

23102231D

SENATE BILL NO. 1250

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, as it is currently effective and as it shall become effective, 9.1-801, 18.2-308.016, 18.2-325, 18.2-334.3, 18.2-340.22, 19.2-389, 37.2-314.2, 58.1-3, 58.1-302, 58.1-322.02, as it is currently effective and as it shall become effective, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4022, 58.1-4025, 58.1-4027, 58.1-4100, 58.1-4108, 58.1-4123, and 59.1-148.3 of the Code of Virginia and 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 an article numbered 3, consisting of sections numbered 58.1-4048 through 58.1-4075, relating to regulating video gaming terminals; penalties.*

Patron—Bell

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-2905, 2.2-3114, 2.2-3202, 2.2-3705.3, 2.2-3705.7, 2.2-3711, 2.2-4002, 8.01-195.11, 9.1-101, as it is currently effective and as it shall become effective, 9.1-801, 18.2-308.016, 18.2-325, 18.2-334.3, 18.2-340.22, 19.2-389, 37.2-314.2, 58.1-3, 58.1-302, 58.1-322.02, as it is currently effective and as it shall become effective, 58.1-460, 58.1-4000, 58.1-4002, 58.1-4003, 58.1-4006, 58.1-4007, 58.1-4008, 58.1-4009, 58.1-4011, 58.1-4012, 58.1-4020.1, 58.1-4022, 58.1-4025, 58.1-4027, 58.1-4100, 58.1-4108, 58.1-4123, and 59.1-148.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.3 and by adding in Chapter 40 of Title 58.1 an article numbered 3, consisting of sections numbered 58.1-4048 through 58.1-4075, as follows:

§ 2.2-419. Definitions.

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

"Anything of value" means:

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

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59 indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of
60 value, for services rendered or to be rendered.

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

63 "Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in
64 § 30-355.

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

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

72 "Executive official" means:

- 73 1. The Governor;
- 74 2. The Lieutenant Governor;
- 75 3. The Attorney General;
- 76 4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General
77 other than a clerical or secretarial employee;

- 78 5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each
79 executive agency; or

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

82 "Expenditure" means:

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

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

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

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

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

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

- 97 7. A payment or reimbursement for categories of expenditures required to be reported pursuant to
98 this chapter.

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

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

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

108 "Gift" does not mean:

- 109 1. Printed informational or promotional material;
- 110 2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or
111 delivered to a charitable organization and is not claimed as a charitable contribution for federal income
112 tax purposes;

- 113 3. A devise or inheritance;

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

- 115 5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or
116 pass is used;

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

- 119 7. Any food and beverages received at or registration or attendance fees waived for any event at
120 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;

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

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

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

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

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

194 "Secretary" means the Secretary of the Commonwealth.

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

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

202 **§ 2.2-2905. Certain officers and employees exempt from chapter.**

203 The provisions of this chapter shall not apply to:

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

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

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

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

209 5. Members of boards and commissions however selected;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Virginia College Savings Plan;

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

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

26. Employees of the Virginia Indigent Defense Commission;

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

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

29. Officers and employees of the Fort Monroe Authority.

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

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

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

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

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

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

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the

transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his 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.

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

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

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

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

As used in this subdivision:

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

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

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

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources 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 construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

551 14. Information held by the Virginia Commonwealth University Health System Authority pertaining
552 to any of the following: an individual's qualifications for or continued membership on its medical or
553 teaching staffs; proprietary information gathered by or in the possession of the Authority from third
554 parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in
555 awarding contracts for construction or the purchase of goods or services; information of a proprietary
556 nature produced or collected by or for the Authority or members of its medical or teaching staffs;
557 financial statements not publicly available that may be filed with the Authority from third parties; the
558 identity, accounts, or account status of any customer of the Authority; consulting or other reports paid
559 for by the Authority to assist the Authority in connection with its strategic planning and goals; the
560 determination of marketing and operational strategies where disclosure of such strategies would be
561 harmful to the competitive position of the Authority; and information of a proprietary nature produced
562 or collected by or for employees of the Authority, other than the Authority's financial or administrative
563 records, in the conduct of or as a result of study or research on medical, scientific, technical, or
564 scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body
565 or a private concern, when such information has not been publicly released, published, copyrighted, or
566 patented. This exclusion shall also apply when such information is in the possession of Virginia
567 Commonwealth University.

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

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

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

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

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

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

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

610 22. Information submitted for inclusion in the Statewide Alert Network administered by the
611 Department of Emergency Management that reveal names, physical addresses, email addresses, computer
612 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.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the

897 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
898 holding or disposition of a security or other ownership interest in an entity, where such security or
899 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
900 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
901 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
902 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
903 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
904 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
905 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
906 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
907 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
908 of information relating to the identity of any investment held, the amount invested or the present value
909 of such investment.

910 21. Those portions of meetings in which individual child death cases are discussed by the State Child
911 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
912 individual child death cases are discussed by a regional or local child fatality review team established
913 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
914 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
915 which individual adult death cases are discussed by the state Adult Fatality Review Team established
916 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
917 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
918 meetings in which individual death cases are discussed by overdose fatality review teams established
919 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are
920 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of
921 meetings in which individual death cases of persons with developmental disabilities are discussed by the
922 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

923 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
924 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
925 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
926 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
927 proprietary, business-related information pertaining to the operations of the University of Virginia
928 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
929 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
930 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
931 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
932 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
933 Medical School, as the case may be.

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

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

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

951 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
952 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §
953 56-484.12, related to the provision of wireless E-911 service.

954 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
955 Professional and Occupational Regulation, Department of Health Professions, or the Board of
956 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
957 a decision or meetings of health regulatory boards or conference committees of such boards to consider
958 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 contained in grant applications.

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

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

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

929 47. Discussion or consideration of grant, loan, or investment application records subject to the
930 exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11
931 (§ 2.2-2351 et seq.) of Chapter 22.

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

935 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response
936 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
937 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
938 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
939 §§ 15.2-1627.5 and 63.2-1605.

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

944 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
945 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
946 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
947 § 60.2-114.

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

951 53. Deliberations of the Virginia Lottery and Gaming Oversight Board conducted pursuant to
952 § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to
953 issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion,
954 consideration, or review of matters related to investigations excluded from mandatory disclosure under
955 subdivision 1 of § 2.2-3705.3.

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

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

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

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

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

974 E. This section shall not be construed to (i) require the disclosure of any contract between the
975 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
976 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
977 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
978 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
979 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
980 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
981 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 for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

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

§ 8.01-195.11. Compensation for wrongful incarceration.

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

B. Any compensation computed pursuant to subsection A and approved by the General Assembly shall be paid by the Comptroller by his warrant on the State Treasurer in favor of the person found to have been wrongfully incarcerated. The person wrongfully incarcerated shall be paid an initial lump sum equal to 25 percent of the compensation award with the remaining 75 percent of the principal of the compensation award to be used by the State Treasurer to purchase an annuity from any A+ rated company, including any A+ rated company from which the Virginia Lottery and Gaming Department may purchase an annuity, to provide equal monthly payments to such person for a period certain of 10 years commencing no later than one year after the effective date of the appropriation; however, if such

person's life expectancy, as calculated pursuant to the provisions of § 8.01-419 based on his age on the effective date of the appropriation, is less than 10 years, then, upon his election, the annuity period shall be equal to his life expectancy. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages by the person awarded compensation. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of the death of the person awarded compensation. All payments or costs of annuities under this section shall be made by check issued by the State Treasurer on warrant of the Comptroller.

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

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

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

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

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

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

"Board" means the Criminal Justice Services Board.

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

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

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

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

1166 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to
1167 § 18.2-271.2.

1168 "Criminal justice agency" includes the Department of Criminal Justice Services.

1169 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

1170 "Criminal justice agency" includes the Virginia State Crime Commission.

1171 "Criminal justice information system" means a system including the equipment, facilities, procedures,
1172 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of
1173 criminal history record information. The operations of the system may be performed manually or by
1174 using electronic computers or other automated data processing equipment.

1175 "Department" means the Department of Criminal Justice Services.

1176 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
1177 means. The term shall not include access to the information by officers or employees of a criminal
1178 justice agency maintaining the information who have both a need and right to know the information.

1179 "Law-enforcement officer" means any full-time or part-time employee of a police department or
1180 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
1181 thereof, or any full-time or part-time employee of a private police department, and who is responsible
1182 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
1183 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
1184 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
1185 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
1186 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the
1187 security division of the Virginia Lottery and Gaming Department; (vi) conservation officer of the
1188 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
1189 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to
1190 § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus
1191 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of
1192 the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
1193 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
1194 with internal investigations authority designated by the Department of Corrections pursuant to
1195 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of
1196 § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are
1197 those compensated officers who are not full-time employees as defined by the employing police
1198 department, sheriff's office, or private police department.

1199 "Private police department" means any police department, other than a department that employs
1200 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
1201 authorized by statute or an act of assembly to establish a private police department or such entity's
1202 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
1203 to operate a private police department or represent that it is a private police department unless such
1204 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
1205 an entity that has been authorized pursuant to this section, provided it complies with the requirements
1206 set forth herein. The authority of a private police department shall be limited to real property owned,
1207 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
1208 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
1209 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
1210 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
1211 of understanding with the private police department that addresses the duties and responsibilities of the
1212 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
1213 Private police departments and private police officers shall be subject to and comply with the
1214 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
1215 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
1216 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as
1217 applicable to private police departments. Any person employed as a private police officer pursuant to
1218 this section shall meet all requirements, including the minimum compulsory training requirements, for
1219 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
1220 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
1221 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
1222 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
1223 employee of the Commonwealth or any locality. An authorized private police department may use the
1224 word "police" to describe its sworn officers and may join a regional criminal justice academy created
1225 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
1226 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
1227 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 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

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

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

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

"Board" means the Criminal Justice Services Board.

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

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

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

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

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

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

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

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

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

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal

1289 justice agency maintaining the information who have both a need and right to know the information.

1290 "Law-enforcement officer" means any full-time or part-time employee of a police department or
1291 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
1292 thereof, or any full-time or part-time employee of a private police department, and who is responsible
1293 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
1294 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
1295 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
1296 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
1297 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the
1298 security division of the Virginia Lottery and Gaming Department; (vi) conservation officer of the
1299 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
1300 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to
1301 § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus
1302 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of
1303 the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
1304 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
1305 with internal investigations authority designated by the Department of Corrections pursuant to
1306 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of
1307 § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are
1308 those compensated officers who are not full-time employees as defined by the employing police
1309 department, sheriff's office, or private police department.

1310 "Private police department" means any police department, other than a department that employs
1311 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
1312 authorized by statute or an act of assembly to establish a private police department or such entity's
1313 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
1314 to operate a private police department or represent that it is a private police department unless such
1315 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
1316 an entity that has been authorized pursuant to this section, provided it complies with the requirements
1317 set forth herein. The authority of a private police department shall be limited to real property owned,
1318 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
1319 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
1320 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
1321 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
1322 of understanding with the private police department that addresses the duties and responsibilities of the
1323 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
1324 Private police departments and private police officers shall be subject to and comply with the
1325 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
1326 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
1327 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as
1328 applicable to private police departments. Any person employed as a private police officer pursuant to
1329 this section shall meet all requirements, including the minimum compulsory training requirements, for
1330 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
1331 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
1332 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
1333 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
1334 employee of the Commonwealth or any locality. An authorized private police department may use the
1335 word "police" to describe its sworn officers and may join a regional criminal justice academy created
1336 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
1337 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
1338 whose status as a private police department was recognized by the Department at that time is hereby
1339 validated and may continue to operate as a private police department as may such entity's successor in
1340 interest, provided it complies with the requirements set forth herein.

1341 "School resource officer" means a certified law-enforcement officer hired by the local
1342 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
1343 and secondary schools.

1344 "School security officer" means an individual who is employed by the local school board or a private
1345 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
1346 investigating violations of the policies of the school board or the private or religious school, and
1347 detaining students violating the law or the policies of the school board or the private or religious school
1348 on school property, school buses, or at school-sponsored events and who is responsible solely for
1349 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
1350 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 officer; a regional jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the Virginia Lottery and Gaming Department; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

§ 11-16.3. Exemption; play of authorized video gaming terminals.

This chapter shall not apply to the play of video gaming terminals or related activity that is lawful under Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1 or to any contract, conduct, or transaction arising from conduct lawful thereunder.

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

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

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Wildlife Resources, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery and Gaming Department, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or

1412 Board to the Department of State Police for entry into the Virginia Criminal Information Network. The
1413 chief law-enforcement officer shall not without cause withhold such written proof if the retired
1414 law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause
1415 (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof
1416 of consultation upon return to work as a law-enforcement officer or upon termination of employment
1417 with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State
1418 Police for entry into the Virginia Criminal Information Network. However, if such officer retires on
1419 disability because of the service-related injury, and would be eligible under clause (i) for written proof
1420 of consultation to carry a concealed handgun, he may retain the previously issued written proof of
1421 consultation.

1422 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement
1423 agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such
1424 law-enforcement agency, commission, or board to accept a position covered by a retirement system that
1425 is authorized under Title 51.1, provided such person carries with him written proof of consultation with
1426 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
1427 officer of the agency from which he resigned or, in the case of special agents, issued by the State
1428 Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of
1429 consultation and favorable review shall be forwarded by the chief, Commission, or Board to the
1430 Department of State Police for entry into the Virginia Criminal Information Network. The chief
1431 law-enforcement officer shall not without cause withhold such written proof if the law-enforcement
1432 officer otherwise meets the requirements of this section.

1433 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed
1434 Services of the United States or National Guard, while such officer is called to active military duty,
1435 provided such officer carries with him written proof of consultation with and favorable review of the
1436 need to carry a concealed handgun issued by the Superintendent of State Police. The proof of
1437 consultation and favorable review shall be valid as long as the officer is on active military duty and
1438 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
1439 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
1440 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
1441 good standing and is qualified to carry a weapon while on active law-enforcement duty.

1442 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the
1443 Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement
1444 or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards
1445 for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii)
1446 carries with him written proof of consultation with and favorable review of the need to carry a
1447 concealed handgun issued by the attorney for the Commonwealth from whose office he retired or
1448 resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the
1449 federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of
1450 consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the
1451 Department of State Police for entry into the Virginia Criminal Information Network.

1452 B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a
1453 retired or resigned law-enforcement officer, including a retired or resigned attorney for the
1454 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
1455 review pursuant to this section shall have the opportunity to annually participate, at the retired or
1456 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
1457 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
1458 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
1459 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
1460 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

1461 C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the
1462 Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and
1463 review pursuant to this section may annually participate and meet the training and qualification standards
1464 to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired
1465 or resigned law-enforcement officer meets the training and qualification standards, the chief
1466 law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the
1467 date of issuance, indicating that the retired or resigned officer has met the standards of the
1468 Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned
1469 officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief,
1470 Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into
1471 the Virginia Criminal Information Network.

1472 D. For all purposes, including for the purpose of applying the reciprocity provisions of
1473 § 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.

"Illegal gambling" does not include the playing or offering for play of any video gaming terminal authorized pursuant to the provisions of Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1.

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.

"Gambling device" does not include a video gaming terminal authorized pursuant to the provisions of Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1.

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 the Virginia Lottery and Gaming Oversight Board, the Department of Agriculture and Consumer Services, the Virginia Alcoholic Beverage Control Authority, or the Virginia Racing Commission.

§ 18.2-334.3. Exemptions to article.

Nothing in this article shall apply to:

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

2. Any sports betting or related activity that is lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1; or

3. *The play of any video gaming terminals or related activity that is lawful under Article 3 (§ 58.1-4048 et seq.) of Chapter 40 of Title 58.1.*

§ 18.2-340.22. 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 the provisions of § 18.2-340.26:3. All games not explicitly authorized by this article or Department regulations adopted in accordance with § 18.2-340.19 are prohibited. Nothing herein shall be construed to authorize the Department to approve the conduct of any other form of poker in the Commonwealth.

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

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

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

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

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

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

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

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

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

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the

Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

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

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

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

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

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

1658 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1659 services;

1660 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1661 Department for the purpose of determining an individual's fitness for employment pursuant to
1662 departmental instructions;

1663 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1664 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1665 records information on behalf of such governing boards or administrators pursuant to a written
1666 agreement with the Department of State Police;

1667 24. Public institutions of higher education and nonprofit private institutions of higher education for
1668 the purpose of screening individuals who are offered or accept employment;

1669 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1670 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1671 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1672 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1673 history record information obtained pursuant to this section or otherwise use any record of an individual
1674 beyond the purpose that such disclosure was made to the threat assessment team;

1675 26. Executive directors of community services boards or the personnel director serving the
1676 community services board for the purpose of determining an individual's fitness for employment,
1677 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
1678 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
1679 under contract with the community services board to serve in a direct care position on behalf of the
1680 community services board pursuant to §§ 37.2-506 and 37.2-607;

1681 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1682 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1683 permission to enter into a shared living arrangement with a person receiving medical assistance services
1684 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
1685 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506 and
1686 37.2-607;

1687 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1688 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1689 name, address, demographics and social security number of the data subject shall be released;

1690 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1691 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1692 purpose of determining if any applicant who accepts employment in any direct care position or requests
1693 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
1694 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
1695 under contract with the provider to serve in a direct care position has been convicted of a crime that
1696 affects his fitness to have responsibility for the safety and well-being of individuals with mental illness,
1697 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

1698 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1699 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1700 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1701 31. The Chairman of the Senate Committee on the Judiciary or the House Committee for Courts of
1702 Justice for the purpose of determining if any person being considered for election to any judgeship has
1703 been convicted of a crime;

1704 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1705 determining an individual's fitness for employment in positions designated as sensitive under Department
1706 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

1707 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
1708 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
1709 Violent Predators Act (§ 37.2-900 et seq.);

1710 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
1711 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
1712 companies, for the conduct of investigations of applications for employment or for access to facilities,
1713 by contractors, leased laborers, and other visitors;

1714 35. Any employer of individuals whose employment requires that they enter the homes of others, for
1715 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

1716 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
1717 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
1718 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
1719 subject to the restriction that the data shall not be further disseminated by the agency to any party other

than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

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

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

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

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

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

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

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

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

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

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

1781 Exchange prior to dissemination of any criminal history record information on offenses required to be
1782 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
1783 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
1784 where time is of the essence and the normal response time of the Exchange would exceed the necessary
1785 time period. A criminal justice agency to whom a request has been made for the dissemination of
1786 criminal history record information that is required to be reported to the Central Criminal Records
1787 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
1788 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
1789 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

1790 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
1791 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
1792 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

1793 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
1794 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
1795 for any offense specified in § 63.2-1720.

1796 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
1797 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
1798 definition of barrier crime in § 19.2-392.02.

1799 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
1800 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
1801 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
1802 the request to the employer or prospective employer making the request, provided that the person on
1803 whom the data is being obtained has consented in writing to the making of such request and has
1804 presented a photo-identification to the employer or prospective employer. In the event no conviction data
1805 is maintained on the person named in the request, the requesting employer or prospective employer shall
1806 be furnished at his cost a certification to that effect. The criminal history record search shall be
1807 conducted on forms provided by the Exchange.

1808 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
1809 information pursuant to the rules of court for obtaining discovery or for review by the court.

1810 **§ 37.2-314.2. Problem Gambling Treatment and Support Fund.**

1811 A. As used in this section:

1812 "Compulsive gambling" means persistent and recurrent problem gambling behavior leading to
1813 clinically significant impairment or distress, as indicated by an individual exhibiting four or more of the
1814 criteria as defined by the Diagnostic Statistical Manual of Mental Disorders in a 12-month period and
1815 where the behavior is not better explained by a manic episode.

1816 "Problem gambling" means a gambling behavior that causes disruptions in any major area of life,
1817 including the psychological, social, or vocational areas of life, but does not fulfill the criteria for
1818 diagnosis as a gambling disorder.

1819 B. There is hereby created in the state treasury a special nonreverting fund to be known as the
1820 Problem Gambling Treatment and Support Fund, referred to in this section as "the Fund." The Fund
1821 shall be established on the books of the Comptroller. All revenue accruing to the Fund pursuant to
1822 subsection A of § 58.1-4038, *all moneys required to be deposited into the Fund pursuant to subsection*
1823 *A of § 58.1-4067*, and moneys required to be deposited into the Fund pursuant to Chapter 41 (§
1824 58.1-4100 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest
1825 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
1826 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
1827 but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) providing
1828 counseling and other support services for compulsive and problem gamblers, (ii) developing and
1829 implementing compulsive and problem gambling treatment and prevention programs, and (iii) providing
1830 grants to support organizations that provide assistance to compulsive and problem gamblers.
1831 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued
1832 by the Comptroller upon written request signed by the Commissioner.

1833 **§ 58.1-3. Secrecy of information; penalties.**

1834 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
1835 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
1836 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section
1837 or § 58.1-512 or 58.1-2712.2, or any former officer or employee of any of the aforementioned offices
1838 shall not divulge any information acquired by him in the performance of his duties with respect to the
1839 transactions, property, including personal property, income or business of any person, firm or
1840 corporation. Such prohibition specifically includes any copy of a federal return or federal return
1841 information required by Virginia law to be attached to or included in the Virginia return. This
1842 prohibition shall apply to any reports, returns, financial documents or other information filed with the

Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;
5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;
6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;
7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

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

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

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

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

1904 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or
1905 other similar local official who collects or administers taxes for a county, city, or town from disclosing
1906 information to nongovernmental entities with which the locality has entered into a contract to provide
1907 services that assist it in the administration of refund processing or other non-audit services related to its
1908 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
1909 local official who collects or administers taxes for a county, city, or town shall not disclose information
1910 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
1911 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that
1912 such entity agrees to abide by such obligations.

1913 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
1914 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director
1915 of finance, or other similar collector of county, city, or town taxes who, for the performance of his
1916 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
1917 Commissioner of the Department of Social Services, upon entering into a written agreement, the amount
1918 of income, filing status, number and type of dependents, whether a federal earned income tax credit as
1919 authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as
1920 authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration
1921 of public assistance or social services benefits as defined in § 63.2-100 or child support services
1922 pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the
1923 administration of outreach and enrollment related to the federal earned income tax credit authorized in
1924 § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in
1925 § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the
1926 Commonwealth of Virginia, upon written request, the names and home addresses of those persons
1927 identified by the designated guarantor as having delinquent loans guaranteed by the designated
1928 guarantor; (iv) provide current address information upon request to state agencies and institutions for
1929 their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or
1930 district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed
1931 in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission,
1932 after entering into a written agreement, such tax information as may be necessary to facilitate the
1933 collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage
1934 Control Authority, upon entering into a written agreement, such tax information as may be necessary to
1935 facilitate the collection of state and local taxes and the administration of the alcoholic beverage control
1936 laws; (vii) provide to the Director of the Virginia Lottery and Gaming Department such tax information
1937 as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to
1938 the Department of the Treasury for its confidential use such tax information as may be necessary to
1939 facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix)
1940 provide to the State Corporation Commission, upon entering into a written agreement, such tax
1941 information as may be necessary to facilitate the collection of taxes and fees administered by the
1942 Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation
1943 Commission for his confidential use such tax information as may be necessary to facilitate the collection
1944 of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture
1945 and Consumer Services such tax information as may be necessary to identify those applicants for
1946 registration as a supplier of charitable gaming supplies who have not filed required returns or who owe
1947 delinquent taxes; (xii) provide to the Department of Housing and Community Development for its
1948 confidential use such tax information as may be necessary to facilitate the administration of the
1949 remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone
1950 Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private
1951 collectors entering into a written agreement with the Tax Commissioner, for their confidential use when
1952 acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax
1953 Commissioner is not authorized to provide such information to a private collector who has used or
1954 disseminated in an unauthorized or prohibited manner any such information previously provided to such
1955 collector; (xiv) provide current name and address information as to the identity of the wholesale or retail
1956 dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at
1957 retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for
1958 violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to
1959 the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information
1960 as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the
1961 Director of the Department of Human Resource Management, upon entering into a written agreement,
1962 such tax information as may be necessary to identify persons receiving workers' compensation indemnity
1963 benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any
1964 commissioner of the revenue, director of finance, or any other officer of any county, city, or town
1965 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

2027 of performing his duties to the commissioner of the revenue or other assessing official for such
2028 jurisdiction for use by such commissioner or other official in performing assessments.

2029 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
2030 motor vehicle local license decal the year, make, and model and any other legal identification
2031 information about the particular motor vehicle for which that local license decal is assigned.

2032 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
2033 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
2034 written request, the name, address, and social security number of a taxpayer, necessary for the
2035 performance of the Commissioner's official duties regarding the administration and enforcement of laws
2036 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
2037 Commissioner or his agent that may be deemed taxpayer information shall not relieve the Commissioner
2038 of the obligations under this section.

2039 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
2040 confidential tax document that he knows or has reason to know is a confidential tax document. A
2041 confidential tax document is any correspondence, document, or tax return that is prohibited from being
2042 divulged by subsection A, B, C, or D and includes any document containing information on the
2043 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
2044 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
2045 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
2046 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

2047 **§ 58.1-302. Definitions.**

2048 For the purpose of this chapter and unless otherwise required by the context:

2049 "Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to
2050 each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or
2051 others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same
2052 interests.

2053 "Compensation" means wages, salaries, commissions and any other form of remuneration paid or
2054 accrued to employees for personal services.

2055 "Corporation" includes associations, joint stock companies and insurance companies.

2056 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends
2057 to return even though he may actually reside elsewhere. In determining domicile, consideration may be
2058 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not
2059 limited to, financial independence, business pursuits, employment, income sources, residence for federal
2060 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of
2061 personal and real property owned by the applicant, motor vehicle and other personal property
2062 registration, residence for purposes of voting as proven by registration to vote, if any, and such other
2063 factors as may reasonably be deemed necessary to determine the person's domicile.

2064 "Foreign source income" means:

- 2065 1. Interest, other than interest derived from sources within the United States;
2066 2. Dividends, other than dividends derived from sources within the United States;
2067 3. Rents, royalties, license, and technical fees from property located or services performed without
2068 the United States or from any interest in such property, including rents, royalties, or fees for the use of
2069 or the privilege of using without the United States any patents, copyrights, secret processes and
2070 formulas, good will, trademarks, trade brands, franchises, and other like properties;
2071 4. Gains, profits, or other income from the sale of intangible or real property located without the
2072 United States; and

2073 5. The amount of an individual's share of net income attributable to a foreign source qualified
2074 business unit of an electing small business corporation (S corporation). For purposes of this subsection,
2075 qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such
2076 income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

2077 In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the
2078 Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

2079 "Income and deductions from Virginia sources" includes:

- 2080 1. Items of income, gain, loss and deduction attributable to:
2081 a. The ownership of any interest in real or tangible personal property in Virginia;
2082 b. A business, trade, profession or occupation carried on in Virginia; or
2083 c. Prizes paid by the Virginia Lottery and Gaming Department, and gambling winnings from wagers
2084 placed or paid at a location in Virginia.

2085 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
2086 gains from the disposition of intangible personal property to the extent that such income is from
2087 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

2088 "Income tax return preparer" means any person who prepares for compensation, or who employs one

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

1. Furnishes typing, reproducing, or other mechanical assistance;
2. Prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed;
3. Prepares as a fiduciary a return or claim for refund for any person; or
4. Prepares an application for correction of an erroneous assessment or a protective claim for refund for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

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

"Intangible expenses and costs" means:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income;
2. Losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.

"Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease, transfer, or disposition of intangible property.

"Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

"Related entity" means:

1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the 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

2150 3. A trust created by or consisting of property of a person domiciled in the Commonwealth.
2151 "Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or
2152 other disposition of intangible property shall include only the net gain realized from the transaction.
2153 "State," for purposes of Article 10 (§ 58.1-400 et seq.), means any state of the United States, the
2154 District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United
2155 States, and any foreign country.
2156 "Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary
2157 income tax return under the laws of the United States.
2158 "Virginia fiduciary adjustment" means the net amount of the applicable modifications described in
2159 §§ 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
2160 trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction
2161 of an estate or trust. The fiduciary adjustment shall not include the modification in § 58.1-322.03, except
2162 that the amount of state income taxes excluded from federal taxable income shall be included. The
2163 fiduciary adjustment shall also include the modification in subdivision 7 of § 58.1-322.03 regarding the
2164 deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.
2165 **§ 58.1-322.02. (Effective until date pursuant to Va. Const., Art. IV, § 13) Virginia taxable**
2166 **income; subtractions.**
2167 In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal
2168 adjusted gross income, there shall be subtracted:
2169 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
2170 and on obligations or securities of any authority, commission, or instrumentality of the United States to
2171 the extent exempt from state income taxes under the laws of the United States, including, but not
2172 limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of
2173 federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.
2174 2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth
2175 or of any political subdivision or instrumentality of the Commonwealth.
2176 3. Benefits received under Title II of the Social Security Act and other benefits subject to federal
2177 income taxation solely pursuant to § 86 of the Internal Revenue Code.
2178 4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code;
2179 however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a
2180 subtraction under this subdivision.
2181 5. The amount of any refund or credit for overpayment of income taxes imposed by the
2182 Commonwealth or any other taxing jurisdiction.
2183 6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not
2184 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.
2185 7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery *and*
2186 *Gaming Department*.
2187 8. The wages or salaries received by any person for active and inactive service in the National Guard
2188 of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days
2189 of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3
2190 and below shall be entitled to the deductions specified in this subdivision.
2191 9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before
2192 December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for
2193 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
2194 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
2195 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an
2196 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime
2197 for which the reward was paid, or any person who is compensated for the investigation of crimes or
2198 accidents.
2199 10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction
2200 for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the
2201 Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and
2202 members of limited liability companies to the extent and in the same manner as other deductions may
2203 pass through to such partners, shareholders, and members.
2204 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or
2205 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account
2206 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as
2207 defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the
2208 contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the
2209 extent the contributions to such plan or program were subject to taxation under the income tax in
2210 another state.
2211 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

2273 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction
2274 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal
2275 gross income in accordance with § 134 of the Internal Revenue Code.

2276 21. The death benefit payments from an annuity contract that are received by a beneficiary of such
2277 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an
2278 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under
2279 this subdivision shall be allowed only for that portion of the death benefit payment that is included in
2280 federal adjusted gross income.

2281 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
2282 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
2283 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
2284 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

2285 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
2286 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the
2287 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,
2288 and launched from an airport or spaceport in Virginia.

2289 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
2290 taxed as investment services partnership interest income (otherwise known as investment partnership
2291 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
2292 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
2293 § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided
2294 that the business has its principal office or facility in the Commonwealth and less than \$3 million in
2295 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
2296 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
2297 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
2298 shall be eligible for the subtraction under this subdivision for an investment in the same business.

2299 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
2300 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
2301 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
2302 and (ii) interest income or other income for federal income tax purposes attributable to such person's
2303 first-time home buyer savings account.

2304 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
2305 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
2306 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
2307 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
2308 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
2309 year that was used for other than the payment of eligible costs, computed by multiplying the amount
2310 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
2311 the account at the time of the withdrawal to the total balance in the account at such time.

2312 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
2313 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
2314 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
2315 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)
2316 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified
2317 beneficiary.

2318 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
2319 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

2320 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year
2321 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
2322 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
2323 Revenue Code.

2324 27. a. Income, including investment services partnership interest income (otherwise known as
2325 investment partnership carried interest income), attributable to an investment in a Virginia venture
2326 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or
2327 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this
2328 subdivision for an investment in a company that is owned or operated by a family member or an
2329 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
2330 claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

2331 b. As used in this subdivision 27:

2332 "Qualified portfolio company" means a company that (i) has its principal place of business in the
2333 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
2334 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.

§ 58.1-322.02. (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

2396 Commonwealth or any other taxing jurisdiction.

2397 6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not
2398 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

2399 7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery and
2400 *Gaming Department*.

2401 8. The wages or salaries received by any person for active and inactive service in the National Guard
2402 of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days
2403 of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3
2404 and below shall be entitled to the deductions specified in this subdivision.

2405 9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before
2406 December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for
2407 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
2408 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
2409 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an
2410 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime
2411 for which the reward was paid, or any person who is compensated for the investigation of crimes or
2412 accidents.

2413 10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction
2414 for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the
2415 Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and
2416 members of limited liability companies to the extent and in the same manner as other deductions may
2417 pass through to such partners, shareholders, and members.

2418 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or
2419 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account
2420 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as
2421 defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the
2422 contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the
2423 extent the contributions to such plan or program were subject to taxation under the income tax in
2424 another state.

2425 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
2426 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
2427 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
2428 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
2429 scholarship.

2430 13. All military pay and allowances, to the extent included in federal adjusted gross income and not
2431 otherwise subtracted, deducted, or exempted under this section, earned by military personnel while
2432 serving by order of the President of the United States with the consent of Congress in a combat zone or
2433 qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112
2434 of the Internal Revenue Code.

2435 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
2436 of real property or the sale or exchange of an easement to real property which results in the real
2437 property or the easement thereto being devoted to open-space use, as that term is defined in §
2438 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in
2439 accordance with this subdivision, no tax credit under this chapter for donating land for its preservation
2440 shall be allowed for three years following the year in which the subtraction is taken.

2441 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active
2442 duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar
2443 by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero
2444 if such military basic pay amount is equal to or exceeds \$30,000.

2445 16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all
2446 employment for the taxable year is \$15,000 or less.

2447 17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

2448 18. a. Any amount received as military retirement income by an individual awarded the
2449 Congressional Medal of Honor.

2450 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to
2451 \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before
2452 January 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1,
2453 2024, but before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on
2454 and after January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b,
2455 "military benefits" means any (i) military retirement income received for service in the Armed Forces of
2456 the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue
2457 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 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

2519 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
2520 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
2521 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
2522 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
2523 year that was used for other than the payment of eligible costs, computed by multiplying the amount
2524 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
2525 the account at the time of the withdrawal to the total balance in the account at such time.

2526 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
2527 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
2528 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
2529 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)
2530 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified
2531 beneficiary.

2532 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
2533 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

2534 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year
2535 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
2536 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
2537 Revenue Code.

2538 27. a. Income, including investment services partnership interest income (otherwise known as
2539 investment partnership carried interest income), attributable to an investment in a Virginia venture
2540 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or
2541 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this
2542 subdivision for an investment in a company that is owned or operated by a family member or an
2543 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
2544 claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

2545 b. As used in this subdivision 27:

2546 "Qualified portfolio company" means a company that (i) has its principal place of business in the
2547 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
2548 service other than the management or investment of capital; and (iii) provides equity in the company to
2549 the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company"
2550 does not include a company that is an individual or sole proprietorship.

2551 "Virginia venture capital account" means an investment fund that has been certified by the
2552 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
2553 account, the operator of the investment fund shall register the investment fund with the Department prior
2554 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
2555 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
2556 investor who has at least four years of professional experience in venture capital investment or
2557 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
2558 an undergraduate degree from an accredited college or university in economics, finance, or a similar
2559 field of study. The Department may require an investment fund to provide documentation of the
2560 investor's training, education, or experience as deemed necessary by the Department to determine
2561 substantial equivalency. If the Department determines that the investment fund employs at least one
2562 investor with the experience set forth herein, the Department shall certify the investment fund as a
2563 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
2564 of the capital committed to its fund in qualified portfolio companies.

2565 28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a
2566 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
2567 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a
2568 family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for
2569 a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4
2570 for the same investment.

2571 b. As used in this subdivision 28:

2572 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
2573 § 2.2-115.

2574 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3
2575 of § 2.2-115.

2576 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
2577 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
2578 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
2579 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
2580 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.

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

2642 § 58.1-4002. Definitions.

2643 As used in this chapter, unless the context requires a different meaning:

2644 "Board" means the Virginia Lottery *and Gaming Oversight* Board established by this chapter.

2645 "Casino gaming" or "game" means baccarat, blackjack, twenty-one, poker, craps, dice, slot machines,
2646 roulette wheels, Klondike tables, punchboards, faro layouts, numbers tickets, push cards, jar tickets, or
2647 pull tabs and any other activity that is authorized by the Board as a wagering game or device under
2648 Chapter 41 (§ 58.1-4100 et seq.). "Casino gaming" or "game" includes on-premises mobile casino
2649 gaming.

2650 "Department" means the *Virginia Lottery and Gaming Department, which is the* independent agency
2651 responsible for the administration of the Virginia Lottery pursuant to this article ~~and, the regulation of~~
2652 sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), ~~and the regulation of video gaming terminals~~
2653 *pursuant to Article 3 (§ 58.1-4048 et seq.).*

2654 "Director" means the Director of the Virginia Lottery *and Gaming Department*.

2655 "Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this
2656 chapter article.

2657 "On-premises mobile casino gaming" means casino gaming offered by a casino gaming operator at a
2658 casino gaming establishment using a computer network of both federal and nonfederal interoperable
2659 packet-switched data networks through which the casino gaming operator may offer casino gaming to
2660 individuals who have established an on-premises mobile casino gaming account with the casino gaming
2661 operator and who are physically present on the premises of the casino gaming establishment, as
2662 authorized by regulations promulgated by the Board.

2663 "Sports betting" means placing wagers on sporting events as such activity is regulated by the Board.

2664 "Ticket courier service" means a service operated for the purpose of purchasing ~~Virginia Lottery~~
2665 lottery tickets on behalf of individuals located within or outside of the Commonwealth and delivering or
2666 transmitting such tickets, or electronic images thereof, to such individuals as a business-for-profit
2667 delivery service.

2668 "Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4015.1
2669 that allows individuals to voluntarily exclude themselves from engaging in the activities described in
2670 subdivision B 1 of § 58.1-4015.1 by placing their name on a voluntary exclusion list and following the
2671 procedures set forth by the Board.

2672 § 58.1-4003. Virginia Lottery and Gaming Department established.

2673 Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any
2674 other provision of law, there is hereby established as an independent agency of the Commonwealth,
2675 exclusive of the legislative, executive, or judicial branches of government, the Virginia Lottery *and*
2676 *Gaming Department*, which shall include a Director and a Virginia Lottery *and Gaming Oversight* Board
2677 for the purpose of operating a state lottery *and regulating video gaming terminals pursuant to Article 3*
2678 *(§ 58.1-4048 et seq.).*

2679 § 58.1-4006. Powers of the Director.

2680 A. The Director shall supervise and administer:

2681 1. The operation of the lottery in accordance with the provisions of this chapter and with the rules
2682 and regulations promulgated ~~hereunder pursuant to this chapter; and~~

2683 2. The regulation of casino gaming in accordance with Chapter 41 (§ 58.1-4100 et seq.); *and*

2684 3. *The regulation of video gaming terminals in accordance with Article 3 (§ 58.1-4048 et seq.) and*
2685 *with the rules and regulations promulgated pursuant to this chapter.*

2686 B. The Director shall also:

2687 1. Employ such deputy directors, professional, technical and clerical assistants, and other employees
2688 as may be required to carry out the functions and duties of the Department.

2689 2. Act as secretary and executive officer of the Board.

2690 3. Require bond or other surety satisfactory to the Director from licensed agents as provided in
2691 subsection E of § 58.1-4009 and Department employees with access to Department funds or lottery
2692 funds, in such amount as provided in the rules and regulations of the Board. The Director may also
2693 require bond from other employees as he deems necessary.

2694 4. Confer regularly, but not less than four times each year, with the Board on the operation and
2695 administration of the lottery ~~and, the regulation of casino gaming, and the regulation of video gaming~~
2696 *terminals; make available for inspection by the Board, upon request, all books, records, files, and other*
2697 *information and documents of the Department; and advise the Board and recommend such matters as he*
2698 *deems necessary and advisable to improve the operation and administration of the lottery and, the*
2699 *regulation of casino gaming, and the regulation of video gaming terminals.*

2700 5. Suspend, revoke, or refuse to renew any license issued pursuant to this chapter or the rules and
2701 regulations adopted ~~hereunder pursuant to this chapter.~~

2702 6. Suspend, revoke, or refuse to renew any license or permit issued pursuant to Chapter 41
2703 (§ 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. Immediately upon the receipt of a credible complaint of an alleged criminal violation of Chapter 41 (§ 58.1-4100 et seq.), report the complaint to the Attorney General and the State Police for appropriate action.

9. 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 Chapter 41 (§ 58.1-4100 et seq.) and Department regulations.

10. 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. 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. 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. 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. 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. 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 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 or desirable.

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

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

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

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

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

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery pursuant to this article ~~and~~, sports betting pursuant to Article 2 (§ 58.1-4030 et seq.), *and the regulation of video gaming terminals pursuant to Article 3 (§ 58.1-4048 et seq.)*. The regulations governing the establishment and operation of the lottery ~~and~~, sports betting, *and the regulation of video gaming terminals* shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest, and economical operation and administration of the lottery ~~and~~, sports betting, *and the regulation of video gaming terminals* and for the convenience of the purchasers of tickets or shares, the holders of winning tickets or shares, ~~and~~ sports bettors, *and the players of video gaming terminals*. The regulations, which may be amended, repealed, or supplemented as necessary, shall include the following:

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

- 2765 2. The price or prices of tickets or shares in the lottery.
- 2766 3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the
- 2767 public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes
- 2768 and (ii) returned to the Commonwealth as net revenues.
- 2769 4. The manner of selecting the winning tickets or shares.
- 2770 5. The manner of payment of prizes to the holders of winning tickets or shares.
- 2771 6. The frequency of the drawings or selections of winning tickets or shares without limitation.
- 2772 7. Without limitation as to number, the type or types of locations at which tickets or shares may be
- 2773 sold.
- 2774 8. The method to be used in selling tickets or shares, including the sale of tickets or shares over the
- 2775 Internet.
- 2776 9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.
- 2777 10. The licensing of agents to sell tickets or shares who will best serve the public convenience and
- 2778 promote the sale of tickets or shares. No person under the age of 18 shall be licensed as an agent. A
- 2779 licensed agent may employ a person who is 16 years of age or older to sell or otherwise vend tickets at
- 2780 the agent's place of business so long as the employee is supervised in the selling or vending of tickets
- 2781 by the manager or supervisor in charge at the location where the tickets are being sold. Employment of
- 2782 such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.
- 2783 11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to
- 2784 provide for the adequate availability of tickets or shares to prospective buyers and for the convenience
- 2785 of the public. Notwithstanding the provisions of this subdivision, the Board shall not be required to
- 2786 approve temporary bonus or incentive programs for payments to licensed sales agents.
- 2787 12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other
- 2788 sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022.
- 2789 13. Such other matters necessary or desirable for the efficient and economical operation and
- 2790 administration of the lottery.
- 2791 14. The operation of sports betting pursuant to Article 2 (§ 58.1-4030 et seq.). In adopting such
- 2792 regulations, the Board shall establish a consumer protection program and publish a consumer protection
- 2793 bill of rights. Such program and bill of rights shall include measures to protect sports bettors, as defined
- 2794 in § 58.1-4030, with respect to identity, funds and accounts, consumer complaints, self-exclusion, and
- 2795 any other consumer protection measure the Board determines to be reasonable.
- 2796 15. The administration of a voluntary exclusion program as provided in § 58.1-4015.1.
- 2797 The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2;
- 2798 however, the Board shall promulgate regulations, after consultation with the Director, relative to
- 2799 departmental procurement which include standards of ethics for procurement consistent with the
- 2800 provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that
- 2801 departmental procurement will be based on competitive principles.
- 2802 The Board shall have the power to advise and recommend, but shall have no power to veto or
- 2803 modify administrative decisions of the Director. However, the Board shall have the power to accept,
- 2804 modify or reject any revenue projections before such projections are forwarded to the Governor.
- 2805 B. The Board shall carry on a continuous study and investigation of the lottery ~~and~~, sports betting,
- 2806 ~~and video gaming terminals~~ throughout the Commonwealth to:
- 2807 1. Ascertain any defects of this chapter or the regulations issued ~~hereunder~~ *which pursuant to this*
- 2808 *chapter that cause abuses in the administration and operation of the lottery and, sports betting and, or*
- 2809 *the regulation of video gaming terminals or any evasions of such provisions.*
- 2810 2. Formulate, with the Director, recommendations for changes in this chapter and the regulations
- 2811 promulgated ~~hereunder~~ *pursuant to this chapter* to prevent such abuses and evasions.
- 2812 3. Guard against the use of this chapter and the regulations promulgated ~~hereunder~~ *pursuant to this*
- 2813 *chapter as a subterfuge for organized crime and illegal gambling.*
- 2814 4. Ensure that this law and the regulations of the Board are in such form and are so administered as
- 2815 to serve the true purpose of this chapter.
- 2816 C. The Board shall make a continuous study and investigation of (i) the operation and the
- 2817 administration of similar laws that may be in effect in other states or countries;; (ii) any literature on the
- 2818 subject that may be published or available;; (iii) any federal laws that may affect the operation of the
- 2819 lottery ~~and~~, sports betting, ~~and the regulation of video gaming terminals~~; and (iv) the reaction of
- 2820 Virginia citizens to the potential features of the lottery ~~and~~, sports betting, ~~and the regulation of video~~
- 2821 ~~gaming terminals~~ with a view to recommending or effecting changes that will serve the purpose of this
- 2822 chapter.
- 2823 D. The Board shall hear and decide an appeal of any ~~denial~~:
- 2824 1. *Denial* by the Director of the licensing or revocation of a license of a lottery agent pursuant to
- 2825 subdivision A 10 of this section and subdivision B 5 of § 58.1-4006: ~~The Board shall hear and decide~~
- 2826 ~~an appeal of any penalty~~;

2. *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.); and*

3. *Penalty, denial by the Director of a license or renewal, or suspension or revocation of a license imposed by the Director pursuant to Article 3 (§ 58.1-4048 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.

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

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

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

E. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety

company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory to the Director, payable to the ~~Virginia Lottery Department~~ and conditioned upon the faithful performance of his duties.

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

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

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

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

§ 58.1-4012. Suspension and revocation of licenses.

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

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;
2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;

3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;

4. Failure to file any return or report, to keep records, or to pay any fees or other charges required by this chapter;

5. Any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the Commonwealth lottery *or the administration and regulation of video gaming terminals*;

6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees;

7. A material change, since issuance of the license, with respect to any matters required to be considered by the Director under this chapter; ~~or~~

8. *Failure to pay any fees or penalties required by this chapter; or*

9. Other factors established by Department regulation.

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

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

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

The contract shall:

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

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

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

associated with the assignment or loan and by whom such fees are payable; and (vi) the tax identification number of the assignee.

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

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

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

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

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

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

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

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

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

§ 58.1-4022. Virginia Lottery Fund.

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

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

C. The Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 58.1-4022.1, less the special reserve fund, the audited balances of the Virginia Lottery Fund at the close of each fiscal year. The transfer for each year shall be made in two parts: (i) on or before June 30, the Comptroller shall transfer balances of the Virginia Lottery Fund for the fiscal year, based on an estimate determined by the Virginia Lottery Department, and (ii) no later than 10 days after receipt of the annual audit report required by § 58.1-4023, the Comptroller shall transfer to the Lottery Proceeds Fund the

remaining audited balances of the Virginia Lottery Fund for the fiscal year. If such annual audit discloses that the actual revenue is less than the estimate on which the transfer was based, the State Comptroller shall transfer the difference between the actual revenue and the estimate from the Lottery Proceeds Fund to the Virginia Lottery Fund.

D. In addition to such other funds as may be appropriated, 100 percent of the lottery revenues transferred to the Lottery Proceeds Fund shall be appropriated entirely and solely for the purpose of public education in the Commonwealth unless otherwise redirected pursuant to Article X, Section 7-A of 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.*); and (iii) granting, denying, suspending, or revoking any license or imposing any penalty pursuant to Article 3 (§ 58.1-4048 *et seq.*) shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 *et seq.*). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

Article 3.

Video Gaming Terminals.

§ 58.1-4048. Definitions.

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

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

"Gaming tax" means the tax imposed on gross profits.

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

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

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

"Individual" means a natural person.

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

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

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

2. Surveillance equipment to monitor only the video gaming area and means of ingress and egress

thereto.

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

4. Installation of security and alarm systems at a licensed establishment's premises that are reasonably necessary to protect video gaming terminals.

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

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

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

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

"Operator" means any person that leases or owns video gaming terminals and provides such terminals to host locations.

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

"Player" means an individual who plays a video gaming terminal.

"Procurement agent" means a person that acts as an agent, either as an employee or as an independent contractor of an operator or operators and shares in the gross profits, is paid a commission, or is otherwise compensated for the purpose of soliciting or procuring a use agreement between an operator licensee and a host location licensee for the placement of a video gaming terminal by the operator at the host location.

"Publicly traded corporation" means a person, other than an individual, that (i) has a class or series of securities registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.), (ii) is a registered management company under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), or (iii) is subject to the reporting obligations imposed by § 15(d) of the Securities Exchange Act of 1934 by reason of having filed a registration statement that has become effective under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.).

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

"Skill game" has the same meaning as such term is defined in § 18.2-325.

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

"Successful player" means an individual who wins on one or more plays of a video gaming terminal.

"Ticket redemption terminal" means a terminal where a voucher dispensed by a video gaming terminal may be redeemed for cash or a cash equivalent.

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

"Use agreement" means a written agreement conforming to the regulations established by the Board and those minimum requirements set forth in this article between the operator and host location of the placement, operation, and maintenance of video gaming terminals at the host location.

"Video gaming terminal" 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 entirely by chance through the

3134 use of a random number generator, and that may deliver or entitle the person playing or operating the
 3135 terminal to receive cash in excess of the cost of operating, activating, or playing the game. "Video
 3136 gaming terminal" does not include skill games, charitable games authorized pursuant to Article 1.1:1
 3137 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, sports betting authorized under Article 2 (§ 58.1-4030
 3138 et seq.), casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.), or historical horse racing
 3139 authorized pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1.

3140 **§ 58.1-4049. Powers and duties of the Director related to video gaming terminals; reporting.**

3141 A. The Director shall have the following powers and duties related to the regulation of video gaming
 3142 terminals:

3143 1. Issue licenses under this article, and supervise all activities licensed under the provisions of this
 3144 article, including the manufacturing, distributing, operating, hosting, and playing of video gaming
 3145 terminals;

3146 2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the rules and
 3147 regulations adopted pursuant to this article;

3148 3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of
 3149 any licensee, and compel the production of any books, documents, records, or memoranda of any
 3150 licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied
 3151 with;

3152 4. Order such audits as deemed necessary;

3153 5. Certify monthly to the State Comptroller and the Board a full and complete statement of video
 3154 gaming terminal revenue and expenses for the previous month;

3155 6. Assess and collect civil penalties for violations of this article and Board regulations;

3156 7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate
 3157 Committee on Finance and Appropriations, House Committee on Finance, and House Committee on
 3158 Appropriations the total video gaming terminal revenues and expenses for the previous month and make
 3159 an annual report, which shall include a full and complete statement of video gaming terminal revenues
 3160 and expenses, to the Governor and the General Assembly, including recommendations for changes in
 3161 this article as the Director and Board deem prudent; and

3162 8. Do all acts necessary and advisable to carry out the purposes of this article.

3163 B. The Director may require bond or other surety satisfactory to the Director from license holders in
 3164 such amount as provided in the rules and regulations of the Board adopted under this article.

3165 C. Upon request by the commissioner of the revenue or other assessing official of a locality, the
 3166 Director shall provide to such commissioner of the revenue or other assessing official of such locality
 3167 the gaming tax collected in such locality pursuant to this article from each video gaming terminal, from
 3168 each host location, and from all video gaming terminals and host locations in the aggregate.

3169 **§ 58.1-4050. Powers and duties of the Board related to video gaming terminals.**

3170 In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate
 3171 regulations related to video gaming terminals that:

3172 1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient
 3173 for the administration of this article;

3174 2. Provide a schedule of application, license, and renewal fees that shall be sufficient to cover the
 3175 costs of the administration and regulation of video gaming terminals pursuant to this article;

3176 3. Establish requirements for all licensees under this article for the form, content, and retention of
 3177 all records and accounts;

3178 4. Establish a process for the approval or disapproval of video gaming terminals and games offered
 3179 on such terminals;

3180 5. Establish cash handling procedures for operator and host location licensees that require such
 3181 licensees to keep separate accounts for gaming and nongaming transactions;

3182 6. Require inspections of all licensees at a frequency determined by the Board;

3183 7. Establish a program of periodic testing and inspection for all video gaming terminals; and

3184 8. Prohibit licensees and their affiliates from advertising or marketing their products and services
 3185 related to video gaming terminals. However, (i) licensees shall be allowed to describe their products
 3186 and services on a website operated and maintained by the licensee and (ii) host location licensees shall
 3187 be allowed to advertise on one sign located at the host location, provided such sign is no larger than
 3188 three feet in height by three feet in width.

3189 **§ 58.1-4051. Licenses that may be granted by the Director.**

3190 A. The Director may grant the following licenses:

3191 1. Manufacturer license, which shall authorize the licensee to manufacture and sell or lease to
 3192 distributors and operators major components or parts, including software and hardware, for video
 3193 gaming terminals.

3194 2. Distributor license, which shall authorize the licensee to lease or buy video gaming terminals from
 3195 a manufacturer and lease, sell, or otherwise distribute them to operators.

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

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

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

§ 58.1-4052. General licensing requirements; penalty.

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

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

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

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

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

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

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

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

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

5. The applicant's license to manufacture, distribute, operate, or offer to the public for play a video gaming terminal issued by any other jurisdiction has been suspended or revoked;

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

7. The applicant's application is incomplete.

F. The Director shall suspend, revoke, or refuse to grant a license to act as an operator, manufacturer, or distributor pursuant to this article to any person, partnership, or corporation, if the Director determines that such person, partnership, or corporation continued to manufacture, operate, or distribute skill games in the Commonwealth on or after July 1, 2022. The provisions of this subsection shall not apply to an application to operate as a host location.

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

§ 58.1-4053. License posting; expiration.

3257 A. Each license granted by the Director shall designate the place where the business of the licensee
3258 will be carried out.

3259 B. Each license shall be posted in a location conspicuous to the public at the place where the
3260 licensee carries out the business for which the license is granted.

3261 C. The privileges conferred by any license granted by the Director shall continue until the last day
3262 of the twelfth month next ensuing or the last day of the designated month and year of expiration, except
3263 the license may be sooner terminated for any cause for which the Director would be entitled to refuse to
3264 grant a license or by operation of law, voluntary surrender, or order of the Director.

3265 D. The Director may grant licenses for one year or for multiple years, not to exceed five years.
3266 Qualifications for a multiyear license shall be determined on the basis of criteria established by the
3267 Director. Fees for multiyear licenses shall not be refundable.

3268 E. Sixty days before the expiration of a license, the license holder may submit a renewal application
3269 on forms prescribed by the Director. The Director may deny a license renewal if he finds grounds for
3270 denial as described in § 58.1-4052.

3271 **§ 58.1-4054. Prohibition against the issuance of multiple licenses to one person.**

3272 A. For purposes of this section, "interest" means the direct or indirect ownership of any equity
3273 ownership interest or a partial equity ownership interest or any other type of financial interest,
3274 including being an investor, shareholder, member, lender, or employee.

3275 B. No licensee that has been issued a manufacturer license or a distributor license shall be issued an
3276 operator license or host location license or have any interest in an operator licensee or a host location
3277 licensee.

3278 C. A licensee that has been issued a manufacturer license may also be issued a distributor license or
3279 have an interest in a distributor licensee. A licensee that has been issued a distributor license may also
3280 be issued a manufacturer license or have an interest in a manufacturer licensee.

3281 D. No licensee that has been issued an operator license shall be issued a manufacturer license,
3282 distributor license, or host location license, or have any interest in a manufacturer licensee, distributor
3283 licensee, or host location licensee.

3284 E. No licensee that has been issued a host location license shall be issued a manufacturer license,
3285 distributor license, or operator license, or have any interest in a manufacturer licensee, distributor
3286 licensee, or operator licensee.

3287 **§ 58.1-4055. Prohibition against transferring licenses without approval by Director.**

3288 A licensee may not transfer its license, or assign responsibility for compliance with the conditions of
3289 its license, to any party, including a transfer of effective control of the licensee, without approval by the
3290 Director.

3291 **§ 58.1-4056. Suspension and revocation of licenses; civil penalties; hearing and appeal.**

3292 A. If the Director determines that any provision of this article, or any regulation or condition of the
3293 Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days'
3294 notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed
3295 \$100,000 and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked,
3296 the Director shall state his reasons for doing so, which shall be entered of record.

3297 B. Any person aggrieved by a refusal of the Director to issue any license, the suspension or
3298 revocation of a license, the imposition of a fine, or any other action of the Director may seek review of
3299 such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act in the
3300 Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 of the
3301 Administrative Process Act.

3302 C. Suspension or revocation of a license by the Director for any violation shall not preclude criminal
3303 liability for such violation.

3304 **§ 58.1-4057. Minimum requirements for use agreements between operator licensee and host
3305 location licensee; sales agents.**

3306 A. No operator licensee may place, operate, or maintain a video gaming terminal on the premises of
3307 a host location licensee unless the operator licensee and the host location licensee have entered into a
3308 use agreement that sets forth the terms and conditions for the placement, operation, and maintenance of
3309 such terminals in compliance with this article and the regulations adopted by the Director.

3310 B. A copy of the use agreement shall be maintained in the business office of both the operator
3311 licensee and the host location licensee and shall be available at all times for inspection by the Director.
3312 A copy of the use agreement shall be filed with the Director within 30 days after the placement of any
3313 video gaming terminals in the host location licensee's place of business by the operator licensee.

3314 C. The use agreement shall be exclusive between one operator licensee and one host location
3315 licensee.

3316 D. The use agreement shall be valid for a term of not less than five years, and not more than 10
3317 years, and shall not contain an automatic renewal clause or any clause requiring the host location to
3318 provide notice of such host location licensee's intent to renew or not renew such use agreement.

E. The use agreement shall provide that the amount of gross profit remaining after remittance of the gaming tax to the Director by the operator shall be divided equally between the host location and the operator.

F. No person shall receive any portion of gross profits generated from a host location licensee's premises except for the operator licensee and host location licensee that are parties to the use agreement, except as approved by the Director in compliance with applicable regulations adopted by the Board.

G. Pursuant to a written commission agreement approved by the Board in accordance with regulations adopted by the Board, a procurement agent may be paid a commission for the solicitation and procurement of a use agreement in an amount not to exceed \$5,000 per use agreement for each year that the use agreement is in place between the operator and the host location. The Director is authorized to increase or decrease the amount of such commission by regulation adopted by the Board.

H. No use agreement regarding the placement, operation, or maintenance of a video gaming terminal shall be valid if entered into or executed by the operator or the host location prior to July 1, 2023.

I. No use agreement regarding the placement, operation or maintenance of a video gaming terminal shall be valid unless entered into and executed by the operator licensee and the host location licensee not more than one year before the issuance of a license to the host location.

§ 58.1-4058. Approval of video gaming terminals by the Director.

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

B. Before selling, leasing, or otherwise providing a video gaming terminal to an operator, a manufacturer shall provide a prototype or production sample of such video gaming terminal to an independent testing laboratory that has been approved by the Director, which shall evaluate and certify whether such video gaming terminal meets the definition of video gaming terminal under § 58.1-4048, the requirements of § 58.1-4059, and any other requirements established in Board regulations.

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

- 1. The method of determining the game outcome;*
- 2. The available wagering denominations;*
- 3. The minimum wager amount;*
- 4. The maximum wager amount;*
- 5. The amount of takeout for each wager;*
- 6. The method of calculating winning payouts;*
- 7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;*
- 8. The minimum payouts and the method of guaranteeing minimum payouts; and*
- 9. Any other information requested by the independent testing laboratory or required by the Board for use in the testing of the video gaming terminal.*

C. The report of the independent testing laboratory shall be submitted by the manufacturer to the Director. The Director shall use the report in evaluating whether the video gaming terminal shall be approved under this article.

D. If at any time a manufacturer makes a substantive change to any video gaming terminal that has previously been approved by the Director, such manufacturer shall resubmit the video gaming terminal to the Director in a manner prescribed by Board regulation.

§ 58.1-4059. Requirements of video gaming terminals.

In addition to meeting the definition of video gaming terminal established in § 58.1-4048, video gaming terminals shall:

- 1. Show the rules of play for each game in a way that adequately describes or displays such information so that a reasonable person could understand the game prior to placing a wager;*
- 2. Accept only cash wagers;*
- 3. Use a random selection process to determine the outcome of each play of a game that must meet 99 percent confidence limits using a standard chi-squared test for (randomness) goodness of fit;*
- 4. Prohibit the modification of the rules of play for a game, including the probability and award of a game outcome, once a game is initiated;*
- 5. Prohibit the remote modification or manipulation of games, except as required or approved by the Director pursuant to the provisions of this article;*
- 6. Pay out no more than \$1,199 in winnings for a single play of a game, or the maximum payout amount allowed pursuant to the Internal Revenue Code that would not trigger tax reporting for such winnings;*
- 7. Have a payout percentage of at least 85 percent;*
- 8. Have a power switch that is located inside of the terminal to prevent power from being switched*

3380 off from outside of the terminal;

3381 9. Be designed such that power and data cables into and out of the terminal are routed so that they
3382 are not accessible by the general public;

3383 10. Have an identification badge affixed to the exterior of the terminal by the manufacturer that is
3384 not removable without leaving evidence of tampering. Such badge shall include the following
3385 information:

3386 a. The name of the manufacturer;

3387 b. A unique serial number;

3388 c. The terminal model number; and

3389 d. The date of manufacture;

3390 11. Be constructed of materials that are designed to allow only authorized access to the interior of
3391 the terminal. Such materials shall be designed to show evidence of tampering if unauthorized access
3392 does occur;

3393 12. Have seals between the terminal and the doors of a locked area that are designed to resist the
3394 use of tools or other objects used to breach the locked area by physical force;

3395 13. Have external doors that are locked and monitored by door access sensors;

3396 14. Have a currency storage area that is secured by two locks before the currency can be removed
3397 and that is only accessible by the operator licensee;

3398 15. Make payments to successful players by issuing a voucher that can be redeemed for cash at the
3399 host location's ticket redemption terminal;

3400 16. Have the ability to allow for an independent integrity check by an independent testing laboratory
3401 approved by the Director of all software that may affect the integrity of the game;

3402 17. Be connected to the central monitoring system established and operated by the Department under
3403 the provisions of § 58.1-4061; and

3404 18. Comply with such other requirements as adopted by the Board.

3405 **§ 58.1-4060. Independent integrity checks of video gaming terminals.**

3406 A prototype or production sample of each type, version, or model of video gaming terminal being
3407 operated in the Commonwealth shall be tested by an independent testing laboratory approved by the
3408 Director to ensure its integrity and proper working order. This evaluation shall include a review of
3409 installed software periodically within a timeframe established by the Director.

3410 The independent testing laboratory's software may be embedded within the game software, utilize an
3411 interface port to communicate with the terminal, or require the removal of terminal media for external
3412 verification.

3413 The manufacturer licensee shall pay the cost of the independent testing laboratory's review and
3414 testing, and the reports of the same shall be delivered to the licensee and the Director.

3415 **§ 58.1-4061. Requirement for central monitoring system.**

3416 Each video gaming terminal and ticket redemption terminal being operated in the Commonwealth
3417 shall be connected to a central monitoring system established and operated by the Department.

3418 The central monitoring system shall collect the following information from each terminal: (i) cash in,
3419 (ii) payouts, (iii) points played, (iv) points won, (v) gross profit, (vi) the number of plays of the game,
3420 (vii) the amounts paid to play the game, (viii) the amount of gaming tax accrued, (ix) door openings, (x)
3421 power failures and malfunctions, (xi) remote activations and disabling, and (xii) any other information
3422 required by Board regulations.

3423 **§ 58.1-4062. Requirements of operator licensees.**

3424 A. No operator licensee shall own, place, or operate a video gaming terminal unless such terminal is
3425 approved by the Director and has been manufactured by and purchased or leased from a manufacturer
3426 licensee or distributor licensee. No contract between a distributor licensee and a manufacturer licensee
3427 or between an operator licensee and a manufacturer licensee shall grant the distributor licensee or
3428 operator licensee exclusive rights to own, maintain, or place a type, model, or brand of video gaming
3429 terminal in the Commonwealth.

3430 B. No operator licensee shall place or maintain a video gaming terminal at any establishment where
3431 it is offered to the public for play for a charge, directly or indirectly, unless such establishment is a host
3432 location licensee.

3433 C. All operator licensees shall comply with the provisions of this article and regulations adopted by
3434 the Board.

3435 **§ 58.1-4063. Requirements of host location licensees.**

3436 A. The following locations are eligible to receive a host location license:

3437 1. Establishments licensed to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of
3438 Title 4.1;

3439 2. Qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1
3440 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; and

3441 3. Truck stops.

B. No host location licensee shall allow a video gaming terminal to be placed upon the premises of such licensee's establishment unless such terminal is owned, placed, and maintained by an operator licensee.

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

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

E. No more than five video gaming terminals may be located in an establishment listed in subdivision A 1 or A 2. No more than 10 video gaming terminals may be located in an establishment listed in subdivision A 3.

F. All video gaming terminals shall be located within an enclosed area of the host location's premises. The enclosed area shall be entered through one or more points of entry that are equipped with an electronic card reader device capable of determining that a person seeking to gain entry into the gaming area is age 21 or older by reading such person's driver's license or other state issued identification. The points of entry shall restrict entry to those persons age 21 or older. The interior of the enclosed area and the points of entry shall be equipped with surveillance equipment capable of electronically recording the operation and play of the video gaming terminals and store the surveillance footage and related data for a period of not less than 30 days. The cost of the surveillance equipment and the operation and maintenance thereof shall be the responsibility of the terminal operator.

G. All host location licensees shall comply with the provisions of this article and regulations adopted by the Board.

§ 58.1-4064. Responsible gaming.

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

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

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

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

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

§ 58.1-4065. Local regulation of video gaming terminals.

A. A locality may adopt and enforce a local ordinance prohibiting the manufacturing, distributing, operating, hosting, or play of video gaming terminals within such locality, provided that such ordinance is passed no later than six months following the enactment of this article. If the locality passes such an ordinance and later chooses to allow the manufacturing, distributing, operating, hosting, or play of video gaming terminals within such locality, the locality may pass an ordinance to that effect; however, such locality shall be prohibited from once again passing an ordinance to prohibit any such activities authorized under this article.

B. No license requirement, license fee, permit fee, sticker fee, or tax shall be imposed by any locality upon a video gaming terminal manufacturer, distributor, operator, or host location relating to the ownership, placement, use, or operation of video gaming terminals or associated equipment.

§ 58.1-4066. Gaming tax on gross profits.

A. 1. A gaming tax equal to 34 percent shall be imposed upon all gross profits generated from the play of video gaming terminals.

2. The gaming tax imposed pursuant to this section shall not apply to any activity regulated under Article 2 (§ 58.1-4030 et seq.) of this chapter or Chapter 41 (§ 58.1-4100 et seq.).

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

C. The gaming taxes collected by the Department pursuant to this section shall be distributed pursuant to § 58.1-4067.

D. After the remittance of the gaming tax by the operator, the remaining gross profit shall be divided equally between the operator and the host location.

3503 **§ 58.1-4067. Distribution of gaming tax revenue.**

3504 A. The Department shall allocate the gaming tax revenue collected pursuant to § 58.1-4066 as
3505 follows:

3506 1. Twenty-six percent to the locality in which the host location operates;

3507 2. One percent to the Problem Gambling Treatment and Support Fund established pursuant to
3508 § 37.2-314.2;

3509 3. Three percent to the Department, from which amount a sum sufficient shall be appropriated to
3510 fund its operations related to the administration and regulation of video gaming terminals pursuant to
3511 this article; and

3512 4. Seventy percent to the Virginia Video Gaming Terminal Education Support Fund established
3513 pursuant to § 58.1-4068.

3514 B. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days
3515 after such funds are collected, and only after the Department has verified the accuracy of the collected
3516 balances.

3517 **§ 58.1-4068. Virginia Video Gaming Terminal Education Support Fund.**

3518 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
3519 Video Gaming Terminal Education Support Fund, referred to in this section as "the Fund." The Fund
3520 shall be established on the books of the Comptroller. All funds appropriated for such purpose and any
3521 gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state
3522 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and
3523 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each
3524 fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall
3525 be used solely for the purpose of public education in the Commonwealth. Expenditures and
3526 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
3527 Comptroller upon written request signed by the Director.

3528 **§ 58.1-4069. Illegal manufacturing, distributing, or hosting; penalty.**

3529 A. No person shall:

3530 1. Manufacture, sell, or lease to any person video gaming terminals or major components or parts,
3531 including software and hardware, for video gaming terminals without a manufacturer license issued by
3532 the Director.

3533 2. Distribute, sell, or lease to any person video gaming terminals or major components or parts,
3534 including software or hardware, for video gaming terminals without a distributor license issued by the
3535 Director.

3536 3. Purchase, own, operate, possess, or place in the Commonwealth video gaming terminals, or
3537 maintain and service such terminals without an operator license issued by the Director.

3538 4. Operate an establishment where one or more video gaming terminals are made available for play
3539 by the public without a host location license issued by the Director.

3540 4. Solicit, offer, or enter into any contract or agreement for the placement of a video gaming
3541 terminal until the operator, host location, and procurement agent, if applicable, are all issued a license
3542 by the Director pursuant to this article.

3543 B. A violation of this section is a Class 6 felony.

3544 **§ 58.1-4070. Underage play prohibited; penalty.**

3545 A. No person shall play any video gaming terminal unless such person is 21 years of age or older.

3546 B. No person shall redeem any evidence of winnings from any person who is not 21 years of age or
3547 older.

3548 C. A violation of this section is a Class 1 misdemeanor.

3549 **§ 58.1-4071. Prohibited acts by host location licensees; penalty.**

3550 A. No host location licensee shall:

3551 1. Permit any person who is not 21 years of age or older to play any video gaming terminal;

3552 2. Give any reward for the play of a video gaming terminal that is not authorized by this article; or

3553 3. Give any reward for the play of a video gaming terminal that is redeemable at a location other
3554 than the host location's ticket redemption terminal.

3555 B. A violation of this section is a Class 1 misdemeanor.

3556 **§ 58.1-4072. Illegal tampering with video gaming terminals; penalty.**

3557 No person other than an operator licensee shall possess or use any key or device designed for the
3558 purpose of opening, entering, or affecting the operation of a video gaming terminal, or otherwise tamper
3559 with a video gaming terminal. A violation of this section is a Class 6 felony.

3560 **§ 58.1-4073. Conspiracies and attempts to commit violations; penalty.**

3561 A. Any person who conspires, confederates, or combines with another, either within or outside of the
3562 Commonwealth, to commit a felony prohibited by this article is guilty of a Class 6 felony.

3563 B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal
3564 offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.

§ 58.1-4074. Exclusion from the applicability of this article.

This article shall not apply to sports betting authorized under Article 2 (§ 58.1-4030 et seq.) of this chapter or casino gaming authorized under Chapter 41 (§ 58.1-4100 et seq.).

§ 58.1-4075. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.

Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply mutatis mutandis to video gaming terminals under this article. The Board shall promulgate regulations to interpret and clarify the applicability of Article 1 to this article.

§ 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 player and held by the casino that serves as evidence of the casino gaming patron's obligation to pay the casino and that can be exchanged by the casino gaming patron for the specified amount in chips, tokens, credits, electronic credits, electronic cash, or electronic cards.

"Department" means the independent agency responsible for the administration of the Virginia Lottery and Gaming Department created in the Virginia Lottery and Gaming Law (§ 58.1-4000 et seq.).

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

"Eligible host city" means any city described in § 58.1-4107 in which a casino gaming establishment is authorized to be located.

"Entity" means a person that is not a natural person.

"Gaming operation" means the conduct of authorized casino gaming within a casino gaming establishment.

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, electronic credits, electronic cash, or electronic cards by casino gaming patrons. "Gross receipts" shall not include the cash value of promotions or credits provided to and exchanged by casino gaming patrons for chips, tokens, electronic credits, electronic cash, or electronic cards. "Gross receipts" shall also not include uncollectable counter checks.

"Immediate family" means (i) a spouse and (ii) any other person residing in the same household as an officer or employee and who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

"Individual" means a natural person.

"Licensee" or "license holder" means any person holding an operator's license under § 58.1-4111.

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

"Permit holder" means any person holding a supplier or service permit pursuant to this chapter.

"Person" means an individual, partnership, joint venture, association, limited liability company, stock corporation, or nonstock corporation and includes any person that directly or indirectly controls or is under common control with another person.

"Preferred casino gaming operator" means the proposed casino gaming establishment and operator thereof submitted by an eligible host city to the Board as an applicant for licensure.

"Prepaid access instrument" means a system device that allows a casino gaming patron access to funds that have been paid in advance and can be retrieved or transferred at some point in the future.

through such a device. In order to transfer funds for gaming purposes, a prepaid access instrument shall be redeemed for tokens, chips, credits, electronic credits, electronic cash, electronic cards, or used in conjunction with an approved cashless wagering system or interactive gaming account.

"Principal" means any individual who solely or together with his immediate family members (i) owns or controls, directly or indirectly, five percent or more of the pecuniary interest in any entity that is a licensee or (ii) has the power to vote or cause the vote of five percent or more of the voting securities or other ownership interests of such entity, and any person who manages a gaming operation on behalf of a licensee.

"Professional sports" means the same as such term is defined in § 58.1-4030.

"Security" has the same meaning as provided in § 13.1-501. If the Board finds that any obligation, stock, or other equity interest creates control of or voice in the management operations of an entity in the manner of a security, then such interest shall be considered a security.

"Sports betting" means the same as such term is defined in § 58.1-4030.

"Sports betting facility" means an area, kiosk, or device located inside a casino gaming establishment licensed pursuant to this chapter that is designated for sports betting.

"Supplier" means any person that sells or leases, or contracts to sell or lease, any casino gaming equipment, devices, or supplies, or provides any management services, to a licensee.

"Voluntary exclusion program" means a program established by the Board pursuant to § 58.1-4103 that allows individuals to voluntarily exclude themselves from engaging in the activities described in subdivision B 1 of § 58.1-4103 by placing their names on a voluntary exclusion list and following the procedures set forth by the Board.

"Youth sports" means the same as such term is defined in § 58.1-4030.

§ 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 pursuant to this chapter.

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 non-service-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.

3749 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
3750 currently employed by the agency to purchase his service handgun, with the approval of the chief
3751 law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the
3752 agency has purchased new service handguns for its officers, and the handgun subject to the sale is no
3753 longer used by the agency or officer in the course of duty.

3754 2. That the initial adoption by the Virginia Lottery and Gaming Oversight Board (the Board), as
3755 renamed by this act, of regulations necessary to implement the provisions of this act shall be
3756 exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except
3757 that the Board shall provide an opportunity for public comment on the regulations prior to
3758 adoption.

3759 3. That the initial procurement by the Virginia Lottery and Gaming Department, as renamed by
3760 this act, of the central monitoring system required by § 58.1-4061 of the Code of Virginia, as
3761 created by this act, shall be exempt from the departmental procurement regulations promulgated
3762 by the Virginia Lottery and Gaming Oversight Board, as renamed by this act, pursuant to
3763 § 58.1-4007 of the Code of Virginia, as amended by this act.

3764 4. That, notwithstanding the provisions of the first enactment of this act to the contrary, until (i)
3765 the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, adopts the
3766 regulations necessary to implement the provisions of this act pursuant to the second enactment of
3767 this act and (ii) the central monitoring system required by § 58.1-4061 of the Code of Virginia, as
3768 created by this act, is operational, the Director of the Virginia Lottery and Gaming Department
3769 (the Director) (the Department), as renamed by this act, may issue a provisional license under the
3770 first enactment of this act to any entity that is duly licensed to engage in the manufacturing,
3771 distributing, operating, or hosting of any video gaming terminal in another state on July 1, 2023.
3772 The Board shall establish procedures for the issuance of provisional licenses. The granting of a
3773 provisional license pursuant to this enactment shall not entitle such license holder to the automatic
3774 granting of a license pursuant to the first enactment of this act. Holders of provisional licenses
3775 pursuant to this enactment shall self-report the information required by § 58.1-4061 of the Code of
3776 Virginia, as created by this act, to the Department pursuant to procedures established by the
3777 Board. Manufacturing, distributing, operating, or hosting any video gaming terminal at any time
3778 between July 1, 2023, and the date upon which (a) the regulations necessary to implement the
3779 provisions of this act are adopted and (b) the central monitoring system is operational without
3780 obtaining a provisional license pursuant to this enactment or failure to self-report the information
3781 required by this enactment may permanently disqualify a person from obtaining a license
3782 pursuant to the first enactment of this act. Any such disqualifications shall be within the sole
3783 discretion of the Director.

3784 5. That the Virginia Lottery and Gaming Oversight Board, as renamed by this act, and the
3785 Virginia Alcoholic Beverage Control Authority shall collaborate in enforcing the provisions of this
3786 act and the provisions of Chapters 1217 and 1277 of the Acts of Assembly of 2020.

3787 6. That any contract, or portion of a contract, entered into prior to July 1, 2023, that does not
3788 comply with the provisions of this act or with the provisions of Chapters 1217 and 1277 of the
3789 Acts of Assembly of 2020 shall be void.

3790 7. That the provisions of this act may result in a net increase in periods of imprisonment or
3791 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the
3792 necessary appropriation cannot be determined for periods of imprisonment in state adult
3793 correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I,
3794 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
3795 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
3796 appropriation cannot be determined for periods of commitment to the custody of the Department
3797 of Juvenile Justice.