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SENATE BILL NO. 1480

Offered January 18, 2023

A *BILL to amend and reenact §§ 4.1-111, 8.01-490, 13.1-543, 13.1-544, 13.1-545.1, 13.1-549, 13.1-550, 13.1-553, 13.1-1102, 13.1-1103, 13.1-1106, 13.1-1111, 13.1-1115, 15.2-851, 15.2-2263, 22.1-140, 29.1-553, 54.1-300, 54.1-400, 54.1-401, 54.1-402.2, 54.1-403, 54.1-404.2, 54.1-405, 54.1-407, 54.1-410, 54.1-411, 54.1-500, 54.1-1102, 54.1-1128, 54.1-1129, 54.1-1130, 54.1-1131, 54.1-1132, 54.1-1134, 54.1-1135, 54.1-2103, 54.1-2200, 54.1-2200.2, 54.1-2201, 55.1-703, 62.1-44.15:23, and 62.1-44.15:51, as it is currently effective and as it shall become effective, of the Code of Virginia and to repeal § 54.1-409, Article 2 (§§ 54.1-412, 54.1-413, and 54.1-414) of Chapter 4 of Title 54.1, Chapters 6 (§§ 54.1-600 through 54.1-607) and 8.1 (§§ 54.1-828 through 54.1-834) of Title 54.1, Article 5 (§§ 54.1-1144, 54.1-1145, and 54.1-1146) of Chapter 11 of Title 54.1, and Article 3 (§§ 54.1-2208.1 through 54.1-2208.4) of Chapter 22 of Title 54.1 of the Code of Virginia, relating to Department of Professional and Occupational Regulation; deregulation of certain professions.*

Patron—Stuart

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-111, 8.01-490, 13.1-543, 13.1-544, 13.1-545.1, 13.1-549, 13.1-550, 13.1-553, 13.1-1102, 13.1-1103, 13.1-1106, 13.1-1111, 13.1-1115, 15.2-851, 15.2-2263, 22.1-140, 29.1-553, 54.1-300, 54.1-400, 54.1-401, 54.1-402.2, 54.1-403, 54.1-404.2, 54.1-405, 54.1-407, 54.1-410, 54.1-411, 54.1-500, 54.1-1102, 54.1-1128, 54.1-1129, 54.1-1130, 54.1-1131, 54.1-1132, 54.1-1134, 54.1-1135, 54.1-2103, 54.1-2200, 54.1-2200.2, 54.1-2201, 55.1-703, 62.1-44.15:23, and 62.1-44.15:51, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this subtitle or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this subtitle and to prevent the illegal manufacture, bottling, sale, distribution, and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to

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59 the Board the income and expenses associated with the public event on a form prescribed by the Board
60 when the banquet licensee engages another person to organize, conduct, or operate the event on behalf
61 of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic
62 beverages are being sold.

63 9. Provide alternative methods for licensees to maintain and store business records that are subject to
64 Board inspection, including methods for Board-approved electronic and off-site storage.

65 10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing
66 one-half of one percent or more of alcohol by volume in the same location where wine and beer are
67 available for sale within the licensed premises.

68 11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and
69 sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20
70 liters.

71 12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to
72 subsection C of § 4.1-232.

73 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic
74 beverages, not inconsistent with the provisions of this subtitle, so that such advertising does not
75 encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic
76 beverages may not be lawfully sold. Such regulations shall:

77 a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i)
78 the general prohibition against tied interests between retail licensees and manufacturers or wholesale
79 licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of
80 wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the
81 general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and
82 retail licensees as set forth in Board regulation; and

83 b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this subtitle and (ii) the
84 display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under
85 Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate
86 as defined in § 55.1-1100, but only in accordance with this subtitle.

87 14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer
88 pursuant to an agreement with a brand owner not under common control with the manufacturing
89 brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require
90 that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a
91 written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board
92 are maintained by the parties.

93 15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations
94 shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy
95 hour and any pricing related to such happy hour. Such regulations shall not prohibit on-premises
96 licensees from using creative marketing techniques in such advertisements, provided that such techniques
97 do not tend to induce overconsumption or consumption by minors.

98 16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one
99 bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to
100 individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any
101 24-hour period and subject to any Board limitations on the frequency of such gifts.

102 17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of
103 glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved
104 by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

105 18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass,
106 ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the
107 Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine
108 growlers may be used only by persons licensed to sell wine for both on-premises and off-premises
109 consumption or by gourmet shops granted a retail off-premises wine and beer license. Growlers sold by
110 gourmet shops shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of
111 production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

112 19. Permit the sale of wine, cider, and beer by retailers licensed to sell beer and wine for both
113 on-premises and off-premises consumption, or by gourmet shops granted a retail off-premises wine and
114 beer license for off-premises consumption in sealed containers made of metal or other materials
115 approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one
116 liter, provided that the alcoholic beverage is placed in the container following an order from the
117 consumer.

118 20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic
119 beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations
120 established by the Board.

21. Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.

22. Require mixed beverage licensees, except for mixed beverage casino licensees, to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.

23. Prescribe the terms and conditions under which the Board may suspend the privilege of a mixed beverage licensee to purchase spirits from the Board upon such licensee's failure to submit any records or other documents necessary to verify the licensee's compliance with applicable minimum food sale requirements within 30 days of the date such records or documents are due.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

§ 8.01-490. No unreasonable distress or levy; sustenance provided for livestock; removal of property.

Officers shall in no case make an unreasonable distress or levy. For horses, or any livestock distrained or levied on, the officer shall provide sufficient sustenance while they remain in his possession. Nothing distrained or levied on shall be removed by him out of his county or city, except that an officer distraining or levying on personal property may employ a ~~Virginia-licensed~~ an auctioneer or auction firm, ~~as those terms are defined in § 54.1-600,~~ to sell such property on behalf of the officer, and the officer may remove such property to transport such property to the site of an auction for such sale, regardless of whether such site is within or outside such officer's county or city, or unless when it is otherwise specially provided.

§ 13.1-543. Definitions.

A. As used in this chapter:

"Eligible employee stock ownership plan" means an employee stock ownership plan as such term is defined in § 4975(e)(7) of the Internal Revenue Code of 1986, as amended, sponsored by a professional corporation and with respect to which:

1. All of the trustees of the employee stock ownership plan are individuals who are duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter; however, if a conflict of interest exists for one or more trustees with respect to a specific issue or transaction, such trustees may appoint a special independent trustee or special fiduciary, who is not duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, which special independent trustee shall be authorized to make decisions only with respect to the specific issue or transaction that is the subject of the conflict;

2. The employee stock ownership plan provides that no shares, fractional shares, or rights or options to purchase shares of the professional corporation shall at any time be issued, sold, or otherwise transferred directly to anyone other than an individual duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, unless such shares are transferred as a plan distribution to a plan beneficiary and subject to immediate repurchase by the professional corporation, the employee stock ownership plan or another person authorized to hold such shares; however:

a. With respect to a professional corporation rendering the professional services of public accounting or certified public accounting:

(1) The employee stock ownership plan may permit individuals who are not duly licensed or otherwise legally authorized to render these services to participate in such plan, provided such individuals are employees of the corporation and hold less than a majority of the beneficial interests in such plan; and

(2) At least 51 percent of the total of allocated and unallocated equity interests in the corporation sponsoring such employee stock ownership plan are held (i) by the trustees of such employee stock ownership plan for the benefit of persons holding a valid CPA certificate as defined in § 54.1-4400, with unallocated shares allocated for these purposes pursuant to § 409(p) of the Internal Revenue Code of 1986, as amended, or (ii) by individual employees holding a valid CPA certificate separate from any interests held by such employee stock ownership plan; and

b. With respect to a professional corporation rendering the professional services of architects, professional engineers, *or* land surveyors; ~~landscape architects; or certified interior designers~~, the employee stock ownership plan may permit individuals who are not duly licensed to render the services of architects, professional engineers, *or* land surveyors; ~~or landscape architects; or individuals legally authorized to use the title of certified interior designers~~ to participate in such plan, provided such individuals are employees of the corporation and together hold not more than one-third of the beneficial interests in such plan, and that the total of the shares (i) held by individuals who are employees but not duly licensed to render such services or legally authorized to use a title and (ii) held by the trustees of such employee stock ownership plan for the benefit of individuals who are employees but not duly licensed to render such services or legally authorized to use a title, shall not exceed one-third of the shares of the corporation; and

3. The professional corporation, the trustees of the employee stock ownership plan, and the other shareholders of the professional corporation comply with the foregoing provisions of the plan.

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in § 13.1-1102, (ii) a professional corporation as defined in this subsection, or (iii) a partnership that is registered as a registered limited liability partnership registered under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional corporation" means a corporation whose articles of incorporation set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, *or* land surveyors; ~~or landscape architects; or using a title other than that of certified interior designers~~ and, except as expressly otherwise permitted by this chapter, that has as its shareholders or members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the corporation, including the trustees of an eligible employee stock ownership plan or (ii) organized under this chapter for the sole and specific purpose of rendering the professional services of architects, professional engineers, *or* land surveyors; ~~or landscape architects; or using the title of certified interior designers~~, or any combination thereof, and at least two-thirds of whose shares are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, *or* land surveyor, ~~or landscape architect~~, including the trustees of an eligible employee stock ownership plan; ~~or by persons legally authorized within the Commonwealth to use the title of certified interior designer~~; or (iii) organized under this chapter or under Chapter 10 (§ 13.1-801 et seq.) for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, optometry, physical therapy, the behavioral science professions, and audiology or speech pathology, and all of whose shares are held by or all of whose members are individuals or professional business entities duly licensed or otherwise legally

authorized to perform the services of a practitioner of the healing arts, nurse practitioners, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or of a clinical nurse specialist, including the trustees of an eligible employee stock ownership plan; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or a nurse practitioner or clinical nurse specialist to conduct his practice in a manner contrary to the standards of ethics of his branch of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology, or nursing, as the case may be.

"Professional service" means any type of personal service to the public that requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, ~~landscape architects, certified interior designers,~~ public accountants, certified public accountants, attorneys-at-law, insurance consultants, audiologists or speech pathologists, and clinical nurse specialists. For the purposes of this chapter, the following shall be deemed to be rendering the same professional service:

1. Architects, professional engineers, and land surveyors; and
2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; nurse practitioners, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1; physical therapists and physical therapist assistants, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1; practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1; and one or more clinical nurse specialists who render mental health services, licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and are registered with the Board of Nursing.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical school that is an "institution" as that term is defined in § 23.1-1100.

§ 13.1-544. Who may organize and become shareholder.

A. An individual or group of individuals (i) duly licensed or otherwise legally authorized to render the same professional services other than those of architects, professional engineers, or land surveyors; ~~or to use a title other than those of certified landscape architects or certified interior designers,~~ of which at least one is duly licensed or otherwise legally authorized to render such professional services within the Commonwealth, or (ii) complying with the provisions of § 13.1-549 and duly licensed to render within the Commonwealth the professional services of architects, professional engineers, or land surveyors; ~~or legally authorized to use within the Commonwealth the title of certified landscape architects or certified interior designers,~~ or any combination thereof, may organize a professional corporation for pecuniary profit under the provisions of Chapter 9 (§ 13.1-601 et seq.) of this title or organize a professional corporation as a nonstock corporation under the provisions of Chapter 10 (§ 13.1-801 et seq.) of this title, for the sole and specific purpose of rendering the same and specific professional service, subject to any laws, not inconsistent with the provisions of this chapter, which are applicable to the practice of that profession in the corporate form.

B. An eligible employee stock ownership plan or any individual or group of individuals described in clause (i) or (ii) of subsection A may become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Chapter 9 (§ 13.1-601 et seq.) of this title, for the sole and specific purpose of rendering the same and specific professional service, subject to any laws, not inconsistent with the provisions of this chapter, that are applicable to the practice of that profession in the corporate form.

C. Any individual or group of individuals described in clause (i) or (ii) of subsection A may become a member or members of a professional corporation organized as a nonstock corporation under the provisions of Chapter 10 (§ 13.1-801 et seq.) of this title for the sole and specific purpose of rendering such professional services, subject to any laws, not inconsistent with the provisions of this chapter, that are applicable to the practice of that profession in the corporate form.

§ 13.1-545.1. Merger with foreign professional corporation or foreign professional limited liability company.

Any corporation organized under this chapter may merge with one or more foreign professional corporations that have obtained a certificate of authority to transact business in the Commonwealth pursuant to § 13.1-544.2, or one or more foreign professional limited liability companies that have

obtained a certificate of registration to transact business in the Commonwealth pursuant to § 13.1-1105, only if the professional corporations and the professional limited liability companies are organized to render the same professional service, provided that (i) the merger is permitted by the laws of the jurisdiction under which each such foreign professional corporation or foreign professional limited liability company is organized, (ii) if the surviving or new professional business entity is a professional corporation organized and operating under the laws of the Commonwealth, all of its shareholders shall be licensed or otherwise legally authorized to render the same professional service as the corporation, provided that if such service is that of architects, professional engineers, *or* land surveyors ~~or certified landscape architects~~, or any combination thereof, at least two-thirds of its shares shall be held by individuals who are licensed or otherwise legally authorized within the Commonwealth to render the applicable service, and (iii) if the surviving or new professional business entity is a professional limited liability company organized and operating under the laws of the Commonwealth, all of its members and managers shall be licensed or otherwise legally authorized to render the same professional service as the professional limited liability company, provided that if such service is that of architects, professional engineers, *or* land surveyors ~~or certified landscape architects~~, or any combination thereof, at least two-thirds of its membership interests shall be held by individuals or professional business entities that are licensed or otherwise legally authorized within the Commonwealth to render the applicable service.

§ 13.1-549. Qualifications of shareholders; special provisions for corporations rendering services of architects, professional engineers, and land surveyors.

A. A corporation rendering the services of architects, professional engineers, *or* land surveyors; ~~or landscape architects, or using the title of certified interior designers~~, or any combination thereof, shall issue not less than two-thirds of its shares to individuals or professional business entities duly licensed to render the services of architect, professional engineer, *or* land surveyor; ~~or landscape architect, or to individuals legally authorized to use the title of certified interior designer~~, and the remainder of said shares may be issued only to and held by individuals who are employees of the corporation whether or not such employees are licensed to render professional services or authorized to use a title. For a corporation ~~using the title of certified interior designers~~ and providing the services of architects, professional engineers, or land surveyors, or any combination thereof, not less than two-thirds of its shares shall be held by individuals or professional business entities who are duly licensed. No other professional corporation, except for a corporation engaged in the practice of accounting as described in § 13.1-549.1, may issue any of its shares to anyone other than an individual or professional business entity who is duly licensed or otherwise legally authorized to render the same specific professional services as those for which the corporation was incorporated, including trustees of an eligible employee stock ownership plan. Notwithstanding the above limitations, a professional corporation may (i) issue its shares to a partnership each of the partners of which is duly licensed or otherwise legally authorized to render the same professional services as those for which the corporation was incorporated or (ii) issue any of its shares to, and have as shareholders, directly or indirectly, whether through shares, fractional shares, or rights or options to purchase shares, the trustees of an eligible employee stock ownership plan.

B. As an additional prerequisite for a corporation engaging in the practice of the professions of architecture, professional engineering, *or* land surveying; ~~or landscape architecture, or using the title of certified interior designer~~, or any combination thereof, such corporation shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, *and* Land Surveyors; ~~Certified Interior Designers and Landscape Architects~~. Such certificate of authority shall be issued or renewed by the Board when in its discretion such corporation is in compliance with rules and regulations which shall be promulgated by the said Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare, and safety. The fees for a certificate of authority as described above shall be the same fees as provided for in Chapter 4 (§ 54.1-400 et seq.) of Title 54.1.

§ 13.1-550. Transfer of shares.

A. No shareholder of a corporation organized under this chapter may sell or transfer his shares in such corporation except to (i) the corporation, (ii) another individual or professional business entity who is eligible to be a shareholder of such corporation, (iii) a qualified charitable remainder trust as defined in subsection B, or (iv) the trustees of an eligible employee stock ownership plan. In the case of a corporation rendering the services of architects, professional engineers, *or* land surveyors ~~and certified landscape architects~~, or any combination thereof, no person who is not duly licensed or otherwise legally authorized to render one such service shall be eligible unless at least two-thirds of the remaining shares after the sale or transfer shall be held by individuals or professional business entities duly licensed or otherwise legally authorized to perform one such service.

B. As used in this section, "qualified charitable remainder trust" means a trust meeting the requirements of § 664 of the United States Internal Revenue Code of 1986, as amended, and which meets all of the following conditions:

1. Has one or more current income beneficiaries, all of which are eligible to be a shareholder in the

corporation under § 13.1-544.

2. Has a trustee or independent special trustee who:

a. Is eligible to be a shareholder in the corporation under § 13.1-544; and

b. Has exclusive authority over the shares of the corporation while the shares are held in the trust.

3. Has one or more irrevocably designated charitable remaindermen, all of which must at all times be domiciled or maintain a local chapter in the Commonwealth of Virginia.

4. When transferring any assets during the term of the trust to charitable organizations, the distributions are made only to charitable organizations described in § 170(c) of the Internal Revenue Code that are domiciled or maintain a local chapter in this Commonwealth.

§ 13.1-553. Board of directors.

A. Except as provided in an agreement adopted pursuant to § 13.1-671.1 or 13.1-852.1 that is not in conflict with § 13.1-544, a professional corporation organized pursuant to the provisions of this chapter shall be governed by a board of directors, which shall have the full management of the business and affairs of the corporation and continuing exclusive authority to make management decisions on its behalf, including the power and authority to delegate to its agents, officers, and employees, and to delegate by a management agreement or another agreement with, or otherwise to, other persons managerial duties and tasks related to the corporation's operations, and no shareholder or member shall have the power to bind the corporation within the scope of its business or profession merely by virtue of his being a shareholder or member. To the extent the board of directors is eliminated or its make-up or manner of selection is modified by an agreement adopted pursuant to § 13.1-671.1 or 13.1-852.1, only individuals or entities licensed or otherwise legally authorized to render the same professional services within the Commonwealth as the services provided by the professional corporation or its shareholders or members shall supervise and direct the provision of professional services of that professional corporation or its shareholders or members within the Commonwealth; however, in the case of a corporation rendering the services of architects, professional engineers, *or* land surveyors, ~~landscape architects, or certified interior designers~~, or any combination thereof, such supervision and direction may be provided by individuals who are employees of the corporation and are not duly licensed to render such professional services so long as at least two-thirds of the individuals providing such supervision and direction are employees of the corporation and duly licensed to render such professional services.

B. The articles of incorporation may prescribe the manner in which the board of directors shall be chosen and the number thereof. No individual not duly licensed or otherwise duly authorized to render the professional services of the corporation shall be a member of the board of directors, except that the board of directors of a corporation rendering the services of architects, professional engineers, *or* land surveyors, ~~landscape architects, or certified interior designers~~, or any combination thereof, may have as members employees of the corporation who are not authorized to render the professional services of the corporation, provided that such employee-directors do not constitute more than one-third of all of the members of the board of directors.

C. The board of directors, including the first board of directors, shall consist of one or more individuals. The number of directors shall be fixed by the bylaws except as to the number of the first board of directors, which shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment of the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

§ 13.1-1102. Definitions.

A. As used in this chapter:

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in this subsection, (ii) a professional corporation as defined in subsection A of § 13.1-543, or (iii) a partnership that is registered as a registered limited liability partnership under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional limited liability company" means a limited liability company whose articles of organization set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, *or* land surveyors, ~~or landscape architects, or using a title other than that of certified interior designers~~ and, except as expressly otherwise permitted by this chapter, that has as its members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the professional limited

428 liability company or (ii) organized under this chapter for the sole and specific purpose of rendering
429 professional service of architects, professional engineers, ~~or land surveyors, or landscape architects or~~
430 ~~using the title of certified interior designers,~~ or any combination thereof, and at least two-thirds of
431 whose membership interests are held by persons duly licensed within the Commonwealth to perform the
432 services of an architect, professional engineer, ~~or land surveyor, or landscape architect, or by persons~~
433 ~~legally authorized within the Commonwealth to use the title of certified interior designer;~~ or (iii)
434 organized under this chapter for the sole and specific purpose of rendering the professional services of
435 one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et
436 seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.)
437 of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et
438 seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the
439 provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the
440 behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§
441 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or
442 speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one
443 or more clinical nurse specialists who render mental health services licensed under Chapter 30
444 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of
445 practitioners of the healing arts, of optometry, physical therapy, the behavioral science professions, and
446 audiology or speech pathology and all of whose members are individuals or professional business
447 entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the
448 healing arts, nurse practitioners, optometry, physical therapy, the behavioral science professions,
449 audiology or speech pathology or of a clinical nurse specialist; however, nothing herein shall be
450 construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral
451 science professions, audiology or speech pathology or a nurse practitioner or clinical nurse specialist to
452 conduct that person's practice in a manner contrary to the standards of ethics of that person's branch of
453 the healing arts, optometry, physical therapy, the behavioral science professions, or audiology or speech
454 pathology, or nursing as the case may be.

455 "Professional services" means any type of personal service to the public that requires as a condition
456 precedent to the rendering of that service or the use of that title the obtaining of a license, certification,
457 or other legal authorization and shall be limited to the personal services rendered by pharmacists,
458 optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse
459 practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists,
460 architects, professional engineers, land surveyors, ~~landscape architects, certified interior designers,~~ public
461 accountants, certified public accountants, attorneys at law, insurance consultants, audiologists or speech
462 pathologists and clinical nurse specialists. For the purposes of this chapter, the following shall be
463 deemed to be rendering the same professional services:

464 1. Architects, professional engineers, and land surveyors; and
465 2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.)
466 of Title 54.1, nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1,
467 optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, physical
468 therapists, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, practitioners
469 of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.),
470 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1, and clinical nurse specialists who
471 render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and
472 registered with the Board of Nursing.

473 B. Persons who practice the healing art of performing professional clinical laboratory services within
474 a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such
475 persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical
476 laboratory sciences and (ii) are tenured faculty members of an accredited medical school that is an
477 "institution" as that term is defined in § 23.1-1100.

478 C. Except as expressly otherwise provided, all terms defined in § 13.1-1002 shall have the same
479 meanings for purposes of this chapter.

480 **§ 13.1-1103. Who may become a member.**

481 One or more individuals or professional business entities (i) duly licensed or otherwise legally
482 authorized to render the same professional services other than those of architects, professional engineers,
483 or land surveyors; ~~or to use a title other than those of certified landscape architects or certified interior~~
484 ~~designers,~~ of which at least one is duly licensed or otherwise legally authorized to render such
485 professional services within the Commonwealth or (ii) complying with the provisions of § 13.1-1111 and
486 duly licensed to render within the Commonwealth the professional services of architects, professional
487 engineers, or land surveyors, ~~or legally authorized to use within the Commonwealth the title of certified~~
488 ~~landscape architects or certified interior designers,~~ or any combination thereof, may become members of
489 a limited liability company for pecuniary profit under the provisions of Chapter 12 (§ 13.1-1000 et seq.)

of this title, for the sole and specific purpose of rendering the same and specific professional service, subject to any laws, not inconsistent with the provisions of this chapter, which are applicable to the practice of that profession in the limited liability company form.

§ 13.1-1106. Merger with foreign professional limited liability company or foreign professional corporation.

Any limited liability company organized under this chapter may merge with one or more foreign professional limited liability companies that have obtained a certificate of registration to transact business in the Commonwealth pursuant to § 13.1-1105, or one or more foreign professional corporations that have obtained a certificate of authority to transact business in the Commonwealth pursuant to § 13.1-544.2, only if the professional limited liability companies and the professional corporations are organized to render the same professional services, provided that (i) the merger is permitted by the laws of the jurisdiction under which each such foreign professional limited liability company or foreign professional corporation is organized, (ii) if the surviving or new professional business entity is a professional limited liability company organized and operating under the laws of the Commonwealth, all of its members and managers shall be licensed or otherwise legally authorized to render the same professional service as the limited liability company, provided that if such service is that of architects, professional engineers, *or* land surveyors ~~or certified landscape architects~~, or any combination thereof, at least two-thirds of its membership interests shall be held by individuals or professional business entities that are licensed or otherwise legally authorized within the Commonwealth to render the applicable service, and (iii) if the surviving or new professional business entity is a professional corporation organized and operating under the laws of the Commonwealth, all of its shareholders shall be licensed or otherwise legally authorized to render the same professional service as the professional corporation, provided that if such service is that of architects, professional engineers, *or* land surveyors ~~or certified landscape architects~~, or any combination thereof, at least two-thirds of its shares shall be held by individuals who are licensed or otherwise legally authorized within the Commonwealth to render the applicable service.

§ 13.1-1111. Qualifications of members and managers; special provisions for limited liability companies rendering service of architects, professional engineers, or land surveyors.

Not less than two-thirds of the membership interests of a professional limited liability company rendering the services of architects, professional engineers, *or* land surveyors, ~~or landscape architects, or using the title of certified interior designers~~, or any combination thereof, shall be held by individuals duly licensed or professional business entities legally authorized to render the services of architects, professional engineers, *or* land surveyors, ~~or landscape architects, or by individuals or professional business entities legally authorized to use the title of certified interior designers~~, and the remainder of the membership interests may be held only by individuals who are employees of the professional limited liability company whether or not those employees are licensed to render professional services or authorized to use a title. For those professional limited liability companies ~~using the title of certified interior designers~~ and providing the services of architects, professional engineers, or land surveyors, or any combination thereof, not less than two-thirds of the membership interests of the professional limited liability company shall be held by individuals who are duly licensed. No other professional limited liability company, except for a professional limited liability company engaged in the practice of accounting as described in § 13.1-1112, may have as a member anyone other than an individual or a professional business entity that is duly licensed or otherwise legally authorized to render the same professional services as those for which the professional limited liability company was organized.

As an additional prerequisite for a professional limited liability company's engaging in the practice of the professions of architecture, professional engineering, *or* land surveying, ~~or landscape architecture, or using the title of certified interior designer~~, or any combination thereof, that professional limited liability company shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, *and* Land Surveyors, ~~Certified Interior Designers and Landscape Architects~~. The certificate of authority shall be issued or renewed by the Board when in its discretion the professional limited liability company is in compliance with rules and regulations which shall be promulgated by the Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare, and safety. The fees for a certificate of authority as described above shall be the same fees as provided for in Chapter 4 (§ 54.1-400 et seq.) of Title 54.1.

§ 13.1-1115. Transfer of membership interests.

A. No member of a professional limited liability company organized under this chapter may sell, assign in whole or in part, or otherwise transfer that member's membership interest in the professional limited liability company except to (i) the professional limited liability company, (ii) another individual or professional business entity that is eligible to be a member of that professional limited liability company, or (iii) a qualified charitable remainder trust as described in subsection B. In the case of a professional limited liability company rendering the services of architects, professional engineers, *and*

land surveyors and certified landscape architects, or any combination thereof, no person or professional business entity which is not duly licensed or otherwise legally authorized to render one of those services will be eligible unless at least two-thirds of the remaining membership interests after the sale or transfer are held by persons or professional business entities duly licensed or otherwise legally authorized to perform one of those services.

B. As used in this section, "qualified charitable remainder trust" means a trust meeting the requirements of § 664 of the United States Internal Revenue Code of 1986, as amended, and which meets all of the following conditions:

1. Has one or more current income beneficiaries, all of which are eligible to be members in the professional limited liability company under § 13.1-1103.

2. Has a trustee or independent special trustee who:

a. Is eligible to have a membership interest in the professional limited liability company under § 13.1-1103; and

b. Has exclusive authority over the membership interests while such interests are held in the trust.

3. Has one or more irrevocably designated charitable remaindermen, all of which must at all times be domiciled or maintain a local chapter in the Commonwealth of Virginia.

4. When transferring any assets during the term of the trust to charitable organizations, the distributions are made only to charitable organizations described in § 170(c) of the Internal Revenue Code that are domiciled or maintain a local chapter in this Commonwealth.

§ 15.2-851. Expedited land development review procedure.

A. A county may establish, by ordinance, a separate processing procedure for the review of preliminary and final subdivision and site plans and other development plans certified by licensed professional engineers, architects, landscape architects and land surveyors who are also licensed pursuant to § 54.1-408 and recommended for submission by persons who have received special training in such county's land development ordinances and regulations. The purpose of such separate review procedure is to provide a procedure to expedite the county's review of certain qualified land development plans. If a separate procedure is established, the county shall establish within the adopted ordinance the criteria for qualification of persons and whose work is eligible to use the separate procedure as well as a procedure for determining if the qualifications are met by persons applying to use the separate procedure. Persons who satisfy the criteria of subsection B below shall qualify as plans examiners. Plans reviewed and recommended for submission by plans examiners and certified by the appropriately licensed professional engineer, architect, landscape architect or land surveyor shall qualify for the separate processing procedure.

B. The qualifications of those persons who may participate in this program shall include, but not be limited to, the following:

1. A bachelor of science degree in engineering, architecture, landscape architecture or related science or equivalent experience or a land surveyor certified pursuant to § 54.1-408.

2. Successful completion of an educational program specified by the county.

3. A minimum of two years of land development engineering design experience acceptable to the county.

4. Attendance at continuing educational courses specified by the county.

5. Consistent preparation and submission of plans which meet all applicable ordinances and regulations.

C. If an expedited review procedure is adopted by the board of supervisors pursuant to this section, the board of supervisors shall establish an advisory plans examiner board which shall make recommendations to the board of supervisors on the general operation of the program, on the general qualifications of those who may participate in the expedited processing procedure, on initial and continuing educational programs needed to qualify and maintain qualification for such a program, and on the general administration and operation of such a program. In addition, the plans examiner board shall submit recommendations to the board of supervisors as to those persons who meet the established qualifications for participation in the program and as to whether those persons who have previously qualified to participate in the program should be disqualified, suspended or otherwise disciplined. The plans examiner board shall consist of six members who shall be appointed by the board of supervisors for staggered four-year terms. Initial terms may be less than four years so as to provide for staggered terms. The plans examiner board shall consist of three persons in private practice as licensed professional engineers or land surveyors certified pursuant to § 54.1-408, at least one of whom shall be a certified land surveyor; one person employed by the county government; one person employed by the Virginia Department of Transportation who shall serve as a nonvoting advisory member; and one citizen member. All plans examiner board members who serve as licensed engineers or as certified surveyors must maintain their professional license or certification as a condition of holding office, and all such persons shall have at least two years of experience in land development procedures of the county. The citizen member shall meet the qualifications provided in § 54.1-107. However, such member,

notwithstanding the proscription of provision (i) of § 54.1-107, shall have training as an engineer or surveyor and may be currently licensed, certified or practicing his profession.

D. The expedited land development program shall include an educational program conducted under the auspices of a public institution of higher education. The instructors in the educational program shall consist of persons in the private and public sectors who are qualified to prepare land development plans. The educational program shall include the comprehensive and detailed study of county ordinances and regulations relating to plans and how they are applied.

E. The separate processing system may include a review of selected or random aspects of plans rather than a detailed review of all aspects. However, it shall also include periodic detailed review of plans prepared by persons who qualify for the system.

F. In no event shall this section relieve persons who prepare and submit plans of the responsibilities and obligations which they would otherwise have with regard to the preparation of plans, nor shall it relieve the county of its obligation to review other plans in the time periods and manner prescribed by law.

§ 15.2-2263. Expedited land development review procedure.

A. The Counties of Hanover, Loudoun, Montgomery, Prince William, and Roanoke, and the Town of Leesburg, may establish, by ordinance, a separate processing procedure for the review of preliminary and final subdivision and site plans and other development plans certified by licensed professional engineers, licensed architects, *and* licensed land surveyors; ~~and landscape architects~~ who are also licensed pursuant to § 54.1-408 and recommended for submission by persons who have received special training in the locality's land development ordinances and regulations. The purpose of the separate review procedure is to provide a procedure to expedite the locality's review of certain qualified land development plans. If a separate procedure is established, the locality shall establish within the adopted ordinance the criteria for qualification of persons and whose work is eligible to use the separate procedure as well as a procedure for determining if the qualifications are met by persons applying to use the separate procedure. Persons who satisfy the criteria of subsection B below shall qualify as plans examiners. Plans reviewed and recommended for submission by plans examiners and certified by the appropriately licensed professional engineer, licensed architect, *or* licensed land surveyor; ~~or landscape architect~~ shall qualify for the separate processing procedure.

B. The qualifications of those persons who may participate in this program shall include, but not be limited to, the following:

1. A bachelor of science degree in engineering, architecture, ~~landscape architecture~~ or related science or equivalent experience or a licensed land surveyor pursuant to § 54.1-408.

2. Successful completion of an educational program specified by the locality.

3. A minimum of two years of land development engineering design experience acceptable to the locality.

4. Attendance at continuing educational courses specified by the locality.

5. Consistent preparation and submission of plans which meet all applicable ordinances and regulations.

C. If an expedited review procedure is adopted by the board of supervisors or town council pursuant to the authority granted by this section, the board of supervisors or town council shall establish an advisory plans examiner board, which shall make recommendations to the board of supervisors or town council on the general operation of the program, on the general qualifications of those who may participate in the expedited processing procedure, on initial and continuing educational programs needed to qualify and maintain qualification for such a program and on the general administration and operation of the program. In addition, the plans examiner board shall submit recommendations to the board of supervisors or town council as to those persons who meet the established qualifications for participation in the program, and the plans examiner board shall submit recommendations as to whether those persons who have previously qualified to participate in the program should be disqualified, suspended or otherwise disciplined. The plans examiner board shall consist of six members who shall be appointed by the board of supervisors or town council for staggered four-year terms. Initial terms may be less than four years so as to provide for staggered terms. The plans examiner board shall consist of three persons in private practice as licensed professional engineers or licensed land surveyors pursuant to § 54.1-408, at least one of whom shall be a licensed land surveyor; one person employed by the government of the locality; one person employed by the Virginia Department of Transportation who shall serve as a nonvoting advisory member; and one citizen member. All members of the board who serve as licensed engineers or as licensed surveyors must maintain their professional license as a condition of holding office and shall have at least two years of experience in land development procedures of the locality. The citizen member of the board shall meet the qualifications provided in § 54.1-107 and, notwithstanding the proscription of clause (i) of § 54.1-107, shall have training as an engineer or surveyor and may be currently licensed or practicing his profession.

D. The expedited land development program shall include an educational program conducted under the auspices of a public institution of higher education. The instructors in the educational program shall consist of persons in the private and public sectors who are qualified to prepare land development plans. The educational program shall include the comprehensive and detailed study of local ordinances and regulations relating to plans and how they are applied.

E. The separate processing system may include a review of selected or random aspects of plans rather than a detailed review of all aspects; however, it shall also include a periodic detailed review of plans prepared by persons who qualify for the system.

F. In no event shall this section relieve persons who prepare and submit plans of the responsibilities and obligations that they would otherwise have with regard to the preparation of plans, nor shall it relieve the locality of its obligation to review other plans in the time periods and manner prescribed by law.

§ 22.1-140. Plans for buildings to be approved by division superintendent.

No public school building or addition or alteration thereto, for either permanent or temporary use, shall be advertised for bid, contracted for, erected, or otherwise acquired until the plans and specifications therefor (i) have been approved in writing by the division superintendent; (ii) are accompanied by a statement by an architect or professional engineer licensed by the Board for Architects, Professional Engineers, and Land Surveyors, ~~Certified Interior Designers and Landscape Architects~~ that such plans and specifications are, in his professional opinion and belief, in compliance with the regulations of the Board of Education and the Uniform Statewide Building Code; and (iii) have been reviewed by an individual or entity with professional expertise in building security and crime prevention through building design. The division superintendent's approval, architect's or engineer's statement, all reviewers' comments, and a copy of the final plans and specifications shall be submitted to the Superintendent of Public Instruction.

§ 29.1-553. Selling or offering for sale; penalty.

A. Any person who offers for sale, sells, offers to purchase, or purchases any wild bird or wild animal, or any part thereof, or any freshwater fish, except as provided by law, ~~shall be~~ *is* guilty of a Class 1 misdemeanor. However, when the aggregate of such sales or purchases, or any combination thereof, by any person totals \$1,000 or more during any 90-day period, that person ~~shall be~~ *is* guilty of a Class 6 felony.

B. Whether or not criminal charges have been placed, when any property is taken possession of by a conservation police officer for the purpose of being used as evidence of a violation of this section or for confiscation, the conservation police officer making such seizure shall immediately report the seizure to the Attorney for the Commonwealth.

C. In any prosecution for a violation of this section, photographs of the wild bird, wild animal, or any freshwater fish, or any part thereof shall be deemed competent evidence of such wild bird, wild animal, or freshwater fish, or part thereof and shall be admissible in any proceeding, hearing, or trial of the case to the same extent as if such wild bird, wild animal, or any freshwater fish, or part thereof had been introduced as evidence. Such photographs shall bear a written description of the wild bird, wild animal, or freshwater fish, or parts thereof, the name of the place where the alleged offense occurred, the date on which the alleged offense occurred, the name of the accused, the name of the arresting officer or investigating officer, the date of the photograph, and the name of the photographer. The photographs shall be identified by the signature of the photographer.

D. Any ~~licensed Virginia~~ auctioneer or ~~licensed~~ auction firm that sells, as a legitimate item of an auction sale, wildlife mounts that have undergone the taxidermy process, shall be exempt from the provisions of this section and subdivision A 11 of § 29.1-521.

§ 54.1-300. Definitions.

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

"Board" means the Board for Professional and Occupational Regulation.

"Certification" means the process whereby the Department or any regulatory board issues a certificate on behalf of the Commonwealth to a person certifying that he possesses the character and minimum skills to engage properly in his profession or occupation.

"Department" means the Department of Professional and Occupational Regulation.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Inspection" means a method of regulation whereby a state agency periodically examines the activities and premises of practitioners of an occupation or profession to ascertain if the practitioner is carrying out his profession or occupation in a manner consistent with the public health, safety, and welfare.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without a license.

"Registration" means a method of regulation whereby any practitioner of a profession or occupation

may be required to submit information concerning the location, nature, and operation of his practice.
 "Regulatory board" means the Auctioneers Board, Board for Architects, Professional Engineers, and Land Surveyors, Certified Interior Designers and Landscape Architects, Board for Barbers and Cosmetology, Board for Branch Pilots, Board for Contractors, Board for Hearing Aid Specialists and Opticians, Board for Professional Soil Scientists, and Wetland Professionals, and Geologists, Board for Waste Management Facility Operators, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, Cemetery Board, Real Estate Appraiser Board, Real Estate Board, Fair Housing Board, Virginia Board for Asbestos, Lead, and Home Inspectors, and Common Interest Community Board.

CHAPTER 4.

ARCHITECTS, ENGINEERS, AND SURVEYORS, LANDSCAPE ARCHITECTS AND INTERIOR DESIGNERS.

Article 1.

Architects, Engineers, and Surveyors and Landscape Architects.

§ 54.1-400. Definitions.

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

"Architect" means a person who, by reason of his knowledge of the mathematical and physical sciences, and the principles of architecture and architectural design, acquired by professional education, practical experience, or both, is qualified to engage in the practice of architecture and whose competence has been attested by the Board through licensure as an architect.

The "practice of architecture" means any service wherein the principles and methods of architecture are applied, such as consultation, investigation, evaluation, planning and design, and includes the responsible administration of construction contracts, in connection with any private or public buildings, structures or projects, or the related equipment or accessories.

"Board" means the Board for Architects, Professional Engineers, and Land Surveyors, Certified Interior Designers and Landscape Architects.

"Certified interior designer" means a design professional who meets the criteria of education, experience, and testing in the rendering of interior design services established by the Board through certification as an interior designer.

"Improvements to real property" means any valuable addition or amelioration made to land and generally whatever is erected on or affixed to land which is intended to enhance its value, beauty or utility, or adapt it to new or further purposes. Examples of improvements to real property include, but are not limited to, structures, buildings, machinery, equipment, electrical systems, mechanical systems, roads, and water and wastewater treatment and distribution systems.

"Interior design" by a certified interior designer means any service rendered wherein the principles and methodology of interior design are applied in connection with the identification, research, and creative solution of problems pertaining to the function and quality of the interior environment. Such services relative to interior spaces shall include the preparation of documents for nonload-bearing interior construction, furnishings, fixtures, and equipment in order to enhance and protect the health, safety, and welfare of the public.

"Land surveyor" means a person who, by reason of his knowledge of the several sciences and of the principles of land surveying, and of the planning and design of land developments acquired by practical experience and formal education, is qualified to engage in the practice of land surveying, and whose competence has been attested by the Board through licensure as a land surveyor.

The "practice of land surveying" includes surveying of areas for a determination or correction, a description, the establishment or reestablishment of internal and external land boundaries, or the determination of topography, contours or location of physical improvements, and also includes the planning of land and subdivisions thereof. The term "planning of land and subdivisions thereof" shall include, but not be limited to, the preparation of incidental plans and profiles for roads, streets and sidewalks, grading, drainage on the surface, culverts and erosion control measures, with reference to existing state or local standards.

"Landscape architect" means a person who, by reason of his special knowledge of natural, physical and mathematical sciences, and the principles and methodology of landscape architecture and landscape architectural design acquired by professional education, practical experience, or both, is qualified to engage in the practice of landscape architecture and whose competence has been attested by the Board through licensure as a landscape architect.

The "practice of landscape architecture" by a licensed landscape architect means any service wherein the principles and methodology of landscape architecture are applied in consultation, evaluation, planning (including the preparation and filing of sketches, drawings, plans and specifications) and responsible supervision or administration of contracts relative to projects principally directed at the functional and aesthetic use of land.

797 "Professional engineer" means a person who is qualified to practice engineering by reason of his
798 special knowledge and use of mathematical, physical and engineering sciences and the principles and
799 methods of engineering analysis and design acquired by engineering education and experience, and
800 whose competence has been attested by the Board through licensure as a professional engineer.

801 The "practice of engineering" means any service wherein the principles and methods of engineering
802 are applied to, but are not necessarily limited to, the following areas: consultation, investigation,
803 evaluation, planning and design of public or private utilities, structures, machines, equipment, processes,
804 transportation systems and work systems, including responsible administration of construction contracts.
805 The term "practice of engineering" shall not include the service or maintenance of existing electrical or
806 mechanical systems.

807 "Residential wastewater" means sewage (i) generated by residential or accessory uses, not containing
808 storm water or industrial influent, and having no other toxic, or hazardous constituents not routinely
809 found in residential wastewater flows, or (ii) as certified by a professional engineer.

810 "Responsible charge" means the direct control and supervision of the practice of architecture,
811 professional engineering, ~~landscape architecture~~, or land surveying.

812 **§ 54.1-401. Exemptions.**

813 The following shall be exempted from the provisions of this chapter:

814 1. Practice of professional engineering and land surveying by a licensed architect when such practice
815 is incidental to what may be properly considered an architectural undertaking.

816 2. Practice of architecture and land surveying by a licensed professional engineer when such practice
817 is incidental to an engineering project.

818 3. Practice as a professional engineer, *or architect or landscape architect in this the Commonwealth*
819 *by any person not a resident of and having no established place of business in this the Commonwealth,*
820 *or by any person resident in this the Commonwealth whose arrival is recent, provided that such person*
821 *is otherwise qualified for such professional service in another state or country and qualifies in Virginia*
822 *and files prior to commencement of such practice an application, with the required fee, for licensure as a*
823 *professional engineer, or architect or landscape architect. The exemption shall continue until the Board*
824 *has had sufficient time to consider the application and grant or deny licensure or certification.*

825 4. Engaging in the practice of professional engineering as an employee under a licensed professional
826 engineer, engaging in the practice of architecture as an employee under a licensed architect, *engaging in*
827 *the practice of landscape architecture as an employee under a licensed landscape architect, or engaging*
828 *in the practice of land surveying as an employee under a licensed land surveyor; provided; that such*
829 *practice shall not include responsible charge of design or supervision.*

830 5. Practice of professional engineering, architecture, ~~landscape architecture~~, or land surveying solely
831 as an employee of the United States. However, the employee shall not be exempt from other provisions
832 of this chapter if he furnishes advisory service for compensation to the public in connection with
833 engineering, architectural, ~~landscape architecture~~, or land surveying matters.

834 6. Practice of architecture or professional engineering by an individual, firm, or corporation on
835 property owned or leased by such individual, firm, or corporation, unless the public health or safety is
836 involved.

837 7. Except as provided by regulations promulgated by the State Corporation Commission pursuant to
838 § 56-257.2:1, the practice of engineering solely as an employee of a corporation engaged in interstate
839 commerce, or as an employee of a public service corporation, by rendering such corporation engineering
840 service in connection with its facilities which are subject to regulation by the State Corporation
841 Commission, provided that corporation employees who furnish advisory service to the public in
842 connection with engineering matters other than in connection with such employment shall not be exempt
843 from the provisions of this chapter.

844 **§ 54.1-402.2. Cease and desist orders for unlicensed activity; civil penalty.**

845 A. Notwithstanding § 54.1-111, the Board may issue an order requiring any person to cease and
846 desist from (i) practicing or offering to practice as an architect, professional engineer, *or land surveyor;*
847 *or landscape architect* when such person is not licensed or registered by the Board in accordance with
848 this chapter or (ii) *holding himself out as a certified interior designer when such person is not certified*
849 *or registered by the Board in accordance with this chapter.* The order shall be effective upon its entry
850 and shall become final unless such person files an appeal with the Board in accordance with the
851 Administrative Process Act (§ 2.2-4000 et seq.) within 21 days of the date of entry of the order.

852 B. If the person fails to cease and desist the unlicensed, uncertified, or unregistered activity after
853 entry of an order in accordance with subsection A, the Board may refer the matter for enforcement
854 pursuant to § 54.1-306.

855 C. Any person engaging in unlicensed, uncertified, or unregistered activity shall be subject to further
856 proceedings before the Board and the Board may impose a civil penalty not to exceed \$2,500. Any
857 penalties collected under this section shall be paid to the Literary Fund after deduction of the
858 administrative costs of the Board in furtherance of this section.

D. Nothing contained in this section shall apply to any person engaged in activity exempted from the provisions of this chapter.

§ 54.1-403. Board members and officers; quorum.

The Board for Architects, Professional Engineers, *and* Land Surveyors, ~~Certified Interior Designers and Landscape Architects~~ shall be composed of ~~15~~ *11* members as follows: three architects, three professional engineers, three land surveyors, ~~two landscape architects, two certified interior designers,~~ and two nonlegislative citizen members.

Except for the nonlegislative citizen members appointed in accordance with § 54.1-107, Board members shall have actively practiced or taught their professions for at least 10 years prior to their appointments. The terms of Board members shall be four years.

The Board shall elect a president and vice-president from its membership.

~~Nine~~ *Seven* Board members, consisting of two engineers, two architects, two land surveyors, ~~one landscape architect, one interior designer~~ and one nonlegislative citizen member, shall constitute a quorum.

§ 54.1-404.2. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for architects, professional engineers, *and* land surveyors, ~~and landscape architects~~ licensed by the Board. Such regulations shall require the completion of the equivalent of 16 hours per biennium of Board-approved continuing education activities as a prerequisite to the renewal or reinstatement of a license issued to an architect, professional engineer, *or* land surveyor, ~~or landscape architect~~. The Board shall establish criteria for continuing education activities including, ~~but not limited to~~ (i) content and subject matter; (ii) curriculum; (iii) standards and procedures for the approval of activities, courses, sponsors, and instructors; (iv) methods of instruction for continuing education courses; and (v) the computation of course credit.

B. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship.

§ 54.1-405. Examinations and issuance of licenses and certificates.

A. The Board shall hold at least one examination each year at times and locations designated by the Board. A license to practice as a professional engineer, an architect, *or* a land surveyor, ~~or a landscape architect~~ shall be issued to every applicant who complies with the requirements of this chapter and the regulations of the Board. A license shall be valid during the life of the holder unless revoked or suspended by the Board. A license holder must register with the Board to practice in the Commonwealth. The licenses shall be signed by at least four members of the Board.

B. Notwithstanding the provisions of § 54.1-111, a license holder who has retired from practice may use the designation granted by such license, followed by the word "emeritus," without possessing a current registration from the Board, provided *that* (i) the license has not been revoked or suspended by the Board and (ii) the license holder does not practice or offer to practice architecture, engineering, *or* land surveying, ~~or landscape architecture~~.

§ 54.1-407. Land surveying.

Notwithstanding the provisions of any regulation promulgated by the Board ~~for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects~~, a land surveyor shall not be required by Board regulations to set corner monumentation or perform a boundary survey on any property when (i) corner monumentation has been set or is otherwise required to be set pursuant to the provisions of a local subdivision ordinance as mandated by § 15.2-2240 or subdivision 7 of § 15.2-2241, or where the placing of such monumentation is covered by a surety bond, cash escrow, set-aside letter, letter of credit, or other performance guaranty, or (ii) the purpose of the survey is to determine the location of the physical improvements on the said property only, if the prospective mortgagor or legal agent ordering the survey agrees in writing that such corner monumentation shall not be provided in connection with any such physical improvements survey. The provisions of this section shall apply only to property located within the ~~Counties of~~ Arlington, Fairfax, King George, Loudoun, Prince William, Spotsylvania, and Stafford; ~~Counties~~ and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park.

§ 54.1-410. Other building laws not affected; duties of public officials.

A. Nothing contained in this chapter or in the regulations of the Board shall be construed to limit the authority of any public official authorized by law to approve plans, specifications, or calculations in connection with improvements to real property. This shall include, ~~but shall not be limited to~~, the authority of officials of local building departments as defined in § 36-97, to require pursuant to the Uniform Statewide Building Code, state statutes, local ordinances, or code requirements that such work be prepared by a person licensed ~~or certified~~ pursuant to this chapter.

B. Any public body authorized by law to require that plans, specifications, or calculations be prepared in connection with improvements to real property shall establish a procedure to ensure that

such plans, specifications, or calculations be prepared by an architect, professional engineer, *or* land surveyor ~~or landscape architect~~ licensed or authorized pursuant to this chapter in any case in which the exemptions contained in §§ § 54.1-401, 54.1-402, or § 54.1-402.1 are not applicable.

Drafting of permits, reviewing of plans, or inspection of facilities for compliance with an adopted code or standard by any public body or its designated agent shall not require the services of an architect, professional engineer, *or* land surveyor ~~or landscape architect~~ licensed pursuant to this chapter.

§ 54.1-411. Organization for practice; registration.

A. Nothing contained in this chapter or in the regulations of the Board shall prohibit the practice of architecture, engineering, *or* land surveying; ~~landscape architecture or the offering of the title of certified interior designer~~ by any corporation, partnership, sole proprietorship, limited liability company, or other entity provided such practice ~~or certification~~ is rendered through its officers, principals, or employees who are correspondingly licensed ~~or certified~~. No individual practicing architecture, engineering, *or* land surveying, ~~landscape architecture, or offering the title of certified interior designer~~ under the provisions of this section shall be relieved of responsibility that may exist for services performed by reason of his employment or other relationship with such entity. No such corporation, partnership, sole proprietorship, limited liability company, or other entity, or any affiliate thereof, shall, on its behalf or on behalf of any such licensee ~~or certificate holder~~, nor any licensee ~~or certificate holder~~, be prohibited from (i) purchasing or maintaining insurance against any such liability; (ii) entering into any indemnification agreement with respect to any such liability; (iii) receiving indemnification as a result of any such liability; or (iv) limiting liability through contract.

B. Except for professional corporations holding a certificate of authority issued in accordance with § 13.1-549, professional limited liability companies holding a certificate of authority issued in accordance with § 13.1-1111, and sole proprietorships that do not employ other individuals for which licensing is required, any person, corporation, partnership, limited liability company, or other entity offering or rendering the practice of architecture, engineering, *or* land surveying; ~~landscape architecture or offering the title of certified interior designer~~ shall register with the Board. As a condition of registration, the entity shall name at least one licensed architect, professional engineer, *or* land surveyor; ~~landscape architect or certified interior designer~~ for such profession offered or rendered. The person or persons named shall be responsible and have control of the regulated services rendered by the entity.

C. The Board shall adopt regulations governing the registration of persons, corporations, partnerships, limited liability companies, sole proprietors, and other entities as required in subsections A and B ~~which~~ *that*:

1. Provide for procedural requirements to obtain and renew registration on a periodic basis;
2. Establish fees for the application and renewal of registration sufficient to cover costs;
3. Assure that regulated services are rendered and controlled by persons authorized to do so; and
4. Ensure that conflicts of interests are disclosed.

§ 54.1-500. Definitions.

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

"Accredited asbestos training program" means a training program that has been approved by the Board to provide training for individuals to engage in asbestos abatement, conduct asbestos inspections, prepare management plans, prepare project designs or act as project monitors.

"Accredited lead training program" means a training program that has been approved by the Board to provide training for individuals to engage in lead-based paint activities.

"Accredited renovation training program" means a training program that has been approved by the Board to provide training for individuals to engage in renovation or dust clearance sampling.

"Asbestos" means the asbestiform varieties of actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite.

"Asbestos analytical laboratory license" means an authorization issued by the Board to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain asbestos.

"Asbestos contractor's license" means an authorization issued by the Board permitting a person to enter into contracts to perform an asbestos abatement project.

"Asbestos-containing materials" or "ACM" means any material or product which contains more than 1.0 percent asbestos or such other percentage as established by EPA final rule.

"Asbestos inspector's license" means an authorization issued by the Board permitting a person to perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential asbestos-containing materials.

"Asbestos management plan" means a program designed to control or abate any potential risk to human health from asbestos.

"Asbestos management planner's license" means an authorization issued by the Board permitting a person to develop or alter an asbestos management plan.

"Asbestos project" or "asbestos abatement project" means an activity involving job set-up for

containment, removal, encapsulation, enclosure, encasement, renovation, repair, construction or alteration of an asbestos-containing material. An asbestos project or asbestos abatement project shall not include nonfriable asbestos-containing roofing, flooring and siding materials which when installed, encapsulated or removed do not become friable.

"Asbestos project designer's license" means an authorization issued by the Board permitting a person to design an asbestos abatement project.

"Asbestos project monitor's license" means an authorization issued by the Board permitting a person to monitor an asbestos project, subject to Department regulations.

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.

"Asbestos worker's license" means an authorization issued by the Board permitting an individual to work on an asbestos project.

"Board" means the Virginia Board for Asbestos, Lead, and Home Inspectors.

"Dust clearance sampling" means an on-site collection of dust or other debris that is present after the completion of a renovation to determine the presence of lead-based paint hazards and the provisions of a report explaining the results.

"Dust sampling technician" means an individual licensed by the Board to perform dust clearance sampling.

"Friable" means that the material when dry may be crumbled, pulverized, or reduced to powder by hand pressure and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Home inspection" means any inspection of a residential building for compensation conducted by a licensed home inspector. A home inspection shall include a written evaluation of the readily accessible components of a residential building, including heating, cooling, plumbing, and electrical systems; structural components; foundation; roof; masonry structure; exterior and interior components; and other related residential housing components. A home inspection may be limited in scope as provided in a home inspection contract, provided that such contract is not inconsistent with the provisions of this chapter or the regulations of the Board. ~~For purposes of this chapter, residential building energy analysis alone, as defined in § 54.1-1144, shall not be considered a home inspection.~~

"Home inspector" means a person who meets the criteria of education, experience, and testing required by this chapter and regulations of the Board and who has been licensed by the Board to perform home inspections.

"Lead abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards, including lead-contaminated dust or soil.

"Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

"Lead-based paint activity" means lead inspection, lead risk assessment, lead project design and abatement of lead-based paint and lead-based paint hazards, including lead-contaminated dust and lead-contaminated soil.

"Lead-contaminated dust" means surface dust that contains an area or mass concentration of lead at or in excess of levels identified by the Environmental Protection Agency pursuant to § 403 of TSCA (15 U.S.C. § 2683).

"Lead-contaminated soil" means bare soil that contains lead at or in excess of levels identified by the Environmental Protection Agency.

"Lead contractor" means a person who has met the Board's requirements and has been issued a license by the Board to enter into contracts to perform lead abatements.

"Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provisions of a report explaining the results of the investigation.

"Lead inspector" means an individual who has been licensed by the Board to conduct lead inspections and abatement clearance testing.

"Lead project design" means any descriptive form written as instructions or drafted as a plan describing the construction or setting up of a lead abatement project area and the work practices to be utilized during the lead abatement project.

"Lead project designer" means an individual who has been licensed by the Board to prepare lead project designs.

"Lead risk assessment" means (i) an on-site investigation to determine the existence, nature, severity and location of lead-based paint hazards and (ii) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

"Lead risk assessor" means an individual who has been licensed by the Board to conduct lead

1043 inspections, lead risk assessments and abatement clearance testing.

1044 "Lead supervisor" means an individual who has been licensed by the Board to supervise lead
1045 abatements.

1046 "Lead worker" or "lead abatement worker" means an individual who has been licensed by the Board
1047 to perform lead abatement.

1048 "Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association
1049 or any other individual or entity.

1050 "Principal instructor" means the individual who has the primary responsibility for organizing and
1051 teaching an accredited asbestos training program, an accredited lead training program, an accredited
1052 renovation training program, or any combination thereof.

1053 "Renovation" means the modification of any existing structure or portion thereof, for compensation,
1054 that results in the disturbance of painted surfaces, unless that activity is (i) performed as a part of a lead
1055 abatement or (ii) limited in scope to the site work or remediation as referenced in the definition of
1056 contractor in § 54.1-1100. As used in this definition, "compensation" shall include the receipt of (a) pay
1057 for work performed, such as that paid to contractors and subcontractors; (b) wages, including but not
1058 limited to those paid to employees of contractors, building owners, property management companies,
1059 child-occupied facilities operators, state and local government agencies, and nonprofit organizations; and
1060 (c) rent for housing constructed before January 1, 1978, or child-occupied facilities in public or
1061 commercial building space.

1062 "Renovation contractor" means a person who has met the Board's requirements and has been issued a
1063 license by the Board to conduct renovations.

1064 "Renovator" means an individual who has been issued a license by the Board to perform renovations
1065 or to direct others who perform renovations.

1066 "Residential building" means, for the purposes of home inspection, a structure consisting of one to
1067 four dwelling units used or occupied, or intended to be used or occupied, for residential purposes.

1068 "Training manager" means the individual responsible for administering a training program and
1069 monitoring the performance of instructors for an accredited asbestos training, accredited lead training
1070 program or accredited renovation training program.

1071 **§ 54.1-1102. Board for Contractors membership; offices; meetings; seal; record.**

1072 A. The Board for Contractors shall be composed of 16 members as follows: one member shall be a
1073 licensed Class A general contractor; the larger part of the business of one member shall be the
1074 construction of utilities; the larger part of the business of one member shall be the construction of
1075 commercial and industrial buildings; the larger part of the business of one member shall be the
1076 construction of single-family residences; the larger part of the business of one member shall be the
1077 construction of home improvements; one member shall be a subcontractor as generally regarded in the
1078 construction industry; one member shall be in the business of sales of construction materials and
1079 supplies; one member shall be a local building official; one member shall be a licensed plumbing
1080 contractor; one member shall be a licensed electrical contractor; one member shall be a licensed heating,
1081 ventilation and air conditioning contractor; one member shall be a certified elevator mechanic or a
1082 licensed elevator contractor; one member shall be a certified water well systems provider; one member
1083 shall be a professional engineer licensed in accordance with Chapter 4 (§ 54.1-400 et seq.); and two
1084 members shall be nonlegislative citizen members. The terms of the Board members shall be four years.

1085 The Board shall meet at least once each year and at such other times as may be deemed necessary.
1086 Annually, the Board shall elect from its membership a chairman and a vice-chairman to serve for a
1087 one-year term. Nine members of the Board shall constitute a quorum.

1088 B. The Board shall promulgate regulations not inconsistent with statute necessary for the licensure of
1089 contractors and tradesmen ~~and the certification of backflow prevention device workers~~, and for the
1090 relicensure of contractors and tradesmen ~~and for the recertification of backflow prevention device~~
1091 ~~workers~~, after license or certificate suspension or revocation. The Board shall include in its regulations a
1092 requirement that as a condition for initial licensure as a contractor, the designated employee or a
1093 member of the responsible management personnel of the contractor shall have successfully completed a
1094 Board-approved basic business course, which shall not exceed eight hours of classroom instruction. In
1095 addition, the Board shall (i) require a contractor to appropriately classify all workers as employees or
1096 independent contractors, as provided by law and (ii) provide that any contractor who is found to have
1097 intentionally misclassified any worker is subject to sanction by the Board.

1098 C. The Board may adopt regulations requiring all Class A, B, and C residential contractors,
1099 excluding subcontractors to the contracting parties and those who engage in routine maintenance or
1100 service contracts, to use legible written contracts including the following terms and conditions:

1101 1. General description of the work to be performed;

1102 2. Fixed price or an estimate of the total cost of the work, the amounts and schedule of progress
1103 payments, a listing of specific materials requested by the consumer and the amount of down payment;

1104 3. Estimates of time of commencement and completion of the work; and

4. Contractor's name, address, office telephone number, and license or certification number and class. In transactions involving door-to-door solicitations, the Board may require that a statement of protections be provided by the contractor to the homeowner, consumer or buyer, as the case may be.

D. The Board shall adopt a seal with the words "Board for Contractors, Commonwealth of Virginia." The Director shall have charge, care, and custody of the seal.

E. The Director shall maintain a record of the proceedings of the Board.

Article 3.

Tradesmen, Backflow Prevention Device Workers, and Liquefied Petroleum Gas Fitters.

§ 54.1-1128. Definitions.

"Backflow prevention device worker" means any individual who engages in, or offers to engage in, the maintenance, repair, testing, or periodic inspection of cross connection control devices, including but not limited to reduced pressure principle backflow preventors, double check-valve assemblies, double-detector check-valve assemblies, pressure type vacuum breaker assemblies, and other such devices designed, installed, and maintained in such a manner so as to prevent the contamination of the potable water supply by the introduction of nonpotable liquids, solids, or gases, thus ensuring that the potable water supply remains unaltered and free from impurities, odor, discoloration, bacteria, and other contaminants which would make the potable water supply unfit or unsafe for consumption and use.

For the purposes of this article, unless the context requires a different meaning:

"Board" means the Board for Contractors.

"Liquefied petroleum gas fitter" means any individual who engages in, or offers to engage in, work for the general public for compensation in work that includes the installation, repair, improvement, alterations or removal of piping, liquefied petroleum gas tanks and appliances (excluding hot water heaters, boilers and central heating systems which require a heating, ventilation, and air conditioning or plumbing certification) annexed to real property.

"Natural gas fitter provider" means any individual who engages in or offers to engage in work for the general public for compensation in the incidental repair, testing, or removal of natural gas piping or fitting annexed to real property, excluding new installation of gas piping for hot water heaters, boilers, central heating systems, or other natural gas equipment which requires heating, ventilation and air conditioning or plumbing certification.

"Tradesman" means any individual who engages in, or offers to engage in, work for the general public for compensation in the trades of electrical, plumbing and heating, ventilation, and air conditioning.

"Water well systems provider" means any individual who is certified by the Board in accordance with this article and who is engaged in drilling, installation, maintenance, or repair of water wells, water well pumps, ground source heat exchangers, and other equipment associated with the construction, removal, or repair of water wells, water well systems, and ground source heat pump exchangers to the point of connection to the ground source heat pump.

§ 54.1-1129. Necessity for licensure.

A. Beginning July 1, 1995, no individual shall engage in, or offer to engage in, work as a tradesman as defined in § 54.1-1128 unless he has been licensed under the provisions of this article. Individuals shall not be subject to licensure as a tradesman when working under the supervision of a tradesman who is licensed in the specialty for which work is being performed. Individuals holding a license in one specialty shall not be required to have a tradesman license in another specialty when performing work which is incidental to work being performed under their own specialty license.

B. Beginning July 1, 1998, no individual shall present himself as a certified backflow prevention device worker as defined in § 54.1-1128 unless he has been certified under the provisions of this article. Individuals certified as backflow prevention device workers shall not be required to hold any other professional or occupational license or certification; however, nothing in this subsection shall prohibit an individual from holding more than one professional or occupational license or certification. The certification program set forth in this article concerning backflow prevention device workers shall be voluntary and shall not be construed to prevent or affect the practice of backflow prevention device workers by those not certified by the Board, so long as any requirements of the applicable local governing body's programs relating to backflow prevention device workers are met. All local governing bodies shall accept certification by the Board of backflow prevention device workers as proof of experience and training without requiring additional examination.

C. Beginning one year after the effective date of the Board's final regulations, no individual shall engage in, or offer to engage in, work as a liquefied petroleum gas fitter or natural gas fitter provider as defined in § 54.1-1128 unless he has been licensed under the provisions of this article.

D. C. Beginning July 1, 2007, no individual shall engage in the drilling, installation, maintenance, or repair of a water well or water well system unless a certified water well systems provider is onsite at all times. Until June 30, 2012, any level of certification shall satisfy this requirement. Beginning July 1,

2012, only a certified individual shall engage in the drilling, installation, maintenance, or repair of a water well or water well system and a then certified master water well systems provider shall be available at all times. Nothing in this subsection shall be construed to prohibit licensed plumbing tradesman from (i) completing work contained in the applicable plumbing code, or (ii) performing normal maintenance and repair on large-diameter bored or hand-dug water table wells provided such wells are 100 feet or less in depth and the work is being performed for an entity granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code.

§ 54.1-1130. Application for licensure; fees; examinations; issuance; waiver of examination for water well systems providers.

A. Any individual desiring to be licensed as a tradesman, liquefied petroleum gas fitter, or natural gas fitter provider, or certified as a ~~backflow prevention device worker~~ or water well systems provider shall file a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain, at a minimum, the applicant's name, place of employment, and business address; and information on the knowledge, skills, abilities, and education or training of the applicant.

If the application is satisfactory to the Board, the applicant shall be required by Board regulations to take an oral or written examination to determine his general knowledge of the trade in which he desires licensure ~~or of backflow prevention devices if he desires voluntary certification~~, unless he is exempt pursuant to § 54.1-1131. If the applicant successfully completes the examination, a license as a tradesman, liquefied petroleum gas fitter, or natural gas fitter provider; ~~or a certificate as a backflow prevention device worker~~, shall be issued.

B. The Board shall require an applicant for certification as a water well systems provider, unless otherwise exempt, to take an oral or written examination to determine the applicant's general knowledge of water well systems, including relevant statutory and regulatory requirements. If the applicant successfully completes a required examination, a certificate shall be issued.

Notwithstanding any other provision of this section, unless an applicant is found by the Board to have engaged in any act that would constitute grounds for disciplinary action, the Board shall issue a certificate without examination to any applicant who provides satisfactory proof to the Board of having been actively and continuously engaged in water well construction activities immediately prior to July 1, 2007, as follows: (i) at least one year for trainee certification; (ii) at least three years for journeyman certification; and (iii) at least six years for master certification. This subsection shall apply only to individuals who have been employed by a properly licensed water well contractor during such period of active and continuous engagement in water well construction activities.

§ 54.1-1131. Exemptions.

A. An individual certified or licensed by any one of the following agencies shall not be required to fulfill the examination requirement specified in § 54.1-1130 for a tradesman license:

1. The Board of Housing and Community Development prior to July 1, 1995.
2. Any local governing body prior to July 1, 1978.
3. An apprenticeship program which is approved by the Commissioner of Labor and Industry.

Individuals applying for a tradesman license between July 1, 1995, and July 1, 1998, shall be deemed to have fulfilled the examination requirement if they are able to demonstrate that they have the required number of years of discipline-free experience set forth in Board regulations.

B. Upon satisfactory evidence to the Board, ~~the following individuals applying for licensure as a liquefied petroleum gas fitter within one year of the effective date of the Board's final regulations, who are able to demonstrate that they have at least five years' experience as a liquefied petroleum gas fitter~~ shall not be required to fulfill the examination requirement specified in § 54.1-1130 to be ~~certified as a backflow prevention device worker~~ or licensed as a liquefied petroleum gas fitter:

1. ~~Individuals approved, or recognized as having expertise, by a local governing body prior to July 1, 1998, to perform backflow prevention device work;~~
2. ~~Individuals applying for certification as a backflow prevention device worker between July 1, 1998 and July 1, 1999, who are able to demonstrate that they have the required number of years of discipline-free experience and education or training set forth in Board regulations; or~~
3. ~~Individuals applying for licensure as a liquefied petroleum gas fitter within one year of the effective date of the Board's final regulations, who are able to demonstrate that they have at least five years' experience as a liquefied petroleum gas fitter.~~

C. The provisions of this article shall not apply to any individual who is performing work on (i) any ship, boat, barge or other floating vessel or (ii) a single-family residence where the value of the work performed is less than \$250 and such individual does not hold himself out to the general public as a tradesman.

D. Individuals applying for a natural gas fitter provider license within one year of the effective date of the Board's final regulations, shall be deemed to have fulfilled the examination requirement if they are able to demonstrate that they have five years' prior experience as a natural gas fitter provider.

E. Individuals applying for a natural gas fitter provider license between July 1, 1999, and July 1, 2004, shall be deemed to have fulfilled the examination requirement if they are able to demonstrate that they have at least five years' experience in an apprenticeship capacity under the direct supervision of a gas fitter.

F. Individuals applying for licensure as a liquefied petroleum gas fitter between July 1, 2000, and July 1, 2005, shall be deemed to have fulfilled the examination requirements if they are able to demonstrate that they have at least five years' experience in an apprenticeship capacity under the direct supervision of a gas fitter.

§ 54.1-1132. Expiration and renewal of license or certificate.

A license as a tradesman, liquefied petroleum gas fitter, or natural gas fitter provider, ~~or a certificate as a backflow prevention device worker,~~ issued pursuant to this article shall expire as provided in Board regulations and shall become invalid on that date unless renewed, subject to approval of the Board. A license for a tradesman shall be valid for three years from the date of issuance. Application for renewal of any certificate or license issued pursuant to this article shall be made as provided by Board regulations and shall be accompanied by a fee set by the Board pursuant to § 54.1-201.

§ 54.1-1134. Grounds for denial or revocation of certification or license; reports of building officials and others.

The Board shall have the power to require remedial education and to suspend, revoke, or deny renewal of the ~~certification or~~ license of any individual who is found to be in violation of the statutes or regulations governing the practice of licensed tradesmen, liquefied petroleum gas fitters, or natural gas fitter providers ~~or certified backflow prevention device workers~~ in the Commonwealth.

Any building official who finds that an individual is practicing as a tradesman, elevator mechanic, liquefied petroleum gas fitter, or natural gas fitter provider without a license as required by this article shall file a report to such effect with the Board. ~~Any water purveyor or building official who finds that an individual is practicing as a backflow prevention device worker without a certificate, if a certificate is required by the locality in which an individual is engaging in backflow prevention device worker activities, shall file a report to such effect with the Board.~~

Any building official who has reason to believe that ~~(i)~~ a tradesman, liquefied petroleum gas fitter, or natural gas fitter provider is performing incompetently as demonstrated by an egregious or repeated violation of the Uniform Statewide Building Code (§ 36-97 et seq.) ~~or (ii) a certified backflow prevention device worker is performing incompetently as demonstrated by an egregious or repeated violation of the standards adopted by the American Society of Sanitary Engineering referenced in the plumbing code adopted by the Virginia Uniform Statewide Building Code~~ shall file a report to such effect with the Board. ~~Any water purveyor who has reason to believe that a certified backflow prevention device worker is performing incompetently as demonstrated by an egregious or repeated violation of the standards adopted by the American Society of Sanitary Engineering referenced in the plumbing code adopted by the Virginia Uniform Statewide Building Code shall file a report to such effect with the Board and local building official.~~

§ 54.1-1135. Prohibited acts.

A. Practicing or attempting to practice as a tradesman, liquefied petroleum gas fitter, or natural gas fitter provider in the Commonwealth, except as provided for in this article, is prohibited and shall constitute the commission of a Class 1 misdemeanor.

B. No person shall represent himself as a certified backflow prevention device worker unless he has been certified by the Board. Any person engaging or offering to engage in backflow prevention device worker activities within the meaning of this chapter who, through verbal claim, sign, advertisement, or letterhead, represents himself as a certified backflow prevention device worker without holding such a certificate from the Board shall be guilty of a Class 1 misdemeanor.

~~C.~~ No person shall be entitled to assert the lack of licensure as required by this article as a defense to any action at law or suit in equity if the party who seeks to recover from such person gives substantial performance within the terms of the contract in good faith and without actual knowledge of the licensure requirements of this article.

D. In any locality which requires state certification to engage in backflow prevention device worker activities, no person shall be entitled to assert a lack of certification as a defense to any action at law or suit in equity if the party who seeks to recover from such person gives substantial performance within the terms of the contract in good faith and without actual knowledge of the locality's certification requirements.

§ 54.1-2103. Exemptions from chapter.

A. The provisions of this chapter shall not apply to:

1. Any person, partnership, association, corporation, entity, or their regular employees, who as owner or lessor perform any of the acts enumerated in §§ 54.1-2100 and 54.1-2101 with reference to property owned or leased by them, where the acts are performed in the regular course of or incident to the

management of the property and the investment therein. For property governed by the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), the term "owner" for purposes of this subdivision shall include affiliated entities, provided that (i) the owner has a controlling interest in the affiliated entity or (ii) the affiliated entity and the owner have a common parent company;

2. Any person acting without compensation as attorney-in-fact under a power of attorney issued by a property owner solely for the purpose of authorizing the final performance required of such owner under a contract for the sale, lease, purchase, or exchange of real estate;

3. Service rendered by an attorney-at-law in the performance of his duties as such;

4. A person acting as a receiver, trustee in bankruptcy, administrator, or executor; or any person selling real estate under order of any court;

5. A trustee acting under a trust agreement, deed of trust, or will, or the regular salaried employees thereof;

6. Any corporation managing rental housing when the officers, directors, and members in the ownership corporation and the management corporation are the same and the management corporation manages no other property for other persons, partnerships, associations, or corporations;

7. Any existing tenant of a residential dwelling unit who refers a prospective tenant to the owner of the unit or to the owner's duly authorized agent or employee and for the referral receives, or is offered, a referral fee from the owner, agent or employee;

8. ~~Any auctioneer licensed in accordance with Chapter 6 (§ 54.1-600 et seq.) of this title selling real estate at public auction when employed for such purpose by the owner of the real estate and provided the bidding at such auction is held open for no longer than forty-eight hours. An auctioneer shall not advertise that he is authorized to sell real estate. An auctioneer may advertise for sale at public auction any real estate when employed to do so as herein provided, and may advertise that he is authorized to auction real estate at public auction;~~

9. ~~[Expired.]~~

~~10.~~ 9. Any person who is licensed and is in good standing as a real estate broker or salesperson in another state, and who assists a prospective purchaser, tenant, optionee, or licensee located in another state to purchase, lease, option, or license an interest in commercial real estate, as defined in § 55.1-1100, in the Commonwealth. Such real estate licensee from another state may be compensated by a real estate broker in the Commonwealth. Nothing in this subdivision shall be construed to permit any person not licensed and in good standing as a real estate broker or salesperson in the Commonwealth to otherwise act as a real estate broker or salesperson under this chapter.

B. The provisions of this chapter shall not prohibit the selling of real estate (i) by an attorney-at-law in the performance of his duties as such, (ii) by a receiver, trustee in bankruptcy, administrator or executor, a special commissioner or any person selling real estate under order of court, or (iii) by a trustee acting under the trust agreement, deed of trust or will, or the regular salaried employees thereof.

C. The provisions of this chapter shall not apply to any salaried person employed by a licensed real estate broker for and on behalf of the owner of any real estate or the improvements thereon which the licensed broker has contracted to manage for the owner if the actions of such salaried employee are limited to (i) exhibiting residential units on such real estate to prospective tenants, if the employee is employed on the premises of such real estate; (ii) providing prospective tenants with factual information about the lease of residential real estate; (iii) accepting applications for lease of such real estate; and (iv) accepting security deposits and rentals for such real estate. Such deposits and rentals shall be made payable to the owner or the broker employed by such owner. The salaried employee shall not negotiate the amounts of such security deposits or rentals and shall not negotiate any leases on behalf of such owner or broker.

D. A licensee of the Board shall comply with the Board's regulations, notwithstanding the fact that the licensee would be otherwise exempt from licensure under subsection A. Nothing in this subsection shall be construed to require a person to be licensed in accordance with this chapter if he would be otherwise exempt from such licensure.

E. An attorney-at-law referring a client to a licensee shall not be entitled to receive any compensation from a listing firm or offered by a common source information company to cooperating brokers, unless the attorney is also licensed under this chapter as a real estate broker or salesperson.

CHAPTER 22.

SOIL SCIENTISTS, AND WETLAND PROFESSIONALS, AND GEOLOGISTS.

§ 54.1-2200. Definitions.

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

"Board" means the Board for Professional Soil Scientists, and Wetland Professionals, and Geologists.

"Department" means the Department of Professional and Occupational Regulation.

"Eligible soil scientist" means a person who possesses the qualifications specified in this chapter to become licensed.

"Eligible wetland professional" means a person who possesses the qualifications specified in this

chapter to become certified.

"Geologist" means a person engaged in the public practice of geology.

"Geology" means the science dealing with (i) the earth and its history in general; (ii) the investigation, prediction, evaluation, and location of materials and structures which compose the earth; (iii) the natural processes that cause changes in the earth; and (iv) the application of knowledge of the earth, its processes, and its constituent rocks, minerals, liquids, gases, and other natural materials.

"Practice of geology" means the performance of any service or work for the general public wherein the principles and methods of geology are applied.

"Practice of soil evaluation" means the evaluation of soil by accepted principles and methods, including, ~~but not limited to~~, observation, investigation, and consultation on measured, observed, and inferred soils and their properties; analysis of the effects of these properties on the use and management of various kinds of soil; and preparation of soil descriptions, maps, reports, and interpretive drawings.

"Practice of wetland delineation" means the delineation of wetlands by accepted principles and methods, including, ~~but not limited to~~, observation, investigation, and consultation on soil, vegetation, and hydrologic parameters; and preparation of wetland delineations, descriptions, reports, and interpretive drawings.

"Qualified geologist" means an uncertified person who possesses all the qualifications specified in this chapter for certification.

"Soil" means the groups of natural bodies occupying the unconsolidated portion of the earth's surface which are capable of supporting plant life and have properties caused by the combined effects, as modified by topography and time, of climate and living organisms upon parent materials.

"Soil evaluation" means plotting soil boundaries, describing, and evaluating the kinds of soil and predicting their suitability for and response to various uses.

"Soil science" means the science dealing with the physical, chemical, mineralogical, and biological properties of soils as natural bodies.

"Soil scientist" means a person having special knowledge of soil science and the methods and principles of soil evaluation as acquired by education and experience in the formation, description, and mapping of soils.

"Virginia certified professional geologist" means a person who possesses all qualifications specified in this chapter for certification and whose competence has been attested by the Board through certification.

"Virginia certified professional wetland delineator" means a person who possesses the qualifications required for certification by the provisions of this chapter and the regulations of the Board and who is granted certification by the Board.

"Virginia licensed professional soil scientist" means a person who possesses the qualifications required for licensure by the provisions of this chapter and the regulations of the Board and who has been granted a license by the Board.

"Wetland delineation" means delineating wetland limits in accordance with prevailing state and federal regulatory guidance and describing wetland types.

"Wetland professional" means a person having special knowledge of wetland science and the methods and principles of wetland delineation as acquired by education and experience in the formation, description, and mapping of wetlands.

"Wetland science" means the science dealing with the physical, chemical, and biological properties of wetland systems integrated through ecological and morphological relationships.

"Wetlands" means the same as that term is defined in §§ 28.2-1300 and 62.1-44.3.

§ 54.1-2200.2. Board for Professional Soil Scientists and Wetland Professionals; membership; quorum.

A. Notwithstanding the provisions of § 54.1-200, the Board for Professional Soil Scientists, ~~and~~ Wetland Professionals, ~~and Geologists~~ shall be composed of ~~43~~ *nine* members as follows: three licensed professional soil scientists, three certified professional wetland delineators, ~~three geologists~~, and three *nonlegislative* citizen members. ~~The State Geologist shall serve as an ex officio member of the Board. The geologist members shall be of varied backgrounds.~~ The professional soil scientist members shall have experience in at least one of the following areas: (i) soil mapping and classification, (ii) soil suitability and land use, (iii) teaching and research in soil science, and (iv) environmental protection regulations. Of the wetland professional members, one shall have experience in wetland delineation and description, one shall have experience in teaching and research in wetland science, and one shall have experience with natural resource regulations. Terms of the members shall be for four years.

B. The Board shall annually elect a chairman from its membership. ~~Seven~~ *Five* board members, consisting of at least two soil scientists, two professional wetland delineators, ~~two geologists~~, and one *nonlegislative* citizen member, shall constitute a quorum.

C. The Governor may select the professional soil scientist members from a list of at least three

names for each vacancy submitted by the Virginia Association of Professional Soil Scientists. The Governor may notify the Virginia Association of Professional Soil Scientists of any professional vacancy other than by expiration among the professional soil scientist members of the Board and nominations may be made for the filling of the vacancy.

D. The Governor may select the wetland professionals from a list of at least three names for each vacancy submitted by the Virginia Association of Wetland Professionals. The Governor may notify and request nominations from the Virginia Association of Wetland Professionals of any professional vacancy other than by expiration among the wetland professional members.

§ 54.1-2201. Exceptions.

A. The certification program for wetland delineation set forth in this chapter shall be voluntary and shall not be construed to prohibit:

1. The practice of wetland delineation by individuals who are not certified professional wetland delineators as defined in this chapter;

2. The work of an employee or a subordinate of a certified professional wetland delineator or of an individual who is practicing wetland delineation without being certified;

3. The work of any professional engineer, ~~landscape architect~~, or land surveyor as defined by § 54.1-400 in rendering any of the services that constitute the practice of wetland delineation or the practice of soil evaluation; or

4. The practice of any profession or occupation that is regulated by another regulatory board within the Department.

B. The licensing program for professional soil scientists shall not be construed to prohibit:

1. The work of an employee or a subordinate of a licensed soil scientist;

2. The work of any professional engineer, ~~landscape architect~~, or land surveyor as defined in § 54.1-400 in rendering any services that constitute the practice of soil evaluation; or

3. The practice of any profession or occupation that is regulated by another regulatory board within the Department.

C. Nothing in this chapter shall authorize an individual to engage in the practice of engineering, *or* the practice of land surveying ~~or the practice of landscape architecture~~, unless such individual is licensed or certified pursuant to ~~Chapter 4 Article 1~~ (§ 54.1-400 et seq.) *of Chapter 4*.

§ 55.1-703. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.

A. The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be provided by the Real Estate Board on its website.

B. The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions, or any conveyances of mineral rights, as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, a mold assessment conducted by a business that follows the guidelines provided by the U.S. Environmental Protection Agency, and a residential building energy analysis, ~~as defined in § 54.1-1144~~, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

2. The owner makes no representation with respect to current lot lines or the ability to expand, improve, or add any structures on the property, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a property survey and contacting the locality to determine zoning ordinances or lot coverage, height, or setback requirements on the property.

3. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

4. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in

accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, and purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

7. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

8. The owner makes no representations with respect to the presence of any wastewater system, including the type or size of the wastewater system or associated maintenance responsibilities related to the wastewater system, located on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

9. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property;

10. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas, and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) reviewing any map depicting special flood hazard areas, (iii) contacting the Federal Emergency Management Agency (FEMA) or visiting the website for FEMA's National Flood Insurance Program or the Virginia Flood Risk Information website operated by the Department of Conservation and Recreation, and (iv) determining whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract. A flood risk information form, pursuant to the provisions of subsection D, that provides additional information on flood risk and flood insurance is available for download by the Real Estate Board on its website;

11. The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

12. The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event prior to settlement pursuant to such contract;

13. The owner makes no representations with respect to whether the property is located on or near deposits of marine clays (marumsco soils), and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including consulting public resources regarding local soil conditions and having the soil and structural conditions of the property analyzed by a qualified professional;

14. The owner makes no representations with respect to whether the property is located in a locality classified as Zone 1 or Zone 2 by the U.S. Environmental Protection Agency's (EPA) Map of Radon Zones, and purchasers are advised to exercise whatever due diligence they deem necessary to determine

whether the property is located in such a zone, including (i) reviewing the EPA's Map of Radon Zones or visiting the EPA's radon information website; (ii) visiting the Virginia Department of Health's Indoor Radon Program website; (iii) visiting the National Radon Proficiency Program's website; (iv) visiting the National Radon Safety Board's website that lists the Board's certified contractors; and (v) ordering a radon inspection, in accordance with the terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

15. The owner makes no representations with respect to whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free" pursuant to 42 U.S.C. § 300g-6, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free," in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract;

16. The owner makes no representations with respect to the existence of defective drywall on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether there is defective drywall on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract. For purposes of this subdivision, "defective drywall" means the same as that term is defined in § 36-156.1; and

17. The owner makes no representation with respect to the condition or regulatory status of any impounding structure or dam on the property or under the ownership of the common interest community that the owner of the property is required to join, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine the condition, regulatory status, cost of required maintenance and operation, or other relevant information pertaining to the impounding structure or dam, including contacting the Department of Conservation and Recreation or a licensed professional engineer.

C. The residential property disclosure statement shall be delivered in accordance with § 55.1-709.

D. The Real Estate Board shall make available on its website a flood risk information form. Such form shall be substantially as follows:

Flood Risk Information Form

The purpose of this information form is to provide property owners and potential property owners with information regarding flood risk. This information form does not determine whether a property owner will be required to purchase a flood insurance policy. That determination is made by the lender providing a loan for the property at the lender's discretion.

Mortgage lenders are mandated under the Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 to require the purchase of flood insurance by property owners who acquire loans from federally regulated, supervised, or insured financial institutions for the acquisition or improvement of land, facilities, or structures located within or to be located within a Special Flood Hazard Area. A Special Flood Hazard Area (SFHA) is a high-risk area defined as any land that would be inundated by a flood, also known as a base flood, having a one percent chance of occurring in a given year. The lender reviews the current National Flood Insurance Program (NFIP) maps for the community in which the property is located to determine its location relative to the published SFHA and completes the Standard Flood Hazard Determination Form (SFHDF), created by the Federal Emergency Management Agency (FEMA). If the lender determines that the structure is indeed located within a SFHA and the community is participating in the NFIP, the borrower is then notified that flood insurance will be required as a condition of receiving the loan. A similar review and notification are completed whenever a loan is sold on the secondary loan market or when the lender completes a routine review of its mortgage portfolio.

Properties that are not located in a SFHA can still flood. Flood damage is not generally covered by a standard home insurance policy. It is prudent to consider purchasing flood insurance even when flood insurance is not required by a lender. Properties not located in a SFHA may be eligible for a low-cost preferred risk flood insurance policy. Property owners and buyers are encouraged to consult with their insurance agent about flood insurance.

What is a flood? A flood is a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties, at least one of which is the policyholder's property, from (i) overflow of inland or tidal waters, (ii) unusual and rapid accumulation or runoff of surface waters from any source, (iii) mudflow, or (iv) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood.

FEMA is required to update Flood Maps every five years. Flood zones for this property may change due to periodic map updates. To determine what flood zone or zones a property is located in a buyer can visit the website for FEMA's National Flood Insurance Program or the Virginia Department of

Conservation and Recreation's Flood Risk Information System website.

§ 62.1-44.15:23. Wetland and stream mitigation banks.

A. For purposes of this section:

"Physiographic province" means one of the five physiographic provinces of Virginia designated as the Appalachian Plateaus, Blue Ridge, Coastal Plain, Piedmont, and Ridge and Valley physiographic provinces as identified on Figure 2 in the Overview of the Physiography and Vegetation of Virginia prepared by the Department of Conservation and Recreation, Division of Natural Heritage and dated February 2016. The Department of Environmental Quality may adjust the boundaries of a physiographic province to reflect site-specific boundaries based on relative elevation, relief, geomorphology, and lithology provided by the bank sponsor.

"Primary service area" means the fourth order subbasin in which the bank is located, as defined by the hydrologic unit boundaries of the National Watershed Boundary Dataset or the hydrologic unit system or dataset utilized and depicted or described in the bank's approved mitigation banking instrument, and any adjacent fourth order subbasin within the same river watershed.

"River watershed" means the Potomac River Basin; Shenandoah River Basin; James River Basin; Rappahannock River Basin; Roanoke and Yadkin Rivers Basin; Chowan River Basin, including the Dismal Swamp and Albemarle Sound; Tennessee River Basin/Big Sandy River Basin Complex; Chesapeake Bay and its Small Coastal Basins; Atlantic Ocean; York River Basin; and New River Basin.

"Secondary service area" means the area outside the primary service area but within the same physiographic province in which the bank is located and any adjacent physiographic province within the same river watershed.

"Tree canopy" includes all of the area of canopy coverage by self-supporting and healthy woody plant material exceeding five feet in height.

B. When a Virginia Water Protection Permit is conditioned upon compensatory mitigation for adverse impacts to wetlands or streams, the applicant may be permitted to satisfy all or part of such mitigation requirements by the purchase or use of credits from any wetland or stream mitigation bank in the Commonwealth, or in Maryland on property wholly surrounded by and located in the Potomac River if the mitigation banking instrument provides that the Board shall have the right to enter and inspect the property and that the mitigation bank instrument and the contract for the purchase or use of such credits may be enforced in the courts of the Commonwealth, including any banks owned by the permit applicant, that has been approved and is operating in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks as long as (i) the impacted site is located in the bank's primary or secondary service area as provided in subsection C or it meets all the conditions found in clauses (a) through (d) and either clause (e) or (f); (ii) the bank is ecologically preferable to practicable onsite and offsite individual mitigation options as defined by federal wetland regulations; and (iii) the banking instrument, if approved after July 1, 1996, has been approved by a process that included public review and comment. When the impacted site is not located in the bank's primary or secondary service area, the purchase or use of credits shall not be allowed unless the applicant demonstrates to the satisfaction of the Department of Environmental Quality that (a) the impacts will occur as a result of a Virginia Department of Transportation linear project or as the result of a locality project for a locality whose jurisdiction encompasses multiple river watersheds; (b) there is no practical same river watershed mitigation alternative; (c) the impacts are less than one acre in a single and complete project within a subbasin; (d) there is no significant harm to water quality or fish and wildlife resources within the river watershed of the impacted site; and either (e) impacts within the Chesapeake Bay watershed are mitigated within the Chesapeake Bay watershed as close as possible to the impacted site or (f) impacts within subbasins 02080108, 02080208, and 03010205, as defined by the National Watershed Boundary Dataset, are mitigated in-kind within those subbasins, as close as possible to the impacted site. For the purposes of this subsection, the hydrologic unit boundaries of the National Watershed Boundary Dataset or other hydrologic unit system may be adjusted by the Department of Environmental Quality to reflect site-specific geographic or hydrologic information provided by the bank sponsor.

C. For impacts to a site for which no credits are available to purchase (i) in the primary service area of any mitigation provider or (ii) at a price below 200 percent of the current price of credits applicable to that site from a Board-approved fund dedicated to achieving no net loss of wetland acreage and functions, a permit applicant may be permitted to purchase or use credits from the secondary service area of a mitigation provider to satisfy all or any part of such applicant's mitigation requirements. For purposes of this subsection, the permit applicant shall provide a determination of credit availability and credit price no later than the time such applicant submits to the Department (a) its proof of credit acquisition or (b) a later change to such proof.

If a permit applicant purchases or uses credits from a secondary service area, the permit applicant shall:

1658 1. Acquire three times the credits it would have had to acquire from a bank in the primary service
1659 area for wetland impacts and two times the number of credits it would have had to acquire in the
1660 primary service area for stream impacts;

1661 2. When submitting proof of acquisition of credits for a subdivision or development, provide to the
1662 Department a plan that the permit applicant will implement that is certified by a licensed professional
1663 engineer, or surveyor, or ~~landscape architect~~ for the planting, preservation, or replacement of trees on
1664 the development site such that the minimum tree canopy percentage 20 years after development is
1665 projected to be as follows:

1666 a. Ten percent tree canopy for a site zoned for business, commercial, or industrial use;

1667 b. Ten percent tree canopy for a residential site zoned for 20 or more units per acre;

1668 c. Fifteen percent tree canopy for a residential site zoned for more than eight but fewer than 20 units
1669 per acre;

1670 d. Twenty percent tree canopy for a residential site zoned for more than four but not more than eight
1671 units per acre;

1672 e. Twenty-five percent tree canopy for a residential site zoned for more than two but not more than
1673 four units per acre; and

1674 f. Thirty percent tree canopy for a residential site zoned for two or fewer units per acre.

1675 For a mixed-use development, the tree canopy percentage required pursuant to this subdivision shall
1676 be that which is applicable to the predominant use.

1677 The tree canopy requirements established under this subsection shall not supersede any additional
1678 requirements imposed by a locality pursuant to § 15.2-961 or 15.2-961.1.

1679 D. The Department is authorized to serve as a signatory to agreements governing the operation of
1680 mitigation banks. The Commonwealth and its officials, agencies, and employees shall not be liable for
1681 any action taken under any agreement developed pursuant to such authority.

1682 E. State agencies and localities are authorized to purchase credits from mitigation banks.

1683 F. A locality may establish, operate and sponsor wetland or stream single-user mitigation banks
1684 within the Commonwealth that have been approved and are operated in accordance with the
1685 requirements of subsection B, provided that such single-user banks may only be considered for
1686 compensatory mitigation for the sponsoring locality's municipal, joint municipal or governmental
1687 projects. For the purposes of this subsection, the term "sponsoring locality's municipal, joint municipal
1688 or governmental projects" means projects for which the locality is the named permittee, and for which
1689 there shall be no third-party leasing, sale, granting, transfer, or use of the projects or credits. Localities
1690 may enter into agreements with private third parties to facilitate the creation of privately sponsored
1691 wetland and stream mitigation banks having service areas developed through the procedures of
1692 subsection B.

1693 **§ 62.1-44.15:51. (Contingent expiration date) Definitions.**

1694 As used in this article, unless the context requires a different meaning:

1695 "Agreement in lieu of a plan" means a contract between the plan-approving authority and the owner
1696 that specifies conservation measures that must be implemented in the construction of a single-family
1697 residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

1698 "Applicant" means any person submitting an erosion and sediment control plan for approval or
1699 requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

1700 "Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certificate of
1701 competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training
1702 program for project inspection and successfully completes such program within one year after
1703 enrollment.

1704 "Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a
1705 certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's
1706 training program for plan review and successfully completes such program within one year after
1707 enrollment, or (iii) is licensed as a professional engineer, architect, ~~landscape architect~~, land surveyor
1708 pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as
1709 defined in § 54.1-2200.

1710 "Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a
1711 certificate of competence from the Board in the area of program administration or (ii) is enrolled in the
1712 Board's training program for program administration and successfully completes such program within
1713 one year after enrollment.

1714 "Department" means the Department of Environmental Quality.

1715 "Director" means the Director of the Department of Environmental Quality.

1716 "District" or "soil and water conservation district" means a political subdivision of the
1717 Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter
1718 5 of Title 10.1.

1719 "Erosion and sediment control plan" or "plan" means a document containing material for the

conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Erosion impact area" means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

"Land-disturbing activity" means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;

2. Individual service connections;

3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2;

6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163;

7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;

9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and

12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

1781 "Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular
1782 location.

1783 "Permittee" means the person to whom the local permit authorizing land-disturbing activities is issued
1784 or the person who certifies that the approved erosion and sediment control plan will be followed.

1785 "Person" means any individual, partnership, firm, association, joint venture, public or private
1786 corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county,
1787 city, town, or other political subdivision of the Commonwealth, governmental body, including a federal
1788 or state entity as applicable, any interstate body, or any other legal entity.

1789 "Runoff volume" means the volume of water that runs off the land development project from a
1790 prescribed storm event.

1791 "Town" means an incorporated town.

1792 "Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the
1793 Board that has been established by a VESCP authority for the effective control of soil erosion, sediment
1794 deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the
1795 unreasonable degradation of properties, stream channels, waters, and other natural resources and shall
1796 include such items where applicable as local ordinances, rules, permit requirements, annual standards
1797 and specifications, policies and guidelines, technical materials, and requirements for plan review,
1798 inspection, enforcement where authorized in this article, and evaluation consistent with the requirements
1799 of this article and its associated regulations.

1800 "Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means an
1801 authority approved by the Board to operate a Virginia Erosion and Sediment Control Program. An
1802 authority may include a state entity, including the Department; a federal entity; a district, county, city, or
1803 town; or for linear projects subject to annual standards and specifications, electric, natural gas, and
1804 telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies,
1805 or authorities created pursuant to § 15.2-5102.

1806 "Water quality volume" means the volume equal to the first one-half inch of runoff multiplied by the
1807 impervious surface of the land development project.

1808 **§ 62.1-44.15:51. (Contingent effective date) Definitions.**

1809 As used in this article, unless the context requires a different meaning:

1810 "Agreement in lieu of a plan" means a contract between the VESCP authority and the owner that
1811 specifies conservation measures that must be implemented in the construction of a single-family
1812 detached residential structure; this contract may be executed by the VESCP authority in lieu of a formal
1813 site plan.

1814 "Applicant" means any person submitting an erosion and sediment control plan for approval in order
1815 to obtain authorization for land-disturbing activities to commence.

1816 "Certified inspector" means an employee or agent of a VESCP authority who (i) holds a certification
1817 from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for
1818 project inspection and successfully completes such program within one year after enrollment.

1819 "Certified plan reviewer" means an employee or agent of a VESCP authority who (i) holds a
1820 certification from the Board in the area of plan review, (ii) is enrolled in the Board's training program
1821 for plan review and successfully completes such program within one year after enrollment, or (iii) is
1822 licensed as a professional engineer, architect, ~~landscape architect~~, land surveyor pursuant to Article 1
1823 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1, or professional soil scientist as defined in § 54.1-2200.

1824 "Certified program administrator" means an employee or agent of a VESCP authority who (i) holds a
1825 certification from the Board in the area of program administration or (ii) is enrolled in the Board's
1826 training program for program administration and successfully completes such program within one year
1827 after enrollment.

1828 "Department" means the Department of Environmental Quality.

1829 "Director" means the Director of the Department of Environmental Quality.

1830 "District" or "soil and water conservation district" means a political subdivision of the
1831 Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter
1832 5 of Title 10.1.

1833 "Erosion and sediment control plan" or "plan" means a document containing material for the
1834 conservation of soil and water resources of a unit or group of units of land. It may include appropriate
1835 maps, an appropriate soil and water plan inventory and management information with needed
1836 interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain
1837 all major conservation decisions to ensure that the entire unit or units of land will be so treated to
1838 achieve the conservation objectives.

1839 "Erosion impact area" means an area of land that is not associated with a current land-disturbing
1840 activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring
1841 properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000
1842 square feet or less used for residential purposes or to shorelines where the erosion results from wave

action or other coastal processes.

"Land disturbance" or "land-disturbing activity" means any man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Natural channel design concepts" means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

"Owner" means the same as provided in § 62.1-44.3. For a land-disturbing activity that is regulated under this article, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a given storm condition at a particular location.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Town" means an incorporated town.

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of this article.

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority" means a locality approved by the Board to operate a Virginia Erosion and Sediment Control Program. A locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program pursuant to subdivision B 3 of § 62.1-44.15:27 is required to become a VESCP authority in accordance with this article.

"Virginia Stormwater Management Program" or "VSMP" means a program established by the Board pursuant to § 62.1-44.15:27.1 on behalf of a locality on or after July 1, 2014, to manage the quality and quantity of runoff resulting from any land-disturbing activity that (i) disturbs one acre or more of land or (ii) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance.

2. That § 54.1-409, Article 2 (§§ 54.1-412, 54.1-413, and 54.1-414) of Chapter 4 of Title 54.1, Chapters 6 (§§ 54.1-600 through 54.1-607) and 8.1 (§§ 54.1-828 through 54.1-834) of Title 54.1, Article 5 (§§ 54.1-1144, 54.1-1145, and 54.1-1146) of Chapter 11 of Title 54.1, and Article 3 (§§ 54.1-2208.1 through 54.1-2208.4) of Chapter 22 of Title 54.1 are repealed.

3. That the terms of persons serving as landscape architect and interior designer members on the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects pursuant to § 54.1-403 of the Code of Virginia as it was in effect prior to the effective date of this act shall expire on the effective date of this act.

4. That the terms of persons serving as geologist members and the term of the State Geologist on the Board for Professional Soil Scientists, Wetland Professionals, and Geologists pursuant to § 54.1-2200.2 of the Code of Virginia as it was in effect prior to the effective date of this act shall expire on the effective date of this act.