof approved by the Board; (ii) the name and address of each individual to whom is awarded any charitable gaming prize or jackpot that meets or exceeds the requirements of Internal Revenue Service Publication 3079, as well as the amount of the award; and (iii) an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

E. The failure to file reports within 30 days of the time such reports are due shall cause the automatic revocation of the permit, and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained. However, the Director may grant an extension of time for filing such reports for a period not to exceed 45 days if requested by an organization, provided the organization requests an extension within 15 days of the time such reports are due and all projected fees are paid. For the term of any such extension, the organization's permit shall not be automatically revoked, such organization may continue to conduct charitable gaming, or electronic gaming if authorized to do so pursuant to the provisions of this article, and no new permit shall be required.

F. For purposes of this section, the requirement to file a report shall also include the payment of any applicable fees required to accompany such report.

§ 58.1-4068. Reports of electronic gaming adjusted gross receipts by electronic gaming manufacturer required; form of reports; failure to file.

A. Each electronic gaming manufacturer that holds a permit issued by the Director pursuant to § 58.1-4070 shall keep a complete record of all electronic gaming adjusted gross receipts and shall file at least annually, on a form prescribed by the Board, a report of all such receipts and any other information related to the manufacture of electronic gaming devices that the Board may require.

B. The report required by this section shall be filed on or before the date prescribed by the Board. The Board, by regulation, shall establish a schedule of late fees to be assessed for any electronic gaming manufacturer that fails to submit required reports by the due date.

C. Each electronic gaming manufacturer shall maintain for three years a complete written record of all electronic gaming adjusted gross receipts.

D. The failure to file the report required by this section within 30 days of the time such report is due shall cause the automatic revocation of the electronic gaming manufacturer's permit, and no such manufacturer shall manufacture any new electronic gaming device until the report is properly filed and

4733 a new permit is obtained. However, the Director may grant an extension of time for filing such report
4734 for a period not to exceed 45 days if requested by a manufacturer, provided that the manufacturer
4735 requests an extension within 15 days of the time such report is due and all projected fees are paid. For
4736 the term of any such extension, the manufacturer's permit shall not be automatically revoked, such
4737 manufacturer may continue to manufacture electronic gaming devices, and no new permit shall be
4738 required.

4739 E. For purposes of this section, the requirement to file a report shall also include the payment of
4740 any applicable fees required to accompany such report.

4741 **§ 58.1-4069. Audit of reports; exemption; audit and administration fee; additional assessment of**
4742 **gross receipts and electronic gaming adjusted gross receipts.**

4743 A. All reports filed pursuant to §§ 58.1-4067 and 58.1-4068 shall be subject to audit by the Director
4744 in accordance with Board regulations. The Director may engage the services of independent certified
4745 public accountants to perform any audits deemed necessary to fulfill the Director's responsibilities under
4746 this article.

4747 B. The Board shall prescribe a reasonable audit and administration fee to be paid by (i) any
4748 organization conducting charitable gaming under a permit issued by the Director unless the
4749 organization is exempt from such fee pursuant to § 58.1-4053 or (ii) any electronic gaming
4750 manufacturer that holds a permit issued by the Director pursuant to § 58.1-4070. Such fee shall not
4751 exceed one-half of one percent of the gross receipts that an organization reports pursuant to
4752 § 58.1-4067 or one-half of one percent of the electronic gaming adjusted gross receipts that an
4753 electronic gaming manufacturer reports pursuant to § 58.1-4068. The audit and administration fee shall
4754 accompany each report for each calendar quarter.

4755 C. The audit and administration fee shall be payable to the Treasurer of Virginia. All such fees
4756 received by the Treasurer of Virginia shall be separately accounted for and shall be used only by the
4757 Department for the purposes of auditing and regulating charitable gaming.

4758 D. In addition to the fee imposed under subsection B, an additional fee of (i) one-quarter of one
4759 percent of the gross receipts that an organization reports pursuant to § 58.1-4067 shall be paid by the
4760 organization or (ii) one-quarter of one percent of the electronic gaming adjusted gross receipts that an
4761 electronic gaming manufacturer reports pursuant to § 58.1-4068 shall be paid by the electronic gaming
4762 manufacturer to the Treasurer of Virginia. All such amounts shall be collected and deposited in the
4763 same manner as prescribed in subsections B and C and shall be used for the same purposes.

4764 **§ 58.1-4070. Suppliers of charitable gaming supplies; manufacturers of electronic gaming devices;**
4765 **permit; qualification; suspension, revocation, or refusal to renew certificate; maintenance, production**
4766 **and release of records.**

4767 A. No person shall offer to sell, sell, or otherwise provide charitable gaming supplies to any
4768 qualified organization and no manufacturer shall distribute electronic gaming devices for charitable
4769 gaming in the Commonwealth unless and until such person has made application for and has been
4770 issued a permit by the Director. An application for permit shall be made on forms prescribed by the
4771 Board and shall be accompanied by a fee in the amount of \$1,000. Each permit shall remain valid for a
4772 period of one year from the date of issuance. Application for renewal of a permit shall be accompanied
4773 by a fee in the amount of \$1,000 and shall be made on forms prescribed by the Board.

4774 B. The Director shall have authority to prescribe by regulation reasonable criteria consistent with
4775 the provisions of this article for the registration of suppliers and manufacturers of electronic gaming
4776 devices for charitable gaming. The Director shall refuse to issue a permit to any supplier or
4777 manufacturer who has, or which has any officer, director, partner, or owner who has, (i) been convicted
4778 of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any
4779 offense that, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded
4780 nolo contendere to a crime involving gambling; (iii) violated the gaming laws of any jurisdiction within
4781 the last five years, including violations for failure to register; or (iv) had any license, permit, certificate,
4782 or other authority related to charitable gaming suspended or revoked in the Commonwealth or in any
4783 other jurisdiction within the last five years. The Director may refuse to issue a permit to any supplier or
4784 manufacturer who has, or which has any officer, director, partner, or owner who has, (a) failed to file
4785 or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes
4786 due the Commonwealth or (b) failed to establish a registered office or registered agent in the
4787 Commonwealth if so required by § 13.1-634 or 13.1-763.

4788 C. The Director shall suspend, revoke, or refuse to renew the permit of any supplier or manufacturer
4789 for any conduct described in clause (i), (ii), (iii), or (iv) of subsection B. The Director shall suspend,
4790 revoke, or refuse to renew the permit of any supplier or manufacturer for any conduct described in
4791 clause (a) or (b) of subsection B or for any violation of this article or regulation of the Board. Before
4792 taking any such action, the Director shall give the supplier or manufacturer a written statement of the
4793 grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a
4794 contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et

seq.).

D. Each supplier shall document each sale of charitable gaming supplies, including electronic gaming devices, and other items incidental to the conduct of charitable gaming, such as markers, wands, or tape, to a qualified organization on an invoice which clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each deal of instant bingo cards and pull-tab raffle cards, the quantity of deals sold, and the price per deal paid by the qualified organization; (iv) the serial number of the top sheet in each packet of bingo paper, the serial number for each series of uncollated bingo paper, and the cut, color, and quantity of bingo paper sold; and (v) any other information with respect to charitable gaming supplies, including electronic gaming devices, or other items incidental to the conduct of charitable gaming as the Director may prescribe by regulation. A legible copy of the invoice shall accompany the charitable gaming supplies when delivered to the qualified organization.

Each manufacturer of electronic gaming devices shall document each distribution of such devices to a qualified organization or supplier on an invoice which clearly shows (a) the name and address of the qualified organization or supplier to which such systems were distributed; (b) the date of distribution; (c) the serial number of each such device; and (d) any other information with respect to electronic gaming devices as the Director may prescribe by regulation. A legible copy of the invoice shall accompany the electronic gaming devices when delivered to the qualified organization or supplier.

E. Each supplier and manufacturer shall maintain a legible copy of each invoice required by subsection D for a period of three years from the date of sale. Each supplier and manufacturer shall make such documents immediately available for inspection and copying to the Director or any agent or employee of the Department upon request made during normal business hours. This subsection shall not limit the right of the Director to require the production of any other documents in the possession of the supplier or manufacturer which relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished in accordance with this subsection shall not be a matter of public record and shall be exempt from disclosure under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

F. Each supplier and manufacturer shall provide to the Director the results of background checks and any other records or documents necessary for the Director to enforce the provisions of subsections B and C.

§ 58.1-4071. Bingo managers and callers; remuneration; registration; qualification; suspension, revocation, or refusal to renew certificate; exceptions.

A. No person shall receive remuneration as a bingo manager or caller from any qualified organization unless and until such person has made application for and has been issued a registration certificate by the Director. Application for registration shall be made on forms prescribed by the Board and shall be accompanied by a fee in the amount of \$75. Each registration certificate shall remain valid for a period of one year from the date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$75 and shall be made on forms prescribed by the Board.

B. As a condition of registration as a bingo manager, the applicant shall (i) have been a bona fide member of the qualified organization for at least 12 consecutive months prior to making application for registration and (ii) be required to complete a reasonable training course developed and conducted by the Department.

As a condition of registration as a bingo caller, the applicant shall be required to complete a reasonable training course developed and conducted by the Department.

The Director may refuse to register any bingo manager or caller who has (a) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense which, if committed in the Commonwealth, would be a felony; (b) been convicted of or pleaded nolo contendere to a crime involving gambling; (c) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; or (d) failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.

C. The Director may suspend, revoke, or refuse to renew the registration certificate of any bingo manager or caller for any conduct described in subsection B or for any violation of this article or Board regulations. Before taking any such action, the Director shall give the bingo manager or caller a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. The provisions of subsection A requiring registration for bingo callers with the Department shall not apply to a bingo caller for a volunteer fire department or volunteer emergency medical services agency or auxiliary unit thereof that has been recognized in accordance with § 15.2-955 by an

ordinance or resolution of the political subdivision where the volunteer fire department or volunteer emergency medical services agency is located as being a part of the safety program of such political subdivision.

§ 58.1-4072. Licensing of network bingo providers; qualification; suspension, revocation, or refusal to renew license; maintenance, production, and release of records.

A. No person shall sell or offer to sell or otherwise provide access to a network bingo network to any qualified organization unless and until such person has made application for and has been issued a license by the Director. An application for license shall be made on forms prescribed by the Board and shall be accompanied by a fee in the amount of \$500. Each license shall remain valid for a period of two years from the date of issuance. Application for renewal of a license shall be accompanied by a fee in the amount of \$500 and shall be made on forms prescribed by the Board.

B. The Director shall have authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the licensure of network bingo providers. The Director may refuse to issue a license to any network bingo provider that has any officer, director, partner, or owner who has (i) been convicted of or pleaded nolo contendere to a felony in any state or federal court or has been convicted of any offense that, if committed in the Commonwealth, would be a felony; (ii) been convicted of or pleaded nolo contendere to a crime involving gambling; (iii) had any license, permit, certificate, or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth or in any other jurisdiction; (iv) failed to file or been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth; or (v) failed to establish a registered office or registered agent in the Commonwealth if so required by § 13.1-634 or 13.1-763.

C. The Director may suspend, revoke, or refuse to renew the license of any network bingo provider for any conduct described in subsection B or for any violation of this article or regulation of the Board. Before taking any such action, the Director shall give the network bingo provider a written statement of the grounds upon which it proposes to take such action and an opportunity to be heard. Every hearing in a contested case shall be conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

D. The Director by regulation shall require network bingo providers to have onsite independent supervision of network bingo games as the numbers are called.

E. Each network bingo provider shall document each sale of network bingo supplies and other items incidental to the conduct of network bingo to a qualified organization on an invoice that clearly shows (i) the name and address of the qualified organization to which such supplies or items were sold; (ii) the date of the sale; (iii) the name or form and serial number of each network bingo card, the quantity of cards sold, and the price per card paid by the qualified organization; and (iv) any other information required by the Board. A legible copy of the invoice shall accompany the network bingo supplies when delivered to the qualified organization.

F. Each network bingo provider shall maintain a legible copy of each invoice required by subsection E for a period of three years from the date of sale. Each network bingo provider shall make such documents immediately available for inspection and copying to the Director or any agent or employee of the Department upon request made during normal business hours. This subsection shall not limit the right of the Director to require the production of any other documents in the possession of the network bingo provider that relate to its transactions with qualified organizations. All documents and other information of a proprietary nature furnished in accordance with this subsection shall be exempt from disclosure under the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.).

§ 58.1-4073. Prohibited practices.

In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts or electronic gaming adjusted gross receipts derived by a qualified organization may be used for any purpose other than (i) gaming expenses; (ii) reasonable and proper business expenses; and (iii) those lawful religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized.

2. Except as provided in § 58.1-4071, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 58.1-4064.

3. No person shall pay or receive for use of any premises wholly devoted to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a

percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation, or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 58.1-4049, provided (a) such sales are conducted by no more than two on-duty employees and (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards.

5. No person shall receive any remuneration for participating in the management, operation, or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation, or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

d. A member of a qualified organization lawfully participating in the management, operation, or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Board regulations;

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Director in accordance with § 58.1-4071, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session; and

f. Volunteers of a qualified organization may be reimbursed for their reasonable and necessary travel expenses, not to exceed \$50 per session.

6. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease, or otherwise provide for consideration any bingo supplies, including bingo cards, instant bingo cards, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor, or supplier of bingo supplies or equipment be used by the organization.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

7. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

8. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed \$250 for a single door prize or \$500 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed \$100. However, up to 10 games per bingo session may feature a regular bingo or special bingo game prize of up to \$200;

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$2,000;

d. Except as provided in this subdivision 8, no bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted

4979 for separately from the bingo cards or sheets used for any other bingo games; and
4980 e. No single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo
4981 cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

4982 9. The provisions of subdivision 8 shall not apply to:

4983 Any progressive bingo game, in which (i) a regular or special prize, not to exceed \$100, is awarded
4984 on the basis of predetermined numbers or patterns selected at random and (ii) a progressive prize, not
4985 to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is
4986 awarded if the predetermined numbers or patterns are covered when a certain number of numbers is
4987 called, provided that (a) there are no more than six such games per session per organization, (b) the
4988 amount of increase of the progressive prize per session is no more than \$200, (c) the bingo cards or
4989 sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo
4990 games, (d) the organization separately accounts for the proceeds from such sale, and (e) such games
4991 are otherwise operated in accordance with the Board's rules of play.

4992 10. No organization shall award any raffle prize valued at more than \$100,000.

4993 The provisions of this subdivision shall not apply to a raffle conducted no more than three times per
4994 calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of
4995 the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100
4996 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost
4997 of acquisition of the land and materials, are donated to lawful religious, charitable, community, or
4998 educational organizations specifically chartered or organized under the laws of the Commonwealth and
4999 qualified as a § 501(c) tax-exempt organization. No more than one such raffle shall be conducted in any
5000 one geographical region of the Commonwealth.

5001 11. No qualified organization composed of or for deaf or blind persons which employs a person not
5002 a member to provide clerical assistance in the management and operation but not the conduct of any
5003 charitable games shall conduct such games unless it has in force fidelity insurance, as defined in
5004 § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

5005 12. No person shall participate in the management or operation of any charitable game if he has
5006 ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft,
5007 or financial crimes within the preceding five years. No person shall participate in the conduct of any
5008 charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the
5009 preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial
5010 crimes. In addition, no person shall participate in the management, operation, or conduct of any
5011 charitable game if that person, within the preceding five years, has participated in the management,
5012 operation, or conduct of any charitable game which was found by the Director or a court of competent
5013 jurisdiction to have been operated in violation of state law, local ordinance, or Board regulation.

5014 13. Qualified organizations jointly conducting bingo games pursuant to § 58.1-4064 shall not
5015 circumvent any restrictions and prohibitions which would otherwise apply if a single organization were
5016 conducting such games. These restrictions and prohibitions shall include the frequency with which bingo
5017 games may be held, the value of merchandise or money awarded as prizes, or any other practice
5018 prohibited under this section.

5019 14. A qualified organization shall not purchase any charitable gaming supplies for use in the
5020 Commonwealth from any person who is not currently registered with the Department as a supplier
5021 pursuant to § 58.1-4070.

5022 15. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross
5023 receipts shall be used for an organization's social or recreational activities.

5024 16. No organization qualified to conduct Texas Hold'em poker tournaments pursuant to § 58.1-4066
5025 shall conduct any Texas Hold'em poker games where the game has no predetermined end time and the
5026 players wager actual money or poker chips that have cash value.

5027 **§ 58.1-4074. Civil penalty.**

5028 A. Any person or organization, whether permitted or qualified pursuant to this article or not, that (i)
5029 conducts charitable gaming without first obtaining a permit to do so, (ii) continues to conduct such
5030 games after revocation or suspension of such permit, or (iii) otherwise violates any provision of this
5031 article shall, in addition to any other penalties provided, be subject to a civil penalty of not less than
5032 \$25,000 and not more than \$50,000 per incident. Any civil penalties collected pursuant to this section
5033 shall be payable to the State Treasurer for remittance to the Department.

5034 B. Any electronic gaming manufacturer, whether permitted pursuant to this article or not, shall, in
5035 addition to any other penalties provided, be subject to the penalty identified in subsection A for any
5036 violation of any provision of this article.

5037 **§ 58.1-4075. Criminal penalties.**

5038 A. Any person who violates the provisions of this article or who willfully and knowingly files, or
5039 causes to be filed, a false application, report, or other document or who willfully and knowingly makes
5040 a false statement, or causes a false statement to be made, on any application, report, or other document

required to be filed with or made to the Department is guilty of a Class 1 misdemeanor.

B. Each day in violation shall constitute a separate offense.

C. Any person who converts funds derived from any charitable gaming to his own or another's use, when the amount of funds is less than \$1,000, is guilty of petit larceny and, when the amount of funds is \$1,000 or more, is guilty of grand larceny. The provisions of this section shall not preclude the applicability of any other provision of the criminal law of the Commonwealth that may apply to any course of conduct that violates this section.

§ 58.1-4076. Assistance from Department of State Police.

The Department of State Police shall assist in the conduct of investigations by the Department.

Article 4.

Historical Horse Racing.

§ 58.1-4077. Control of historical horse racing.

The Department is vested with control of all historical horse racing with pari-mutuel wagering in the Commonwealth and is authorized to issue licenses to conduct historical horse racing in accordance with the provisions of this article. The conduct of any historical horse racing with pari-mutuel wagering, participation in such activities, and entrance to any place where such activities are conducted is a privilege that may be granted, denied, or revoked by the Director in his discretion in order to effectuate the purposes set forth in this article.

§ 58.1-4078. Definitions.

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

"Applicant" means an individual who has submitted an application to obtain a license to offer pari-mutuel wagering on historical horse racing from the Department.

"Historical horse racing" means a form of horse racing that creates pari-mutuel pools from wagers placed on previously conducted horse races and is hosted at a satellite facility that is owned or operated by a significant infrastructure limited licensee.

"Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted and includes historical horse racing.

"Operator licensee" means any person holding a significant infrastructure limited license who is granted a license by the Department to conduct historical horse racing in accordance with the provisions of this article.

"Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by a licensee, less deductions required or permitted by law.

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

"Racetrack" means the same as that term is defined in § 59.1-365.

"Satellite facility" means all areas of the property at which simulcast horse racing is received for the purposes of pari-mutuel wagering, and any additional areas designated by the Department for conducting pari-mutuel wagering on historical horse racing.

"Significant infrastructure facility" means the same as that term is defined in § 59.1-365.

"Significant infrastructure limited licensee" means a person who owns or operates a significant infrastructure facility and holds a limited license issued by the Virginia Racing Commission pursuant to § 59.1-365.

"Simulcast horse racing" means the same as that term is defined in § 59.1-365.

§ 58.1-4079. Powers and duties of the Director related to historical horse racing; reporting.

A. The Director may:

1. Require bond or other surety satisfactory to the Director from operator licensees in an amount and form as provided in the regulations of the Board adopted pursuant to this article.

2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the regulations adopted pursuant to this article, if proper notice is provided to the Virginia Racing Commission in accordance with subdivision B 1.

B. The Director shall:

1. Prior to suspending, revoking, or refusing to renew any license issued pursuant to this article or the regulations adopted pursuant to this article, notify the Virginia Racing Commission of his decision and the reasons for such decision;

2. Certify monthly to the State Comptroller and the Board a full and complete statement of historical horse racing revenues and expenses for the previous month;

3. Report monthly to the Governor, the Secretary of Finance, the Chairmen of the Senate Committee on Finance and Appropriations, House Committee on Finance, and House Committee on Appropriations, and the Virginia Racing Commission the total historical horse racing revenues and expenses for the previous month and make an annual report, which shall include a full and complete statement of

5102 historical horse racing revenues and expenses, to the Governor and the General Assembly, including
5103 recommendations for changes in this article as the Director and Board deem prudent; and

5104 4. Report immediately to the Governor and the General Assembly any matters that require immediate
5105 changes in the laws of the Commonwealth in order to prevent abuses and evasions of this article or the
5106 rules and regulations adopted under this article or to rectify undesirable conditions in connection with
5107 the administration or operation of historical horse racing.

5108 **§ 58.1-4080. Powers and duties of the Board related to historical horse racing.**

5109 The Board shall have the power and duty to:

5110 1. Adopt regulations that incorporate established best practices regarding the licensure of (i)
5111 historical horse racing operators; (ii) suppliers of historical horse racing wagering terminals; (iii)
5112 persons who design, manufacture, or sell gaming equipment or software used in the conduct of
5113 historical horse racing; (iv) gaming employees and concessionaires; and (v) other necessary persons.
5114 Such regulations shall, at a minimum, require (a) the Director to review an application for licensure
5115 and make a decision on whether to grant or deny such request for licensure within one year of the date
5116 of receipt; (b) applicants for an operator license and other persons with a high level of control over
5117 historical horse racing operations, including officers, principals, managers, and directors, to undergo
5118 extensive personal, financial, and criminal background screening; (c) applicants for licensure to undergo
5119 a thorough background check; (d) applicants to meet certain conditions before being issued a license to
5120 conduct historical horse racing at a satellite facility; and (e) applicants for an operator's license to hold
5121 a significant infrastructure limited license issued by the Virginia Racing Commission pursuant to
5122 § 59.1-365.

5123 2. Set appropriate fees for licensure that are sufficient to defray the regulatory costs of licensure and
5124 that are consistent with the risks and potential profits associated with the operation of historical horse
5125 racing.

5126 3. Establish internal control requirements for the day-to-day operations of satellite facilities
5127 containing historical horse racing terminals and conduct regular inspections of such facilities to identify
5128 and remedy any indications of noncompliance.

5129 4. Develop requirements for wagering on historical horse racing, including setting minimum wagers,
5130 establishing pari-mutuel pools generated by wagering on historical horse racing, and establishing
5131 procedures for the payout of prizes generated by wagering on historical horse racing.

5132 5. Establish requirements for the design and functioning of historical horse racing terminals and
5133 other equipment required for the conduct of historical horse racing, including games and displays,
5134 historical horse race specifications and selection requirements, and other specifications related to
5135 information technology and terminal functionality.

5136 6. Require operator licensees to submit an annual independent financial audit, including statements,
5137 reports, and correction action plans.

5138 7. Develop internal policies for ensuring an operator licensee's compliance with the provisions of
5139 this article and all applicable regulations, including, (i) procedures for inspecting satellite facilities,
5140 observing operations and wagering taking place at such facilities, and documenting any noncompliance;
5141 (ii) protocols regarding the aspects of operations and facilities to be inspected and observed and what
5142 constitutes a satisfactory inspection; (iii) procedures for routine financial and operational audits; (iv)
5143 schedules outlining the frequency with which compliance activities will be conducted; and (v)
5144 requirements for correcting discovered instances of noncompliance.

5145 8. Adopt regulations requiring operator licensees to (i) implement a program to promote responsible
5146 gaming by its patrons and (ii) report annually to the Department and make a copy available to the
5147 public on the success of such program, the licensee's efforts to identify problem gamblers, and steps
5148 taken to (a) prevent such individuals from continuing to engage in pari-mutuel wagering on historical
5149 horse racing and (b) provide assistance to such individuals to address problem gambling activity.

5150 9. Adopt any other regulations and requirements the Board deems necessary or desirable to ensure
5151 the efficient, fair, principled, and honest conduct of historical horse racing and wagering.

5152 **§ 58.1-4081. Operator's license required; application; issuance.**

5153 A. No person shall conduct historical horse racing in the Commonwealth unless such person is a
5154 significant infrastructure limited licensee and has obtained an operator's license issued by the Director
5155 in accordance with the provisions of this article. No license issued pursuant to the provisions of this
5156 article shall be transferable.

5157 B. An applicant for an operator's license shall file with the Director an application for an operator's
5158 license, which shall be filed at the time and place prescribed by the Director and contain such
5159 information as prescribed by the Director, including proof that such applicant possesses an active
5160 significant infrastructure limited license issued by the Virginia Racing Commission pursuant to
5161 § 59.1-376.

5162 C. Any application filed hereunder shall be verified by oath or affirmation of an officer of the
5163 applicant and shall be accompanied by a nonrefundable application fee as determined by the Director.

D. The Director shall promptly consider any application for an operator's license and grant a valid operator's license to applicants who meet the criteria set forth in this article and regulations promulgated by the Board.

§ 58.1-4082. Suspension or revocation of license.

The Director may, in accordance with regulations promulgated by the Board, suspend or revoke any operator's license, in any case where he has reason to believe that any provision of this article, or any regulation of the Board, has not been complied with or has been violated.

§ 58.1-4083. Historical Horse Racing Operations Fund.

A. All moneys and revenues received by the Department pursuant to this article shall be paid into a special nonreverting fund in the state treasury, to the credit of the Historical Horse Racing Operations Fund (the Fund). Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it.

B. The total costs for the operation and administration of the Department related to the regulation of historical horse racing shall be funded from the Fund and shall be in such amount as provided in the general appropriation act.

C. Moneys remaining in the Fund after the Department has recouped operational and administrative costs pursuant to subsection B shall be sent to the Virginia Racing Commission for distribution in accordance with the provisions of § 59.1-392 related to historical horse racing.

§ 58.1-4084. Prohibition on persons under 21 years of age; penalty.

No person shall wager on or conduct any wagering on the outcome of a horse race pursuant to the provisions of this chapter unless such person is 18 years of age or older. No person shall accept any wager from a minor. No person shall be admitted into a satellite facility if such person is under 18 years of age unless accompanied by one of his parents or his legal guardian. No person under 21 years of age shall use any electronic gaming terminal or other electronic device in a satellite facility to wager on or conduct any wagering on historical horse racing. A violation of this section is a Class 1 misdemeanor.

§ 58.1-4085. Unlawful conduct of historical horse racing; penalty.

Any person not licensed pursuant to § 58.1-4081 who conducts pari-mutuel wagering, or historical horse racing on which wagering is conducted with his knowledge or consent, is guilty of a Class 4 felony.

§ 58.1-4086. Fraudulent use of license.

Any person other than the lawful holder thereof who has in his possession any license issued by the Director, or a forged or simulated version of such license, and who uses such license for the purpose of misrepresentation, fraud, or touting is guilty of a Class 4 felony.

Any license issued by the Department, if used by the holder thereof for a purpose other than identification and in the performance of legitimate duties within a satellite facility, shall be automatically revoked whether so used at or outside of a satellite facility.

§ 58.1-4087. Conspiracies and attempts to commit violations.

A. Any person who conspires, confederates, or combines with another, either within or outside of the Commonwealth, to commit a felony prohibited by this article is guilty of a Class 4 felony.

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

§ 58.1-4100. Definitions.

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

"Adjusted gross receipts" means the gross receipts from casino gaming less winnings paid to winners.

"Board" means the Virginia Lottery and Gaming Oversight Board established in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.).

"Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines, roulette wheels, Klondike tables, Mah Jongg, electronic table games, hybrid table games, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or pull tabs, or any variation of the aforementioned games, and any other activity that is authorized by the Board as a wagering game or device under this chapter. "Casino gaming" or "game" includes on-premises mobile casino gaming.

"Casino gaming establishment" means the premises, including the entire property located at the address of the licensed casino, upon which lawful casino gaming is authorized and licensed as provided in this chapter. "Casino gaming establishment" does not include a riverboat or similar vessel.

"Casino gaming operator" means any person issued a license by the Board to operate a casino gaming establishment.

"Cheat" means to alter the selection criteria that determine the result of a game or the amount or frequency of payment in a game for the purpose of obtaining an advantage for one or more participants in a game over other participants in a game.

"Counter check" means an interest-free negotiable instrument for a specified amount executed by a

5225 player and held by the casino that serves as evidence of the casino gaming patron's obligation to pay the
5226 casino and that can be exchanged by the casino gaming patron for the specified amount in chips, tokens,
5227 credits, electronic credits, electronic cash, or electronic cards.

5228 "Department" means the *Virginia Lottery and Gaming Department*, which is the independent agency
5229 responsible for the administration of the Virginia Lottery created in the Virginia Lottery and Gaming
5230 Law (§ 58.1-4000 et seq.) and the regulation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.)
5231 of Chapter 40, charitable gaming pursuant to Article 3 (§ 58.1-4048 et seq.) of Chapter 40, historical
5232 horse racing pursuant to Article 4 (§ 58.1-4077 et seq.) of Chapter 40, and casino gaming pursuant to
5233 this chapter.

5234 "Director" means the Director of the Virginia Lottery and Gaming Department.

5235 "Eligible host city" means any city described in § 58.1-4107 in which a casino gaming establishment
5236 is authorized to be located.

5237 "Entity" means a person that is not a natural person.

5238 "Gaming operation" means the conduct of authorized casino gaming within a casino gaming
5239 establishment.

5240 "Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens,
5241 electronic credits, electronic cash, or electronic cards by casino gaming patrons. "Gross receipts" shall
5242 not include the cash value of promotions or credits provided to and exchanged by casino gaming patrons
5243 for chips, tokens, electronic credits, electronic cash, or electronic cards. "Gross receipts" shall also not
5244 include uncollectable counter checks.

5245 "Immediate family" means (i) a spouse and (ii) any other person residing in the same household as
5246 an officer or employee and who is a dependent of the officer or employee or of whom the officer or
5247 employee is a dependent.

5248 "Individual" means a natural person.

5249 "Licensee" or "license holder" means any person holding an operator's license under § 58.1-4111.

5250 "On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a
5251 casino gaming establishment using a computer network of both federal and nonfederal interoperable
5252 packet-switched data networks through which the casino gaming operator may offer casino gaming to
5253 individuals who have established an on-premises mobile casino gaming account with the casino gaming
5254 operator and who are physically present on the premises of the casino gaming establishment, as
5255 authorized by regulations promulgated by the Board.

5256 "Permit holder" means any person holding a supplier or service permit pursuant to this chapter.

5257 "Person" means an individual, partnership, joint venture, association, limited liability company, stock
5258 corporation, or nonstock corporation and includes any person that directly or indirectly controls or is
5259 under common control with another person.

5260 "Preferred casino gaming operator" means the proposed casino gaming establishment and operator
5261 thereof submitted by an eligible host city to the Board as an applicant for licensure.

5262 "Prepaid access instrument" means a system device that allows a casino gaming patron access to
5263 funds that have been paid in advance and can be retrieved or transferred at some point in the future
5264 through such a device. In order to transfer funds for gaming purposes, a prepaid access instrument shall
5265 be redeemed for tokens, chips, credits, electronic credits, electronic cash, electronic cards, or used in
5266 conjunction with an approved cashless wagering system or interactive gaming account.

5267 "Principal" means any individual who solely or together with his immediate family members (i) owns
5268 or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a
5269 licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities
5270 or other ownership interests of such entity, and any person who manages a gaming operation on behalf
5271 of a licensee.

5272 "Professional sports" means the same as such term is defined in § 58.1-4030.

5273 "Security" has the same meaning as provided in § 13.1-501. If the Board finds that any obligation,
5274 stock, or other equity interest creates control of or voice in the management operations of an entity in
5275 the manner of a security, then such interest shall be considered a security.

5276 "Sports betting" means the same as such term is defined in § 58.1-4030.

5277 "Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment
5278 licensed pursuant to this chapter that is designated for sports betting.

5279 "Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming
5280 equipment, devices, or supplies, or provides any management services, to a licensee.

5281 "Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4103
5282 that allows individuals to voluntarily exclude themselves from engaging in the activities described in
5283 subdivision B 1 of § 58.1-4103 by placing their names on a voluntary exclusion list and following the
5284 procedures set forth by the Board.

5285 "Youth sports" means the same as such term is defined in § 58.1-4030.

5286 **§ 58.1-4103. Voluntary exclusion program.**

A. The Board shall adopt regulations to establish and implement a voluntary exclusion program.

B. The regulations shall include the following provisions:

1. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program agrees to refrain from (i) playing any account-based lottery game authorized under the provisions of this chapter or Chapter 40 (§ 58.1-4000 et seq.); (ii) participating in sports betting as such activity is regulated by the Board; (iii) engaging in any form of casino gaming authorized under the provisions of this chapter; (iv) participating in charitable gaming, as defined in § ~~18.2-340.16~~ ~~58.1-4049~~; (v) participating in fantasy contests, as defined in § 59.1-556; ~~or~~ (vi) wagering on horse racing, as defined in § 59.1-365; *or wagering on historical horse racing, as defined in § 58.1-4078*. Any state agency, at the request of the Department, shall assist in administering the voluntary exclusion program pursuant to the provisions of this section.

2. A person who participates in the voluntary exclusion program may choose an exclusion period of two years, five years, or lifetime.

3. Except as provided by regulation of the Board, a person who participates in the voluntary exclusion program may not petition the Board for removal from the program for the duration of his exclusion period.

4. The name of a person participating in the program shall be included on a list of excluded persons. The list of persons entering the voluntary exclusion program and the personal information of the participants shall be confidential, with dissemination by the Department limited to lottery sales agents licensed under Chapter 40 (§ 58.1-4000 et seq.), owners and operators of casino gaming establishments, and any other parties the Department deems necessary for purposes of enforcement. The list and the personal information of participants in the voluntary exclusion program shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). In addition, the Board may disseminate the list to other parties upon request by the participant and agreement by the Board.

5. Lottery sales agents and owners and operators of casino gaming establishments shall make all reasonable attempts as determined by the Board to cease all direct marketing efforts to a person participating in the program. The voluntary exclusion program shall not preclude lottery sales agents and owners and operators of casino gaming establishments from seeking the payment of a debt incurred by a person before entering the program. In addition, the owner or operator of a casino gaming establishment may share the names of individuals who self-exclude across its corporate enterprise, including sharing such information with any of its affiliates.

§ 58.1-4108. Operator's license required; capital investment; equity interest; transferability; fee.

A. No person shall operate a casino gaming establishment unless he has obtained an operator's license issued by the Department in accordance with the provisions of this chapter and the regulations promulgated hereunder.

B. To obtain an operator's license issued under the provisions of this chapter, the applicant shall (i) make a capital investment of at least \$300 million in a casino gaming establishment, including the value of the real property upon which such establishment is located and all furnishings, fixtures, and other improvements, and (ii) possess an equity interest equal to at least 20 percent of the casino gaming establishment.

C. A license issued under the provisions of this chapter shall be transferable, provided that the Department has approved the proposed transfer and all licensure requirements are satisfied at the time the transfer takes effect.

D. A nonrefundable fee of \$15 million shall be paid by the applicant to the Department upon the issuance of a license and upon any subsequent transfer of a license to operate a casino gaming establishment.

E. No person issued a license pursuant to this chapter shall be precluded from obtaining a license for online sports betting pursuant to the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.) or any subsequently created online sports betting license.

§ 58.1-4123. Local referendum required.

A. The Department shall not grant any initial license to operate a gaming operation in an eligible host city until a referendum on the question of whether casino gaming shall be permitted in such city is approved by the voters of such city.

B. The governing body of any city containing an eligible host city shall petition the court, by resolution, asking that a referendum be held on the question of whether casino gaming shall be permitted within the city. The court, by order entered of record in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, shall require the regular election officials of the city to open the polls and take the sense of the voters on the question as herein provided.

C. The clerk of such court of record of such city shall publish notice of such election in a newspaper of general circulation in such city once a week for three consecutive weeks prior to such election.

D. The regular election officers of such city shall open the polls at the various voting places in such

city on the date specified in such order and conduct such election in the manner provided by law. The election shall be by ballot, which shall be prepared by the electoral board of the city and on which shall be printed the following question:

"Shall casino gaming be permitted at a casino gaming establishment in _____ (name of city and location) as may be approved by the Virginia Lottery and Gaming Oversight Board?"

☐ Yes

☐ No

In the blank shall be inserted the name of the city in which such election is held and the proposed location of the casino gaming establishment. Any voter desiring to vote "Yes" shall mark in the square provided for such purpose immediately preceding the word "Yes," leaving the square immediately preceding the word "No" unmarked. Any voter desiring to vote "No" shall mark in the square provided for such purpose immediately preceding the word "No," leaving the square immediately preceding the word "Yes" unmarked.

E. The ballots shall be counted, the returns made and canvassed as in other elections, and the results certified by the electoral board to the court ordering such election. Thereupon, such court shall enter an order proclaiming the results of such election and a duly certified copy of such order shall be transmitted to the Department and to the governing body of such city.

F. A subsequent local referendum shall be required if a license has not been granted by the Board within five years of the court order proclaiming the results of the election.

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

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

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

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

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

E. Any officer who at the time of his retirement is a sworn law-enforcement officer with a state

agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

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

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

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

§ 59.1-365. Definitions.

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

"Advance deposit account wagering" means a method of pari-mutuel wagering conducted in the Commonwealth that is permissible under the Interstate Horseracing Act, § 3001 et seq. of Chapter 57 of Title 15 of the United States Code, and in which an individual may establish an account with an entity, licensed by the Commission, to place pari-mutuel wagers in person or electronically.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$0.10.

"Commission" means the Virginia Racing Commission.

"Dependent" means a son, daughter, father, mother, brother, sister, or other person, whether or not related by blood or marriage, if such person receives from an officer or employee more than one-half of his financial support.

"Drug" shall have the meaning prescribed by § 54.1-3401. The Commission shall by regulation define and designate those drugs the use of which is prohibited or restricted.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the Commission.

"Handle" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"Historical horse racing" means a form of horse racing *regulated by the Virginia Lottery and Gaming Department pursuant to Article 4 (§ 58.1-4077 et seq.) of Chapter 40 of Title 58.1* that creates pari-mutuel pools from wagers placed on previously conducted horse races and is hosted at (i) a racetrack owned or operated by a significant infrastructure limited licensee or (ii) a satellite facility that is owned or operated by (a) a significant infrastructure limited licensee or (b) the nonprofit industry stakeholder organization recognized by the Commission and licensed to own or operate such satellite facility.

"Horse racing" means a competition on a set course involving a race between horses on which pari-mutuel wagering is permitted and includes historical horse racing.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Licensee" includes any person holding an owner's or operator's license under Article 2 (§ 59.1-375 et seq.).

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Pari-mutuel wagering" means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by a licensee, less deductions required or permitted by law and includes pari-mutuel wagering on historical horse racing and simulcast horse racing originating within the Commonwealth or from any other jurisdiction.

"Participant" means any person who (i) has an ownership interest in any horse entered to race in the Commonwealth or who acts as the trainer, jockey, or driver of any horse entered to race in the Commonwealth or (ii) takes part in any horse racing subject to the jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering there, including but not limited to a horse owner, trainer, jockey, or driver, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, track employee, or other position the Commission deems necessary to regulate to ensure the integrity of horse racing in Virginia.

5471 "Permit holder" includes any person holding a permit to participate in any horse racing subject to the
5472 jurisdiction of the Commission or in the conduct of a race meeting or pari-mutuel wagering thereon as
5473 provided in § 59.1-387.

5474 "Person" means any individual, group of individuals, firm, company, corporation, partnership,
5475 business, trust, association, or other legal entity.

5476 "Pool" means the amount wagered during a race meeting or during a specified period thereof.

5477 "Principal stockholder" means any person who individually or in concert with his spouse and
5478 immediate family members, beneficially owns or controls, directly or indirectly, five percent or more of
5479 the stock of any person which is a licensee, or who in concert with his spouse and immediate family
5480 members, has the power to vote or cause the vote of five percent or more of any such stock. However,
5481 "principal stockholder" shall not include a broker-dealer registered under the Securities Exchange Act of
5482 1934, as amended, which holds in inventory shares for sale on the financial markets for a publicly
5483 traded corporation holding, directly or indirectly, a license from the Commission.

5484 "Race meeting" means the whole consecutive period of time during which horse racing with
5485 pari-mutuel wagering is conducted by a licensee.

5486 "Racetrack" means an outdoor course located in Virginia which is laid out for horse racing and is
5487 licensed by the Commission.

5488 "Recognized majority horsemen's group" means the organization recognized by the Commission as
5489 the representative of the majority of owners and trainers racing at race meetings subject to the
5490 Commission's jurisdiction.

5491 "Retainage" means the total amount deducted from the pari-mutuel wagering pool for (i) a license fee
5492 to the Commission and localities, (ii) the licensee, (iii) purse money for the participants, (iv) the
5493 Virginia Breeders Fund, and (v) certain enumerated organizations as required or permitted by law,
5494 regulation or contract approved by the Commission.

5495 "Satellite facility" means all areas of the property at which simulcast horse racing is received for the
5496 purposes of pari-mutuel wagering, and any additional areas designated by the Commission.

5497 "Significant infrastructure facility" means a horse racing facility that has been approved by a local
5498 referendum pursuant to § 59.1-391 and has a minimum racing infrastructure consisting of (i) a one-mile
5499 dirt track for flat racing, (ii) a seven-eighths-mile turf course for flat or jump racing, (iii) covered
5500 seating for no fewer than 500 persons, and (iv) barns with no fewer than 400 permanent stalls.

5501 "Significant infrastructure limited licensee" means a person who owns or operates a significant
5502 infrastructure facility and holds a limited license under § 59.1-376.

5503 "Simulcast horse racing" means the simultaneous transmission of the audio or video portion, or both,
5504 of horse races from a licensed horse racetrack or satellite facility to another licensed horse racetrack or
5505 satellite facility, regardless of state of licensure, whether such races originate within the Commonwealth
5506 or any other jurisdiction, by satellite communication devices, television cables, telephone lines, or any
5507 other means for the purposes of conducting pari-mutuel wagering.

5508 "Steward" means a racing official, duly appointed by the Commission, with powers and duties
5509 prescribed by Commission regulations.

5510 "Stock" includes all classes of stock, partnership interest, membership interest, or similar ownership
5511 interest of an applicant or licensee, and any debt or other obligation of such person or an affiliated
5512 person if the Commission finds that the holder of such interest or stock derives therefrom such control
5513 of or voice in the operation of the applicant or licensee that he should be deemed an owner of stock.

5514 "Virginia Breeders Fund" means the fund established to foster the industry of breeding race horses in
5515 the Commonwealth of Virginia.

5516 **§ 59.1-369. Powers and duties of the Commission.**

5517 The Commission shall have all powers and duties necessary to carry out the provisions of this
5518 chapter and to exercise the control of horse racing as set forth in § 59.1-364. Such powers and duties
5519 shall include ~~but not be limited to~~ the following:

5520 1. The Commission is vested with jurisdiction and supervision over all horse racing licensed under
5521 the provisions of this chapter including all persons conducting, participating in, or attending any race
5522 meeting. It shall employ such persons to be present at race meetings as are necessary to ensure that they
5523 are conducted with order and the highest degree of integrity. It may eject or exclude from the enclosure
5524 or from any part thereof any person, whether or not he possesses a license or permit, whose conduct or
5525 reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and
5526 integrity of horse racing or interfere with the orderly conduct of horse racing.

5527 2. The Commission, its representatives, and employees shall visit, investigate, and have free access to
5528 the office, track, facilities, satellite facilities or other places of business of any license or permit holder,
5529 and may compel the production of any of the books, documents, records, or memoranda of any license
5530 or permit holder for the purpose of satisfying itself that this chapter and its regulations are strictly
5531 complied with. In addition, the Commission may require any person granted a permit by the
5532 Commission and shall require any person licensed by the Commission, the recognized majority

horsemen's group, and the nonprofit industry stakeholder organization recognized by the Commission under this chapter to produce an annual balance sheet and operating statement prepared by a certified public accountant approved by the Commission. The Commission may require the production of any contract to which such person is or may be a party.

3. The Commission shall promulgate regulations and conditions under which horse racing with pari-mutuel wagering shall be conducted in the Commonwealth, and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter, including a requirement that licensees post, in a conspicuous place in every place where pari-mutuel wagering is conducted, a sign which bears a toll-free telephone number for "Gamblers Anonymous" or other organization which provides assistance to compulsive gamblers. Such regulations shall include provisions for affirmative action to assure participation by minority persons in contracts granted by the Commission and its licensees. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any horse racetrack. Such regulations may include penalties for violations. The regulations shall be subject to the Administrative Process Act (§ 2.2-4000 et seq.).

4. The Commission shall promulgate regulations and conditions under which simulcast horse racing shall be conducted at a licensed horse racetrack or satellite facility in the Commonwealth and all such other regulations it deems necessary and appropriate to effect the purposes of this chapter. Such regulations shall include provisions that all simulcast horse racing shall comply with the Interstate Horse Racing Act of 1978 (15 U.S.C. § 3001 et seq.) and shall require the holder of a license to schedule no more than 125 live racing days in the Commonwealth each calendar year; however, the Commission shall have the authority to alter the required number of live racing days based on what the Commission deems to be in the best interest of the Virginia horse industry. Such regulations shall authorize up to 10 satellite facilities and restrict majority ownership of satellite facilities to an entity licensed by the Commission that is a significant infrastructure limited licensee, or if by August 1, 2015, there is no such licensee or a pending application for such license, then the nonprofit industry stakeholder organization recognized by the Commission may be granted licenses to own or operate satellite facilities. If, however, after the issuance of a license to own or operate a satellite facility to such nonprofit industry stakeholder organization, the Commission grants a license to a significant infrastructure limited licensee pursuant to § 59.1-376, then such limited licensee may own or operate the remaining available satellite facilities authorized in accordance with this subdivision. In no event shall the Commission authorize any such entities to own or operate more than a combined total of 10 satellite facilities. Nothing in this subdivision shall be deemed to preclude private local ownership or participation in any satellite facility. Except as authorized pursuant to subdivision 5, wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

5. The Commission shall promulgate regulations and conditions regulating and controlling advance deposit account wagering. Such regulations shall include, but not be limited to, (i) standards, qualifications, and procedures for the issuance of a license to an entity for the operation of pari-mutuel wagering in the Commonwealth; except that the Commission shall not issue a license to, and shall revoke the license of, an entity that, either directly or through an entity under common control with it, withholds the sale at fair market value to a licensee of simulcast horse racing signals that such entity or an entity under common control with it sells to other racetracks, satellite facilities, or advance deposit account wagering providers located in or outside of the Commonwealth; (ii) provisions regarding access to books, records, and memoranda, and submission to investigations and audits, as authorized by subdivisions 2 and 10; and (iii) provisions regarding the collection of all revenues due to the Commonwealth from the placing of such wagers. No pari-mutuel wager may be made on or with any computer owned or leased by the Commonwealth, or any of its subdivisions, or at any public elementary or secondary school or institution of higher education. The Commission also shall ensure that, except for this method of pari-mutuel wagering, all wagering on simulcast horse racing shall take place only at a licensed horse racetrack or satellite facility.

Nothing in this subdivision shall be construed to limit the Commission's authority as set forth elsewhere in this section.

6. The Commission may issue subpoenas for the attendance of witnesses before it, administer oaths, and compel production of records or other documents and testimony of such witnesses whenever, in the judgment of the Commission, it is necessary to do so for the effectual discharge of its duties.

7. The Commission may compel any person holding a license or permit to file with the Commission such data as shall appear to the Commission to be necessary for the performance of its duties including but not limited to financial statements and information relative to stockholders and all others with any pecuniary interest in such person. It may prescribe the manner in which books and records of such persons shall be kept.

8. The Commission may enter into arrangements with any foreign or domestic government or governmental agency, for the purposes of exchanging information or performing any other act to better

5594 ensure the proper conduct of horse racing.

5595 9. The Commission shall report annually on or before March 1 to the Governor and the General
5596 Assembly, which report shall include a financial statement of the operation of the Commission.

5597 10. The Commission may order such audits, in addition to those required by § 59.1-394, as it deems
5598 necessary and desirable.

5599 11. The Commission shall upon the receipt of a complaint of an alleged criminal violation of this
5600 chapter immediately report the complaint to the Attorney General of the Commonwealth and the State
5601 Police for appropriate action.

5602 12. The Commission shall provide for the withholding of the applicable amount of state and federal
5603 income tax of persons claiming a prize or pay-off for a winning wager and shall establish the thresholds
5604 for such withholdings.

5605 13. The Commission, its representatives and employees may, within the enclosure, stable, or other
5606 facility related to the conduct of racing, and during regular or usual business hours, subject any (i)
5607 permit holder to personal inspections, including alcohol and drug testing for illegal drugs, inspections of
5608 personal property, and inspections of other property or premises under the control of such permit holder
5609 and (ii) horse eligible to race at a race meeting licensed by the Commission to testing for substances
5610 foreign to the natural horse within the racetrack enclosure or other place where such horse is kept. Any
5611 item, document or record indicative of a violation of any provision of this chapter or Commission
5612 regulations may be seized as evidence of such violation. All permit holders consent to the searches and
5613 seizures authorized by this subdivision, including breath, blood and urine sampling for alcohol and
5614 illegal drugs, by accepting the permit issued by the Commission. The Commission may revoke or
5615 suspend the permit of any person who fails or refuses to comply with this subdivision or any rules of
5616 the Commission. Commission regulations in effect on July 1, 1998, shall continue in full force and
5617 effect until modified by the Commission in accordance with law.

5618 14. The Commission shall require the existence of a contract between each licensee and the
5619 recognized majority horsemen's group for that licensee. Such contract shall be subject to the approval of
5620 the Commission, which shall have the power to approve or disapprove any of its items, including but
5621 not limited to the provisions regarding purses and prizes. Such contracts shall provide that on pools
5622 generated by wagering on simulcast horse racing from outside the Commonwealth, (i) for the first \$75
5623 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at the minimum
5624 rate of five percent in the horsemen's purse account, (ii) for any amount in excess of \$75 million but
5625 less than \$150 million of the total pari-mutuel handle for each breed, the licensee shall deposit funds at
5626 the minimum rate of six percent in the horsemen's purse account, (iii) for amounts in excess of \$150
5627 million for each breed, the licensee shall deposit funds at the minimum rate of seven percent in the
5628 horsemen's purse account. Such deposits shall be made in the horsemen's purse accounts of the breed
5629 that generated the pools and such deposits shall be made within five days from the date on which the
5630 licensee receives wagers. In the absence of the required contract between the licensee and the recognized
5631 majority horsemen's group, the Commission may permit wagering to proceed on simulcast horse racing
5632 from outside of the Commonwealth, provided that the licensee deposits into the State Racing Operations
5633 Fund created pursuant to § 59.1-370.1 an amount equal to the minimum percentage of the total
5634 pari-mutuel handles as required in clauses (i), (ii), and (iii) or such lesser amount as the Commission
5635 may approve. The deposits shall be made within five days from the date on which the licensee receives
5636 wagers. Once a contract between the licensee and the recognized majority horsemen's group is executed
5637 and approved by the Commission, the Commission shall transfer these funds to the licensee and the
5638 horsemen's purse accounts.

5639 15. Notwithstanding the provisions of § 59.1-391, the Commission may grant provisional limited
5640 licenses or provisional unlimited licenses to own or operate racetracks or satellite facilities to an
5641 applicant prior to the applicant securing the approval through the local referendum required by
5642 § 59.1-391. The provisional licenses issued by the Commission shall only become effective upon the
5643 approval of the racetrack or satellite wagering facilities in a referendum conducted pursuant to
5644 § 59.1-391 in the jurisdiction in which the racetrack or satellite wagering facility is to be located.

5645 16. *The Commission shall distribute all moneys received from the Virginia Lottery and Gaming*
5646 *Department pursuant to subsection C of § 58.1-4083 in accordance with the provisions of this chapter.*

5647 17. *The Commission shall report annually to the Virginia Lottery and Gaming Oversight Board on*
5648 *the number of live horse racing days each operator held in the previous 12 months as well as whether*
5649 *an operator has met all applicable requirements regarding live horse racing.*

5650 **§ 59.1-392. Percentage retained; tax.**

5651 A. Any person holding an operator's license to operate a horse racetrack or satellite facility in the
5652 Commonwealth pursuant to this chapter shall be authorized to conduct pari-mutuel wagering on horse
5653 racing subject to the provisions of this chapter and the conditions and regulations of the Commission.

5654 B. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted
5655 within the Commonwealth, involving win, place, and show wagering, the licensee shall retain a

percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: one percent to the Commonwealth as a license tax and one-quarter percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection D, provided, however, that if the percentage amount approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

C. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place, and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid one and one-quarter percent to be distributed as follows: three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which the satellite facility is located, and one-quarter percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection D, provided, however, that if the percentage amount approved by the Commission is other than 18 percent, the amounts provided in subdivisions D 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 18 percent.

D. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth, involving win, place, and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Eight percent as purses or prizes to the participants in such race meeting;
2. Seven and one-half percent, and all of the breakage and the proceeds of pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5. Five one-hundredths percent to the Virginia Horse Center Foundation;
6. Five one-hundredths percent to the Virginia Horse Industry Board; and
7. The remainder of the retainage shall be paid as appropriate under subsection B or C.

E. On pari-mutuel pools generated by wagering at the racetrack on live horse racing conducted within the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: two and one-quarter percent to the Commonwealth as a license tax, and one-half percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection G, provided, however, that if the percentage amount approved by the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.

F. On pari-mutuel pools generated by wagering at each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid two and three-quarters percent to be distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half percent to the locality in which the satellite facility is located, and one-half percent to the locality in which the racetrack is located. The remainder of the retainage shall be paid as provided in subsection G, provided, however, that if the percentage amount approved by the Commission is other than 22 percent, the amounts provided in subdivisions G 1, 2, and 3 shall be adjusted by the proportion that the approved percentage amount bears to 22 percent.

G. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on live horse racing conducted within the Commonwealth involving wagering other than win, place, and show wagering, the licensee shall retain a percentage amount approved by the Commission as jointly requested by a recognized majority horsemen's group and a licensee and the legitimate breakage, out of which shall be paid:

1. Nine percent as purses or prizes to the participants in such race meeting;
2. Nine percent, and the proceeds of the pari-mutuel tickets unredeemed 180 days from the date on which the race was conducted, to the operator;
3. One percent to the Virginia Breeders Fund;
4. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5. Five one-hundredths percent to the Virginia Horse Center Foundation;

- 5717 6. Five one-hundredths percent to the Virginia Horse Industry Board; and
5718 7. The remainder of the retainage shall be paid as appropriate under subsection E or F.
- 5719 H. On pari-mutuel wagering generated by simulcast horse racing transmitted from jurisdictions
5720 outside the Commonwealth, the licensee may, with the approval of the Commission, commingle pools
5721 with the racetrack where the transmission emanates or establish separate pools for wagering within the
5722 Commonwealth. All simulcast horse racing in this subsection must comply with the Interstate Horse
5723 Racing Act of 1978 (15 U.S.C. § 3001 et seq.).
- 5724 I. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted
5725 from jurisdictions outside the Commonwealth, involving win, place, and show wagering, the licensee
5726 shall retain one and one-quarter percent of such pool to be distributed as follows: three-quarters percent
5727 to the Commonwealth as a license tax, and one-half percent to the Virginia locality in which the
5728 racetrack is located.
- 5729 J. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
5730 racing transmitted from jurisdictions outside the Commonwealth, involving win, place, and show
5731 wagering, the licensee shall retain one and one-quarter percent of such pool to be distributed as follows:
5732 three-quarters percent to the Commonwealth as a license tax, one-quarter percent to the locality in which
5733 the satellite facility is located, and one-quarter percent to the Virginia locality in which the racetrack is
5734 located.
- 5735 K. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
5736 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving win, place,
5737 and show wagering, the licensee shall retain one and thirty one-hundredths percent of such pool to be
5738 distributed as follows:
- 5739 1. One percent of the pool to the Virginia Breeders Fund;
5740 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5741 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
5742 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
5743 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
5744 breeding in the Commonwealth.
- 5745 L. On pari-mutuel pools generated by wagering at the racetrack on simulcast horse racing transmitted
5746 from jurisdictions outside the Commonwealth, involving wagering other than win, place, and show
5747 wagering, the licensee shall retain two and three-quarters percent of such pool to be distributed as
5748 follows: one and three-quarters percent to the Commonwealth as a license tax, and one percent to the
5749 Virginia locality in which the racetrack is located.
- 5750 M. On pari-mutuel pools generated by wagering at each Virginia satellite facility on simulcast horse
5751 racing transmitted from jurisdictions outside the Commonwealth, involving wagering other than win,
5752 place, and show wagering, the licensee shall retain two and three-quarters percent of such pool to be
5753 distributed as follows: one and three-quarters percent to the Commonwealth as a license tax, one-half
5754 percent to the locality in which the satellite facility is located, and one-half percent to the Virginia
5755 locality in which the racetrack is located.
- 5756 N. On pari-mutuel pools generated by wagering at the racetrack and each Virginia satellite facility on
5757 simulcast horse racing transmitted from jurisdictions outside the Commonwealth, involving wagering
5758 other than win, place, and show wagering, the licensee shall retain one and thirty one-hundredths percent
5759 of such pool to be distributed as follows:
- 5760 1. One percent of the pool to the Virginia Breeders Fund;
5761 2. Fifteen one-hundredths percent to the Virginia-Maryland Regional College of Veterinary Medicine;
5762 3. Five one-hundredths percent to the Virginia Horse Center Foundation;
5763 4. Five one-hundredths percent to the Virginia Horse Industry Board; and
5764 5. Five one-hundredths percent to the Virginia Thoroughbred Association for the promotion of
5765 breeding in the Commonwealth.
- 5766 O. Moneys payable to the Commonwealth shall be deposited in the general fund. Gross receipts for
5767 license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 shall not include pari-mutuel
5768 wagering pools and license taxes authorized by this section.
- 5769 P. All payments by the licensee to the Commonwealth or any locality shall be made within five days
5770 from the date on which such wagers are received by the licensee. All payments by the licensee to the
5771 Virginia Breeders Fund shall be made to the Commission within five days from the date on which such
5772 wagers are received by the licensee. All payments by the licensee to the Virginia-Maryland Regional
5773 College of Veterinary Medicine, the Virginia Horse Center Foundation, the Virginia Horse Industry
5774 Board, and the Virginia Thoroughbred Association shall be made by the first day of each quarter of the
5775 calendar year. All payments made under this section shall be used in support of the policy of the
5776 Commonwealth to sustain and promote the growth of a native industry.
- 5777 Q. If a satellite facility is located in more than one locality, any amount a licensee is required to pay
5778 under this section to the locality in which the satellite facility is located shall be prorated in equal shares

among those localities.

R. Any contractual agreement between a licensee and other entities concerning the distribution of the remaining portion of the retainage under subsections I through N and subsections U and V shall be subject to the approval of the Commission.

S. The recognized majority horsemen's group racing at a licensed race meeting may, subject to the approval of the Commission, withdraw for administrative costs associated with serving the interests of the horsemen an amount not to exceed two percent of the amount in the horsemen's account.

T. The legitimate breakage from each pari-mutuel pool for live *horse racing*, historical *horse racing*, and simulcast horse racing shall be distributed as follows:

1. Seventy percent to be retained by the licensee to be used for capital improvements that are subject to approval of the Commission; and

2. Thirty percent to be deposited in the Racing Benevolence Fund, administered jointly by the licensee and the recognized majority horsemen's group racing at a licensed race meeting, to be disbursed with the approval of the Commission for gambling addiction and substance abuse counseling, recreational, educational, or other related programs.

U. On pari-mutuel pools generated by wagering on historical horse racing on the first 3,000 terminals authorized, the licensee shall retain 1.25 percent of such pool to be distributed as follows:

1. Seventy-four hundredths percent to the Commonwealth as a license tax and 0.01 percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2; and

2. a. ~~If generated at a racetrack, 0.5 percent to the locality in which the racetrack is located; or~~
b. ~~If generated at a satellite facility, 0.25~~ *Twenty-five hundredths* percent to the locality in which the satellite facility is located and 0.25 percent to the Virginia locality in which the racetrack is located.

V. On pari-mutuel pools generated by wagering on historical *horse racing* on the 2,000 terminals authorized by the seventh enactment of Chapters 1197 and 1248 of the Acts of Assembly of 2020, the licensee shall retain 1.6 percent of such pool to be distributed as follows:

1. Ninety-five hundredths percent to the Commonwealth as a license tax and 0.01 percent to the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.2; and

2. a. ~~If generated at a racetrack, 0.64 percent to the locality in which the racetrack is located; or~~
b. ~~If generated at a satellite facility, 0.32~~ *Thirty-two hundredths* percent to the locality in which the satellite facility is located and 0.32 percent to the Virginia locality in which the racetrack is located.

2. That Article 1.1:1 (§§ 18.2-340.15 through 18.2-340.37) of Chapter 8 of Title 18.2 of the Code of Virginia is repealed.

3. That, effective July 1, 2023, the regulations of the Virginia Racing Commission (the Commission) related to historical horse racing promulgated pursuant to § 59.1-369 of the Code of Virginia shall be administered by the Virginia Lottery and Gaming Department, as renamed by this act, and shall remain in full force and effect until the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, promulgates regulations pursuant to this act. The Commission shall provide assistance to the Board in promulgating regulations by December 1, 2023.

4. That, effective July 1, 2023, the regulations of the Department of Agriculture and Consumer Services (the Department) related to charitable gaming promulgated pursuant to § 18.2-340.15 of the Code of Virginia shall be administered by the Virginia Lottery and Gaming Department, as renamed by this act, and shall remain in full force and effect until the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, promulgates regulations pursuant to this act. The Department shall provide assistance to the Board in promulgating regulations by July 1, 2024.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.