City of Danville
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City Planning Commission

Date: January 31, 2020

Memo to: PC members
Ken Larking, City Manager
Earl Reynolds, Deputy City Manager
Clarke Whitfield, City Attorney

Memo from: Kenneth C. Gillie Jr., CFM
Director of Community Development
Zoning Administrator

RE: February 6, 2020 Work Session

Please review the following items prior to the work session on February 6.

Signage:
Attached you will find draft sign code changes to deal with the outcome of the Reed vs. Town of Gilbert US Supreme Court decision.

Parking
Attached are the City of Danville Parking requirements. Staff has received complaints that our requirements are too strict in some instances, too lenient in others, and have little flexibility. This will take additional review. Staff will bring outside resources to the meeting.

Commercial Indoor Recreation
Attached you will find multiple bills currently going through the Virginia legislature. These bills vary from legalization and almost no regulation, to outright banning.

ARTICLE 10. - SIGN REGULATIONS

A. - Purpose and Intent.

The purpose of this article is to regulate the size, location, height and construction of all signs for public observance; to protect the public health, safety, convenience and general welfare; to facilitate the creation of a convenient, attractive and harmonious community, to protect property values; and to further the urban design and economic development objectives of Danville. Signs subject to these regulations include all exterior signs and permanent interior window signs which are placed for exterior observance. Pursuant to the goals of the Comprehensive Plan, off-premises commercial signs ~~outdoor advertising signs ("billboards")~~ are considered inappropriate to the character and sound development of the City. To these ends, these regulations are intended to promote signs which are:

1. Compatible with the physical and architectural character of their surroundings;
2. Legible ~~and appropriate to the activity to which they pertain~~ for drivers and/or pedestrians, as appropriate to the surrounding land uses;
3. Not distracting to motorists;
4. Not causing or contributing to visual clutter; ~~Avoid visual cluster;~~
5. Constructed and maintained in a structurally sound and attractive condition;
6. Limited to an accessory to an existing on-site use of the property ~~the specific use or business that is in operation on the premises; and~~
7. An enhancement to the appearance of the City's corridors, residential neighborhoods and business areas; and
8. Supportive of the right to free expression.

B. - Sign Permit Requirement.

Except as provided hereinafter, no sign shall be erected, installed, used, altered, painted, relocated, replaced or reconstructed until a Sign Permit has been issued by the ~~Director of Planning/~~Zoning Administrator and approved by any applicable public commission or review board. ~~the Commission of Architectural Review or the Tourism Corridor Review Board, if applicable~~. For the purpose of this Ordinance, all signs are considered accessory uses and, unless specifically qualified, shall be located on the same lot with the principal use to which they pertain.

C. - Sign Permit Procedures.

1. *Applicability.* A Sign Permit shall be required for all signs except for those specifically excluded from the permit requirements of this article.
2. *Filing of Application and Fees.* Applications for Sign Permits shall be filed on a form provided by the ~~Director of Planning/~~Zoning Administrator, shall contain information required herein, and shall be accompanied by a fee to be established by the City Council.
3. *Information Required.* All applications for Sign Permits shall be submitted on the standard Sign Application Form and, unless otherwise indicated by the ~~Director of Planning/~~Zoning Administrator, the applicant shall provide additional written or graphic exhibits to incorporate the following information:
   a. Name, address, and telephone number of the sign erector, sign owner, and property owner;
   b. Position of the sign in relation to adjacent lot lines, buildings, sidewalks, streets and intersections shown on a legal plat produced by a licensed surveyor or engineer;

c. Type of sign and general description of structural design and construction materials to be used;

d. Purpose of the proposed sign;

e. Drawings of the proposed sign which shall contain specifications indicating the height, perimeter and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign;

f. Tax map number, zoning and address of property on which the sign is to be located;

g. Information pertaining to the number, shape, size, type and ~~conforming~~ conformity of existing signs on the subject property; and

h. Any other information requested by the ~~Director of Planning~~/Zoning Administrator in order to carry out the purpose and intent of these regulations.

4. *Private signs on public land.* Any private sign located on or over the City right-of-way, excluding permitted flat signs which may project eighteen (18) inches into the public right-of-way, shall be prohibited unless:

a. The City Planning Commission has granted approval of the sign;

b. The sign adheres to regulations for the public right-of-way, specified in Chapter 35 entitled "Streets and Sidewalks; and

c. The applicant or sign owner has obtained an insurance policy which has been filed for public liability with a total limit of $600,000 per accident, $300,000 per person bodily injury and $150,000 property damage. Such policy shall be issued by an insurance company authorized to do business in the State of Virginia. The policy shall name the City as a coinsured and shall require thirty days written notice to the City before modification or cancellation. Such insurance policy shall hold the City harmless from any and all claims or demands for damages or negligence. The policy shall be maintained for the duration of the time that the sign remains erected.

~~4. *Liability Insurance Required.* No sign which is located on or projects over a City right-of-way shall be erected unless an insurance policy shall have been filed for public liability with a total limit of $600,000 per accident, $300,000 per person bodily injury and $150,000 property damage. Such policy shall be issued by an insurance company authorized to do business in the State of Virginia. The policy shall name the City as a coinsured and shall required thirty days written notice to the City before modification or cancellation. Such insurance policy shall hold the City harmless from any and all claims or demands for damages or negligence. The policy shall be maintained for the duration of the time that the sign remains erected.~~

D. - Sign Definitions.

For the purpose of this article, certain terms and words pertaining to signs are hereby defined. ~~A "sign" is defined as any writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner, pennant, or any other device, figure or character which is employed to announce, direct attention to, identify, or make known, and which is visible from a public street or sidewalk or area of exterior public congregation. In addition, the~~ The general rules of interpretation contained in this article are applicable to the following definitions.

1. *Abandoned Sign.* ~~An existing sign that advertises a business that is no longer in operation. This shall not apply to sign listings within a multi-tenant buildings in which tenants change. Allowances for tenant changes will be made for such signs, without requiring that the sign be declared abandoned.~~ Any commercial sign which identifies or directs attention to a commercial

activity which has been no longer associated with the property for a period of more than thirty (30) continuous days on the property. Any such sign shall be subject to regulations specified in Section G entitled "Exempt Signs" of this article.

~~2. *Accessory Sign.* A sign relating only to the uses of the premises on which the sign is located or products sold on the premises on which the sign is located, or indicating the name or address of a building, the occupants or management of a building on the premises where the sign is located.~~

2. *A-Frame Sign.* A two-faced sign, considered a type of "portable sign", with supports that are connected at the top and separated at the base, forming an "A" shape; also known as "sandwich board" signs.

~~*Animated Sign.* A sign utilizing any form of movement, including, but not limited to, animation, revolution, vertical or horizontal motion, whether electrical, mechanical, windblown, or through change in lighting. For the sake of this Ordinance, an electronic changeable copy signs will be considered as a Changeable Copy Sign and not an "animated sign." No flag, as defined herein, shall be considered an "animated sign".~~

3. *Architectural Elements.* The supports, uprights, bracing, framework, and/or decorative features of any structure exhibiting a sign, but which do not bear any message. This shall specifically exclude flag poles, which are defined separately.

4. Artwork and Statuary. Works of art that do not contain any commercial messages or references.

~~4. *Awning Sign.* A sign painted or printed on, attached flat or sewn onto valance or body of any awning.~~

5. ~~5.~~ Banner. A piece of cloth, plastic or other flexible material on which words, letter, figures, colors, designs or symbols are inscribed or affixed ~~for the purposes of advertisement, identification, display, or direction~~ and which is suspended for display, typically from buildings or poles on a temporary or short term basis.

6. ~~6.~~ *Billboard Sign.* See off-premises commercial sign. ~~A sign used as an outdoor display for the purpose of advertising or promoting a business, service, activity or products, which is not located on the premises on which a sign is situated. Also referred to as Outdoor Advertising Sign.~~

7. ~~7.~~ Building Mounted Sign. A sign attached to, painted on, inscribed upon or deriving its major support from a building, including a wall sign, a projecting sign, a canopy sign, a marquee sign or an awning sign. For the purpose of this ordinance, permanent signs intended for the purpose of exterior observance which are painted on windows or doors, attached to windows or doors, or hung behind and within three feet of the windows or doors, either illuminated or non-illuminated, shall be considered a building mounted sign subject to the sign area regulations contained in this article.

8. ~~8.~~ *Bulletin Board.* ~~A sign that identifies an institution or organization on the premises of which it is located and that contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar message.~~ A changeable copy sign serving as an accessory to an on-site public or semi-public use.

9. *Canopy Sign.* A sign attached to or displayed on a canopy, awning or other ~~. For the purpose of this Article, a canopy is a~~ permanent, roof-like structure of rigid materials either supported by and extending from a building or freestanding, including marquee or porte-cocheres.

10. ~~10.~~ *Changeable Copy Sign.* A sign or part of a sign designed so that characters, letters, or illustrations can be changed or rearranged. Examples may include, but are not limited to, chalkboard signs, signs attached to marquees (as defined in this Chapter), and bulletin boards.

11. *Commercial Sign.* Any sign serving as an accessory to a permitted commercial or industrial use.

~~11. *Conspicuous vehicle sign.* Any sign mounted or painted on or otherwise affixed to any parked vehicle, parked trailer, or other parked device capable of being towed, which is obviously and conspicuously parked so as advertise the business to the passing motorist or pedestrian, and for which the primary purpose is to provide additional on-site signage or is to serve the function of an outdoor advertising sign. Excluded from this sign type are vehicles and equipment in operating condition which are currently registered and licensed to operate on public streets with a valid inspection sticker and which are actively used in the daily function of the business to which such signs related.~~

~~12. *Construction Sign.* A temporary sign which identifies the character of facilities being actively constructed or altered, the anticipated sale, lease or rental of those facilities, or the identity of the persons or firms engaged in the promotion, financing, design, construction, or alteration of such facilities.~~

12. *Content Change.* The changing of any message on the sign face of any chalkboard sign, marquee sign, or other changeable copy sign.

13. *Creative Sign.* Any sign deemed to bear a creative design by the City Planning Commission, or other appropriate public body. The sign shall meet the criteria in Section F "Signs Considered Separately" of this article.

14. Decals. Decals affixed to windows or door glass panes provided that such decals do not exceed thirty-six (36) square inches.

15. ~~*15.*~~ *Detached Sign.* See Freestanding Sign.

16. *Dilapidated Sign. A sign where elements of the sign face or architectural features are visibly cracked, discolored, corroded, bent, torn, dented, or otherwise broken to either (1) no longer be legible under normal viewing conditions, or (2) create a hazard to health, safety, and welfare.*

~~14. *Directional Sign.* An on-premises sign giving directions, instructions, and/or facility information, but containing no advertising copy (e.g., parking, exit, or entrance signs).~~

17. ~~*15.*~~ *Directory Sign.* A subsidiary sign listing the names, uses, or location of various businesses conducted within a building or group of buildings.

18. ~~*16.*~~ *Double-Faced Sign.* A sign with two parallel, or nearly parallel, faces, back to back, and located no more than 24 inches from each other.

~~17. Externally Illuminated Sign. A sign which does not produce artificial light from within itself but which is opaque and illuminated by spotlights or floodlights not a part of or attached to the sign itself.~~

19. ~~*19.*~~ *Festoons.* A string of ribbons, tinsel, flags, pennants, bunting, pinwheels, or similar devices.

~~*20. Freestanding Sign.* A sign, supported by one or more columns, uprights or braces, in or upon the ground, but not attached to any building. A sign attached to a flat surface not a part of the building, such as a fence or wall, shall be considered a freestanding sign. A monument sign, as defined herein below, shall also be considered a freestanding sign. For the purposes of this ordinance, a freestanding sign listing two or more businesses located on a property or in a shopping center, and which is designed as one sign, shall be considered one freestanding sign.~~

20. *Flag.* Any generally rectangular or triangular sign made of cloth, fabric, or other pliable material designed to flow with the movement of the air, which is attached to a pole along the length of only one side of such sign. Flags shall not be considered a type of freestanding sign.

21. *Flashing Sign.* An illuminated sign which is constructed, erected, operated, or maintained in such a way as to either (1) resemble the flashing lights customarily associated with danger, such as associated with police or other emergency vehicles, (2) resemble lights customarily associated with traffic signal lights, or (3) regularly change content or lighting more frequently than once per five seconds.

~~20. *Flashing Sign.* An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.~~

22. ~~21.~~ *Flat Sign.* See Wall Sign.

23. *Freestanding Sign.* A sign, supported by one or more columns, uprights or braces, in or upon the ground, but not attached to any building. Examples of freestanding signs includes any sign attached to a flat surface not a part of the building such as a fence or wall, any monument sign as defined herein, and any sign affixed to and supported by a pole.

24. *Freestanding Sign, Supplementary.* Any separate sign attached to an existing freestanding sign, support structure for a freestanding sign, tree, or any other unapproved supporting structure not primarily intended to support a sign, with such determination made at the sole discretion of the ~~Director of Planning/~~Zoning Administrator.

25. *Gasoline Station Sign.* Signs for buildings and premises in which the primary source of revenue is the retail dispensing of motor fuels. This information must be verified by applicant prior to the issuance of sign permits.

~~23. *General Advertising Sign.* Any sign which is not an accessory sign or which is not specifically limited to a special purpose by these regulations.~~

26. ~~23.5.~~ *Ghost Sign.* A sign meeting the following criteria: (1) painted on an exterior wall or walls of a building or structure that ~~have~~ has become faded due to natural weathering~~. Such sign(s) must be~~ , (2) is at least fifty (50) ~~50~~ years old; and (3) is not a sign ~~No sign~~ that has been painted over to make it no longer visible from a public right-of-way, or has been painted over with a subsequent ~~commercial~~ message ~~shall be considered a ghost sign,~~ unless the original sign is again revealed through the removal of paint. ~~however if a sign is revealed through the removal of paint, this provision shall not apply.~~ Any such sign shall be subject to regulations specified in Section G, entitled "Exempt Signs", of this article.

~~Ghost Sign. A sign painted on an exterior wall or walls of a building or structure that have become faded due to natural weathering. Such sign(s) must be at least 50 years old. No sign that has been painted over to make it no longer visible from a public right-of-way, or has been painted over with a subsequent commercial message shall be considered a ghost sign, however if a sign is revealed through the removal of paint, this provision shall not apply.~~

27. *Government Required Sign.* Any sign required by the governments of the City of Danville, Commonwealth of Virginia, or Unites States of America, or any agency or political subdivision of the same, upon private land.

~~24. *Informational Sign.* A sign of a public or quasi-public nature which identifies or locates a hospital, public building, college, university, public parking area, historic area, major tourist attraction, public recreation area or similar public or quasi-public activity, which shall be approved on a case-by-case basis by the Director of Planning/Zoning Administrator.~~

28. Historic Signs. Any sign of significance to the history and character of a historic district or building, determined by review and approval of the Commission of Architectural Review or other appropriate public board.

29. *Illuminated Sign.* Any sign designed to either radiate artificial light from within itself (internally illuminated sign) or be legible because of artificial light provided by a separate nearby feature (externally illuminated sign).

~~25. *Internally Illuminated Sign.* Any sign designed to radiate artificial light from within itself.~~

~~26. *Marquee.* A permanent structure, awning or canopy projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.~~

~~27. *Marquee Sign.* Any sign attached to or hung from a marquee.~~

30. *Major Noncommercial Flag or Banner.* Any flag or banner which would be considered a minor noncommercial flag or banner, except it exceeds the permitted sign area. Such a flag or banner shall be permitted by Special Use Permit only.

31. *Minor Sign.* Any non-illuminated sign (flags and banners considered separately) which is generally designed and placed in a manner generally undisruptive of the surrounding area by adhering to the following conditions: (1) the sign does not exceed six feet in height in residential districts, or ten feet in height in commercial and industrial districts; (2) if freestanding, the sign is at least five feet from the property line; and (3) the sign area of any one sign does not exceed eight square feet in residential districts, or thirty-two square feet in commercial and industrial districts. Such a sign shall be considered either a commercial or noncommercial minor sign, based on the use to which it is an accessory.

32. *Minor Noncommercial Flag or Banner.* Any flag or banner which meets the following four (4) criteria: (1) meets the definition of noncommercial sign; (2) if freestanding, does not exceed seventy-two square feet in area per side in a residential district, or the maximum freestanding sign area permitted in any commercial or industrial district; (3) if wall-mounted, does not exceed fifteen square feet in area per side in a residential district, or the maximum wall sign area permitted in any commercial or industrial district; and (4) does not extend into the public right-of-way.

33. *Monument Sign.* A ground mounted sign which is mounted on a contiguous base having a minimum width of at least ninety percent (90%) of the sign width and its supporting structure and not attached to any building. For the purposes of this ordinance, a monument sign listing two or more businesses located on a property or in a shopping center and which is designed as one sign shall be considered one monument sign.

34. Moored Balloon and Floating Sign. A sign which is

35. *Noncommercial Sign.* Any sign, flag, or banner serving as an accessory to an on-site residential, public, or semi-public use. This shall specifically exclude commercial signs.

36. *Nonconforming Sign.* Any sign which does not follow the guidelines and requirements specified in this article. To be considered a legally permitted sign, such a sign shall adhere to the regulations for Nonconforming Signs specified in Section G, entitled "Signs Considered Separately", of this article.

~~29. *Off Premises Directional Sign.* A sign which is not located on the same premises as the use to which it refers and which is intended to provide information as to the identity and location of use, but which does not otherwise qualify as an advertising sign.~~

~~30. *Off Premises Directional Open House Sign.* A temporary sign which is intended to provide information on the location of a real estate open house, and which is not located on the same premises as the dwelling unit to which it refers.~~

~~31. *Outdoor Advertising Sign.* A freestanding or building mounted sign which bears a message which does not pertain to the use of the property, where the sign is located, and which does not identify the place of business, if any, where the sign is located as the purveyor or merchandise or services upon the property. Outdoor advertising signs may also be referred to as "billboards" or "poster panels", but such signs shall not be interpreted to mean informational signs allowed by this article.~~

37. *Off-Premises Commercial Sign.* Any commercial sign erected or posted on a property, but not as an accessory related to any current on-site use of the property, nor any on-site use previously on the property for a period of more than thirty (30) continuous days.

38. *Permanent pennants and banners.* Any festoon, pennant, banner, bunting or other ~~geometric shaped~~ cloth, fabric, or other lightweight material typically attached to a stringer and displayed

in such a way so as to move with the wind. This shall exclude signs which are otherwise defined as noncommercial flags or banners.

~~32. *Pole Sign.* A freestanding sign supported by one or more pole structures or by two or more uprights or braces placed in the ground.~~

39. *Portable Sign.* Any sign which is not permanently affixed to a structure or the ground, and does not exceed sixteen (16) square feet in sign area for one side, or a total of thirty-two (32) square feet if containing multiple sides.

40. *Primary Wall Frontage.* The facade of a building which faces the primary public street bounding the structure, as defined by the plat of record for the subject lot. In circumstances where it is unclear which street serves as the primary street (and thus, which is the primary wall frontage), the ~~Director of Planning/~~Zoning Administrator will be responsible for determining the primary wall frontage.

~~35. *Projecting Banner.* A piece of cloth, plastic coated cloth or other flexible material approved by the Director of Planning/Zoning Administrator, not to include plastic or vinyl coated plastic, which is attached to and perpendicular to the face of a wall of a building and which extends twelve (12) inches or more from the building wall or face, but not more than four (4) feet from said wall, on which words, letter, figures, colors, designs or symbols are inscribed or affixed for the purposes of advertisement, identification, display, or direction and which is suspended for display, typically from buildings or poles on a permanent basis.~~

41. *Projecting Sign or Banner.* A sign or permanent banner which is attached and perpendicular to the face of a wall of a building and which extends twelve (12) inches or more from the building wall or face, but not more than four (4) feet from said wall.

~~37. *Real Estate Sign.* A temporary sign which advertises the sale, lease, rental, or display of the lot or building upon which such sign is displayed.~~

42. Pump Island Sign. A sign which is attached or otherwise affixed to the gas dispenser station, which is detached from a primary structure, and serving as an accessory to a gasoline-sales establishment.

43. ~~38.~~ *Roof or Roof Projecting Sign.* A sign which is an integral part of the building design and is attached to, painted on, supported by, or projects over the roof line or parapet wall of a building. ~~or supported by the roof of a building.~~

44. *Seasonal displays.* Any temporary noncommercial display erected on a seasonal ~~basis in observance of religious, national, or state holidays~~ which are not intended to be permanent in nature.

45. ~~39.~~ *Sign.* Any object, device, display, or structure which by manner of writing, letter work or numeral, pictorial presentation, illustration, design, symbol, ~~or decoration,~~ emblem, ~~device, symbol or trademark, flag, banner, pennant,~~ or any other ~~device,~~ figure, ~~or~~ character, or other expressive element which functions ~~is employed~~ to announce, direct attention to, identify, or make known, and which is visible from a public street or sidewalk or area of public congregation. This definition shall exclude any architectural elements incorporated into the style or function of a structure.

~~40. *Sign Area.* That area which outlines the outer extremities of all letters, figures, characters, and delineations, or within an area including the outer extremities of the framework or background of the sign, whichever includes the larger area. The physical support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in a computation of sign area, if the faces are not more than 24 inches apart. For other signs with more than one face which are more than 24 inches apart, each side shall be included in a computation of sign area. The area of a~~

~~cylindrical or spherical sign shall be computed by multiplying the diameter of the cylinder by the height of the sign.~~

46. *Sign Area.* The entire area within a single continuous perimeter and a single plane, composed of a square, circle, rectangle or other geometric figure that encloses the extreme limits of the sign's message background and trim, including all letters, figures, graphics or other elements of the sign. This excludes architectural elements and physical support for the sign background which do not bear an integral part of the sign design, the second sign face of a double faced sign if each face is less than twenty-four (24) inches apart, and the second sign face of a "V" shaped sign with a width measuring less than a 45 degree angle.

47. *Sign Area, Maximum.* The total allowable sign area for all applicable signs on a property, excluding exempt and temporary signs, depending on the linear length of primary wall frontage of the property, and the zoning district in which the property is located.

48. *Sign Face.* The area or display surface used to display a message on a sign.

49. ~~41.~~ *Sign Height.* ~~The~~ If the sign is within thirty (30) feet of the property line, the vertical distance from the street grade or the average lot grade at the front setback line, whichever produces the greater vertical distance, to the highest point of the sign. If the sign is farther than thirty (30) feet from the property line, the vertical distance from the grade level where the sign is erected to the top of the sign or sign structure, whichever is greater.

50. ~~42.~~ *Sign Maintenance.* The replacing or repairing of a part of portion of a sign made necessary by ordinary wear, tear or damage beyond the control of the owner of a sign, property, or establishment for which the sign is intended.

51. *Signs on Public Land.* Any noncommercial sign erected or posted by or upon direction or consent of any the governments of the City of Danville, Commonwealth of Virginia, or Unites States of America, or any agency or political subdivision of the same, upon any land, easement, or right-of-way owned, leased, or licensed to any such government entity.

52. *Sign Reface.* Any restoration, repair, or change associated with the sign face, excluding any changeable copy sign or flag.

~~42.5 *Sponsorship signs on Public Facilities or Public Land.* A sign advertising activities of sponsoring organizations for public facilities or public land.~~

53. ~~43.~~ *Street Frontage.* The entire length of that part of a lot that fronts on a public street, as defined by the plat of record for the subject lot.

54. ~~44.~~ *Temporary Sign.* Any non-illuminated ~~A~~ sign, ~~banner, balloon, A-frame sign structure, pennant, poster, or advertising display~~ constructed of or affixed to cloth, plastic, sheet, cardboard, wallboard, balloon or other floating material (permissible at the discretion of the Zoning Administrator), or other materials, intended to be displayed for a limited period of time, and not permanently attached to a building or the ground. For the purpose of this definition, a "limited period of time" is defined as a not more than thirty (30) days during a period of 365 consecutive days.

55. *Vehicle Sign, Conspicuous.* Any sign mounted or painted on or otherwise affixed to any parked vehicle, trailer, or other device capable of being towed, which is (1) not currently registered and licensed to operate on public streets with a valid inspection sticker, (2) not actively used in the daily function of the business to which such signs related, and (3) obviously and conspicuously parked so as to serve as additional on-site signage or an off-premises commercial sign.

56. *Vehicle Sign, Non-Conspicuous.* Any sign mounted or painted on or otherwise affixed to any parked vehicle, trailer, or other device capable of being towed, which is (1) currently registered and licensed to operate on public streets with a valid inspection sticker, (2) actively used in the daily function of the business to which such signs related, and (3) in conformance with applicable

Virginia Division of Motor Vehicle laws and regulations for on-street operation of the subject vehicle containing a sign.

57. ~~45.~~ *Wall Sign.* A building mounted sign which is attached to, painted on, inscribed upon, or deriving its major support from a wall and which projects less than twelve (12) inches from the wall.

58. ~~46.~~ *Window Sign.* A sign painted onto or physically affixed to a building window including upper floor windows and the glazing of doors or signs legible from any vehicular or pedestrian public right-of-way through a building window, limited to twenty percent (20%) ~~20 percent~~ of the total glass area of the window in which they are placed.

E. - General Requirements for All Signs.

The following regulations shall apply generally to all signs and are in addition to the regulations that apply to signs in each district:

1. *Sign Information and Sign Erection.* All signs shall be erected on or before the expiration of the permit; otherwise, the permit shall become null and void and a new permit shall be required. Each ~~sign requiring a~~ permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises. Fees for sign permits shall be in accordance with this article or as may be otherwise amended from time to time by the City Council.

2. *Number of Signs.* Except as otherwise provided, these regulations shall be interpreted to permit one sign of each permitted basic sign type, in accordance with applicable regulations, for each street frontage, for each permitted use on the premises. For the purpose of this regulation, basic sign types are free standing sign (including monument sign), building mounted sign, projecting sign, and temporary sign.

3. *Responsibility.* The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the ~~Director of Planning/~~Zoning Administrator.

4. *Maintenance.* All signs shall be maintained in good condition and appearance. Lights for illuminated signs shall be maintained in good working order. After due notice has been given as provided below, the ~~Director of Planning/~~Zoning Administrator may cause to be removed any sign which shows gross neglect or becomes dilapidated, at the owner's expense.

5. *Removal.* The ~~Director of Planning/~~Zoning Administrator shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within 30 days after receiving written notice of violation from the ~~Director of Planning/~~Zoning Administrator. Removal of a sign by the ~~Director of Planning/~~Zoning Administrator shall not affect any proceedings instituted prior to removal of such sign.

6. *Landscaping.* A landscaped planting area shall be provided around the base of any freestanding or detached sign. The planting area shall contain an amount equal to the area of the sign, be a minimum of 4 feet in width, be protected from vehicular encroachment, and be landscaped with a combination of low-growing shrubs and ground covers (other than grass), including at least 4 shrubs. The landscape treatment shall be designed and maintained to not exceed a height of 3 feet above the grade.

7. *Changeable message signs.* Changeable message signs, including those with panels, including electronic changeable copy panels, or zip tracks, are allowed. The changeable message area of the sign may cover the entire maximum allowable sign area. Electronic changeable copy panels are allowed so long as the message is placed on the sign for a minimum duration of five (5) seconds and does not scroll either horizontally or vertically.

8. *Structural and safety characteristics.* Structural and safety features and electrical systems shall be in accordance with the requirements of the applicable codes and ordinances. No sign shall be approved for use unless the structural plans have been reviewed, a permit has been issued, and the plans are in compliance with all the requirements of this Ordinance and applicable technical codes. All signs which are electrically illuminated shall require a separate electrical permit and inspection by the City's Building Inspector.

9. *Illumination standards.* Externally illuminated signs shall be illuminated only by a steady, stationary, light source directed only at the sign without causing glare for motorists and pedestrians or illumination spill over on neighboring properties. Internally illuminated signs shall be illuminated only by a steady, stationary, light source internal to the sign without causing glare for motorists and pedestrians or illumination spill over on neighboring properties.

10. *Sight distance.* The land adjoining a street intersection ~~that is to~~ shall be kept clear of obstructions between three (3) and seven (7) feet above the ground to protect the visibility and safety of motorists and pedestrians. The impact of sign placement, size and height shall be addressed with each sign permit application, with graphic information to be provided with the submission of a site plan sufficient for the ~~Director of Planning/~~Zoning Administrator to assess an applicant's site distance determination. ~~, in~~ In no case shall a sign projecting over a vehicular use area be less than fourteen (14) feet above grade.

11. *Overlay district.* Whenever a sign is to be placed in a zoning overlay district subject to design review by a public commission or other applicable body, the design guidelines for that district shall apply to the sign and associated architectural elements. If there is a conflict between this article and the corresponding design guidelines, the design guidelines shall apply to the maximum extent allowed by law.

~~F. Calculation of Sign Area.~~

~~1. *Sign area computations.* The sign area shall be calculated as the entire area within a single continuous perimeter, and a single plane, composed of a square, circle, rectangle or other geometric figure that encloses the extreme limits of the sign's message background and trim, and including all letters, figures, graphics or other elements of the sign.~~

~~2. *Frame and bracing elements.* Any supporting frame and bracing members of a sign shall not be included in the sign area calculations provided that (a) there are two or less such members per sign, (b) any member does not exceed six inches in diameter or square, (c) the member has no advertising value, and (d) the supporting member does not form an integral part of the sign display, as determined by the Director of Planning/Zoning Administrator.~~

~~3. *Sign faces calculated.* The sign area shall be calculated based upon the maximum number of faces viewable for any single ground position, as follows:~~

~~a. Single faced sign: One face counted.~~

~~b. Double faced sign: Each face counted.~~

~~c. "V" sign width and angle of 45 degree or greater: Two faces counted.~~

~~d. Three dimensional sign: Projected to single flat planes, all visible sign faces counted.~~

~~e. Cylindrical sign: The sign area on each side of the cylinder shall be calculated by multiplying the height of the cylinder by the diameter of the cylinder.~~

~~4. *Computations of sign height.* The dimension from the top of any point on a sign, including its support structure, of any sign erected within thirty (30) feet of a street shall be the distance from the grade level of the nearest curb of the street to the top of the sign or sign structure, whichever is greater. The height of all signs farther than thirty (30) feet from a street shall be the distance from the grade level where the sign is erected to the top of the sign or sign structure whichever is greater.~~

~~5. *Computation of maximum allowable sign area.*~~

~~a. The total allowable sign area for all applicable signs shall not exceed the area defined in each sign district for each linear foot of building front along each street regardless of the setback depth. All signs except for those exempted for permit, temporary signs, directory signs and directional signs shall be counted in calculating the allowable sign area.~~

~~b. On multi-frontage locations, the allowable sign area for all applicable signs on each additional street frontage shall be located only on that frontage. Building frontage facing publicly accessible parking lots may be considered a multi-frontage location. Alleyways and street frontage facing residential zones are not allowable multi-frontage locations.~~

F. – Signs Considered Separately.

Certain types of signs shall be considered separately from the general requirements for all signs, specified elsewhere in this article. However, these signs shall still be subject to the purpose and intent (Section A), sign definitions (Section D), and calculation of sign area (Section F) as specified in this article.

1. *Abandoned Sign.* Any sign face(s), and accompanying structures no longer in use, shall be removed or covered by the owner or lessee of the premises upon which the sign is located when the use to which it pertains the business it advertises is no longer on the premises.

   a. Such sign, if not removed within thirty (30) days from the termination of occupancy of such use by such business shall be considered to be in violation, and the ~~Director of Planning/~~Zoning Administrator may cause the abandoned sign face(s) to be removed at the property owner's expense.

   b. This shall not apply to sign listings within a multi-tenant buildings in which tenants change. Allowances for tenant changes will be made for such signs, without requiring that the sign be declared abandoned.

   c. This shall not apply to ghost signs and historic signs as defined elsewhere in this section.

2. *Creative Sign.* Any sign and associated architectural elements deemed to bear a creative design by the City Planning Commission based on the criteria of this article, shall be considered a creative sign exempt from the provisions otherwise specified under this article.

   a. *Purpose.* Encourage creatively designed signs that make a positive visual contribution to the overall image of the city, while mitigating the impacts of large or unusually designed signs.

   b. *Procedure.* For consideration, an applicant must submit a sign permit application to the Commission which will decide whether or not to designate a sign as a creative sign exempt from other regulations in this article, and may add requirements for such designation. With the exception of routine maintenance or a sign reface, any change to the sign must receive approval from the Commission.

   c. *Criteria.* To be considered as creative signage, a sign shall:

      i. Constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area;

      ii. Be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit;

iii. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion;

iv. Contain an element pertaining to either the historic or contemporary character of the neighborhood, City, or region or an inventive representation of the on-site use of the property;

v. Utilize or enhance the architectural elements of the property without covering any key architectural details; and

vi. Not be located or designed so as to cause adverse impacts, including light or glare, on neighboring residential uses.

d. *Historic and design districts.* If the proposed sign location is within a historic or other district subject to design guidelines, the appropriate public commission shall review the creative signage in place of the City Planning Commission.

e. *Appeal.* Any person aggrieved by any decision of the Commission may appeal such decision to the City Council, provided that such appeal is filed within thirty (30) calendar days from the date of notification of the Commission decision.

3. *Exempt Signs.* The following signs are exempted from the provisions of this article and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code, and any design requirements associated with a historic or design overlay zoning district.

a. Artwork and Statutory.

b. Commercial Minor Signs, limited to one (1) wall sign, one (1) freestanding sign, and a thirty (30) days per calendar year display time.

c. Content Change, for a changeable copy sign.

d. Decals.

e. Government Required Signs.

f. Historic Sign.

g. Minor Noncommercial Flag or Banner.

h. Noncommercial Minor Signs, limited to two (2) wall signs, and two (2) freestanding signs.

i. Seasonal Displays.

j. Sign on Public Land.

k. Vehicle Sign, Non-Conspicuous.

4. *Ghost Signs.* Any sign that (1) has been painted on an exterior wall and naturally faded over time, (2) is at least fifty years old, and (3) is not covered by any subsequent sign painted over or covering the original. Such a sign shall be considered lawful if the following criteria are observed:

a. A Ghost Sign must be visible from a public right-of-way, place or facility.

b. A Ghost Sign may not be enlarged, extended, or modified.

c. A Ghost Sign shall not be repainted or refaced when such action alters or changes the wording, composition, or color of the sign.

d. No Ghost Sign shall be moved on the same lot or building or to another lot or building.

e. A Ghost Sign may not be repainted and must be removed if the structure building or use to which it is accessory is destroyed, or demolished to an extent exceeding fifty percent (50%) of the appraised value of the principal structure, building or use.

f. Application for a Ghost Sign permit must be made by the owner of the building, lot or parcel on which the sign is to be repainted.

g. Applications for Ghost Sign permit shall be made to the ~~Director of Planning/~~Zoning Administrator. If such a permit is denied by the ~~Director of Planning/~~Zoning Administrator, an appeal of the determination of the ~~Director of Planning/~~Zoning Administrator may be made to the City Council within thirty (30) days of the ~~Director of Planning/~~Zoning Administrator's decision.

5. *Nonconforming Signs.* Any sign which (1) was erected in accordance with all applicable regulations in effect at the time of its erection, (2) was lawfully in existence at the time of the effective date of this ordinance, and (3) which does not conform to the provisions herein, and any sign which is accessory to a lawful nonconforming principal use, shall be deemed a lawful nonconforming sign, and may remain, subject to the following:

a. A nonconforming sign must be maintained in good repair and condition. However, any sign which is declared to be unsafe or unlawful by any authorized City official because of its physical condition may not be restored, repaired or rebuilt, and, further, such sign must be removed at the expense of the owner of such sign or establishment related thereto.

b. Nonconforming signs may not be enlarged, extended, modified, reconstructed or structurally altered except in accordance with this article.

i. A sign support, bracket or pole that is non-conforming due to location may be reused to erect a sign of conforming size or in compliance with subsections (b) and (c) below.

ii. A non-conforming sign may be removed from its on-site location to allow for routine maintenance or repair off-site for a period of forty-five (45) days from the date of permit issuance. Such sign must be repaired and reinstalled within the forty-five (45) day period. Failure to apply for a permit prior to removal of said sign, or removal of sign for a period longer than forty-five (45) days will result in the loss of the legal non-conforming status of the sign.

iii. A legal non-conforming sign due to size may be replaced with another sign of legal non-conforming size if said new legal non-conforming sign reduces the previous legal non-conformance by a minimum of thirty (30) percent.

c. Nonconforming signs shall not be repainted or refaced when such action alters or changes the wording, composition, color or material of the sign unless such a change is specifically authorized by the issuance of a sign permit.

d. No nonconforming sign shall be moved on the same lot or building or to another lot or building unless the sign as relocated is modified to comply with all requirements of this article.

e. A nonconforming sign may not be reconstructed and must be removed if the structure building or use to which it is accessory is destroyed, or demolished to an extent exceeding fifty percent (50%) of the appraised value of the principal structure, building or use. This shall exclude any sign determined to be a historic sign, as defined in this article.

f. A nonconforming sign which is destroyed or damaged to an extent exceeding fifty (50) percent of its appraised value may not be altered, replaced, or reinstalled unless it is in conformance with this article. If the damage or destruction is fifty (50) percent or less of the

appraised value, the sign may be restored within 60 days of the damage, but shall not be enlarged in any manner.

g. Applications for unusual signs or displays which give rise to questions of interpretation of these regulations may be referred by the ~~Director of Planning~~/Zoning Administrator to the Planning Commission for the purpose of interpretation by the Planning Commission and recommendation for action on the application by the ~~Director of Planning~~/Zoning Administrator. If, in the opinion of the Planning Commission, the application is not adequately covered by these regulations, the Planning Commission may direct the ~~Director of Planning~~/Zoning Administrator to make recommendations for amendment of this article.

6. *Prohibited Signs.* Unless otherwise specified elsewhere in this article, certain signs shall not be permitted for use based on inappropriate location, materials, or other manner of display. These prohibited signs are as follows:

a. *Dilapidated Sign.*

b. Flashing Sign.

c. Freestanding Sign, Supplementary.

d. Permanent Pennants and Banners, although permanent projecting banners shall be permitted in the TW-C district, but limited to no more than four (4) per structure and no more than two (2) per street frontage.

e. Permanent Commercial Signs on Fences, although a Special Use Permit may allow for signage enclosed within an athletic field.

f. Off-Premises Commercial Signs.

g. Roof Signs and Roof Projecting Signs

h. Vehicle Sign, Conspicuous.

~~G. Exempt Signs.~~

~~The following signs are exempted from the provisions of this article and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code.~~

~~1. *Traffic Signs and Signals.* Signs erected and maintained pursuant to and in discharge of any federal, state, or county government function, or as may be required by law, ordinance, or governmental regulation including official traffic signs and signals, warning devices, and other similar signs.~~

~~2. *Changing of message content.* Changing a copy on a bulletin board, poster board, display encasement, marquee or changeable copy sign.~~

~~3. *Home/garage/yard sales sign.* Temporary signs advertising a home, garage or yard sale, as differentiated from signs advertising established commercial enterprises and real estate sales, may be erected in any zoning district subject to the following provisions:~~

~~a. The sign may be erected only upon the property on which the sale is going to be held and the height shall not exceed six (6) feet; and~~

~~b. The area of one side of any such sign shall not exceed four (4) square feet; and~~

c. No more than two (2) such sales may be held per year on the same property; and

d. Only one such sign may be erected on any one piece of property, unless the property fronts on two streets, in which case one sign is authorized on each street frontage; and

e. The sign shall be installed no earlier than three (3) days prior to the sale and shall be removed within one day after the sale. In no case shall such signs be permitted to remain on the property in excess of seven (7) days.

4. *Temporary window sign (Non-illuminated).* Temporary, non-illuminated window signs in display windows in a business district, limited to 10 percent of the total glass area of the window in which they are placed.

5. *Temporary real estate signs (Non-illuminated).* Temporary, non-illuminated real estate signs advertising real estate for sale or lease shall be exempt from obtaining a sign permit with the following restrictions:

a. All real estate signs advertising commercial property or a residential subdivision of 10 subdivided lots or more shall be a maximum of thirty-two (32) square feet and shall not exceed 24 months in use.

b. All real estate signs advertising single-family residential lots for sale or lease shall not exceed 4 square feet in area and 4 feet in height and shall be limited to one per lot.

c. There shall be no more than one real estate sign per road frontage and the sign must be located on the property.

d. Off premises open house real estate signs advertising the sale, lease or rental of property shall be allowed in conjunction with and for the duration of an open house showing only and shall be limited to 4 square feet in area and 4 feet in height.

6. *Public auction/sales signs (Non-illuminated).* Non-illuminated signs advertising public auctions or sales, as differentiated from signs advertising established commercial enterprises, real estate sales and home/garage/yard sales, may be erected in any zoning district subject to the following provisions:

a. The sign may be erected only upon the property on which the auction is going to be held; and

b. The area of one side of any such sign shall not exceed thirty-two (32) square feet and the height shall not exceed six (6) feet; and

c. No more than three (3) such sales may be held per year on the same property; and

d. Only one such sign may be erected on any one piece of property, unless the property fronts on two streets, in which case one sign is authorized on each street frontage; and

e. The sign shall be installed no earlier than thirty (30) days prior to the date of the sale and shall be removed no later than one (1) business day after the date of the sale or auction.

7. *Identifying sign for official state automobile inspection stations (Non-illuminated).* Non-illuminated signs identifying official state automobile inspection stations and the inspection number which is due, provided that such signs shall not exceed 10 square feet in area and shall be limited to one sign for each street frontage. Such signs shall not be included in any computation of sign area. "A-frame" designs shall be considered as a single sign for the purposes of computing sign area.

8. *Temporary, non-illuminated construction signs.* Temporary non-illuminated signs not more than 32 square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each street frontage.

9. *Signs warning trespassers (Non-illuminated).* Non-illuminated signs warning trespassers or announcing property as posted, without limitations on number or placement, limited in area to three square feet.

10. *Mounted or painted sign on a vehicle.* Mounted, attached or painted signs on an automobile, truck, bus, or other vehicle shall be permitted while in use in the normal course of business. Such signs must be of a size, style, mounting, color and configuration which would be in conformance with all Virginia Division of Motor Vehicle laws and regulations for on-street operation of the subject vehicle. The vehicle containing such sign shall be in operating condition, shall have proper Division of Motor Vehicle registration and inspection certifications. Parking areas on a lot for such vehicles must meet front yard building setback requirements and parking shall be restricted to bona fide parking or loading areas on a lot. Any sign shall which meets the definition of a Conspicuous Vehicle Sign, as defined, shall be prohibited.

11. *Political signs.* Sign applicable to federal, state or local elections are permitted subject to the following provisions:

    a. The area of such sign shall not exceed eight (8) square feet and the height shall not exceed six (6) feet in residential districts; or thirty-two (32) square feet in commercial and industrial districts; and

    b. Such signs shall be removed no later than fourteen (14) days after the election.

12. *Sponsorship signs on Public Facilities or Public Land.* Signs advertising activities of sponsoring organizations for public facilities or public land may be erected in any zoning district subject to the area of such sign shall not exceed that permitted for the underlying zoning district and the sign must be placed on the City of Danville public facility or public land which is the subject of said sponsorship.

13. *Signs of a constituted government body.* Signs which are erected or posted and maintained for public safety and welfare or pursuant to any governmental function or regulation. This includes specially designed marquee signs used to advertise local government-sponsored, public events.

14. *The display of a national, state or municipal flag.* The display of a government flag not exceeding 72 square feet in area per side within a residential district. The display of a government flag may not exceed the maximum sign area regulations of a freestanding sign within any commercial and industrial district without the approval of a special use permit. An application for a special use permit must provide photo simulations of "before and after" of the proposed governmental flag and the structure it is to be affixed.

15. *Memorial tablets and historic markers.* Tablets or markers erected or approved by the Commonwealth of Virginia or City of Danville.

16. *Address signs.* Signs which display names and/or address numbers only of residential occupant, with a face of thirty (30) square inches or less.

17. *Seasonal displays and decorations which do not advertise a product or service.* Displays or decorations that are of a patriotic, religious or civic character on private property, not advertising a product or service, not displayed for a period to exceed 30 days.

18. *Artwork and statuary.* Works of art that do not contain any commercial messages or references.

19. *Decals.* Decals affixed to windows or door glass panes, such as those that indicate membership in a business group or credit cards accepted at the establishment, provided that such decals do not exceed 36 square inches.

20. *Handicapped parking space sign.* Signs not exceeding two (2) square feet in area denoting reserved parking spaces for handicapped motorists, provided that such signs meet all ADA requirements.

21. *Private drive signs.* On-premise private residential drive signs limited to one per drive entrance, not exceeding two (2) square feet in area, with language limited to "private drive" and the address of any residences utilizing the private drive.

H. Temporary Signs.

The following signs and displays may be erected only after obtaining a temporary sign permit from the Director of Planning/Zoning Administrator. The temporary sign permit shall cite the applicant's stated purpose for the sign, the size, type and configuration of the sign, and the time the sign is intended to be displayed as well as any other necessary information necessary to allow the Director of Planning/Zoning Administrator to issue the permit. The Director of Planning/Zoning Administrator may issue temporary permits for a period not to exceed thirty (30) days, when in the opinion of the Director of Planning/Zoning Administrator, the use of such signs and displays would be in the public interest and would not result in damage to private property. At the sole discretion of the Director of Planning/Zoning Administrator, a permit for a temporary sign may be extended for a period not to exceed thirty (30) days. If a temporary sign is not removed by the expiration of the time limitation, the Director of Planning/Zoning Administrator may remove the sign or display and charge the cost of the removal to the individual applicant or responsible enterprise.

1. *Commercial promotional signs.* Special sales promotion displays in a district when such sales are permitted, including displays incidental to the opening of a new business and special one-time auctions of real or personal property in estate or bankruptcy sales.

2. *Commercial banner.* Banners when used in conjunction with the opening of a new business or an establishment going out of business in any commercial or industrial district. Limit one banner per business, and the banner must be removed after four weeks.

3. *Residential banner.* Banners when used to announce the grand opening and initiation of sales or leasing of lots and/or dwelling units within a newly developing residential project have at least 10 lots or units. The cumulative area of all such banners erected for any single residential project shall not exceed 32 square feet. Banners shall not be illuminated.

4. *Temporary portable sign.* Temporary portable signs, such as "A-frame" signs, not exceeding 32 square feet in area, which are intended to identify or display information pertaining to an establishment for which permanent free-standing signage is an order as evidenced by presentation of a copy of an executed order form for such permanent signage to the Director of Planning/Zoning Administrator. Such permit shall expire and the portable sign shall be removed upon the arrival of the permanent sign or 30 days, whichever shall occur first.

5. *Moored balloon and floating sign.* Moored balloon and floating signs tethered to the ground or a structure, provided that the size, type, location and duration of such sign shall be approved at the sole discretion of the Director of Planning/Zoning Administrator.

I. Prohibited Signs.

1. *Outdoor advertising sign.* Outdoor advertising signs, including billboards, unless otherwise specified in this ordinance.

2. *Permanent pennants and banners.* Permanent pennants, banners, festoons, streamers, and all other flutter, spinning or similar type signs and advertising devices are prohibited, except for the following: national flags, flags of a political subdivision of the United States and two (2) decorative house flags per household and a maximum of (4) projecting banners per structure within the TW-C district, with a maximum of two(2) per street frontage. Flags of a bona fide civic, charitable, fraternal, and welfare organizations, during nationality recognized holiday periods, or during a special civic event, may be displayed by temporary permit as provided above in this article, and, further, provided that the

~~Director of Planning/Zoning Administrator may approve special flags and flag poles when, at the sole discretion, of the Director of Planning/Zoning Administrator, they form an integral design feature of a building or group of buildings and not an ordinary advertising device.~~

3. ~~*Permanent advertising on fences.* Permanent advertising signs attached to fences in recreation areas are prohibited in all residential districts, provided that advertising sign for individual businesses which are intended to be placed on fences contained entirely within athletic fields may be permitted by special use permit.~~

4. ~~*Roof sign and roof projecting sign.* No sign which is not an integral part of the building design shall be fastened to and supported by or on the roof of a building and no projecting sign shall extend over or above the roof line or parapet wall of a building.~~

5. ~~*Flashing sign.* No flashing signs or signs containing strings of lights shall be permitted in any district. No such sign shall be constructed, erected, used, operated, or maintained which displays intermittent lights resembling, or seeming to resemble, the flashing lights customarily associated with danger or such as are customarily used by police, fire, or ambulance vehicles, or for navigation purposes.~~

6. ~~*Sign causing visual confusion.* No sign shall be constructed, erected, or operated, or maintained which is so located and so illuminated as to provide a background of colored lights blending with traffic signal lights which may confuse a motorist when viewed from normal approaching position of a vehicle at a distance of 25 to 300 feet. Such determination shall be made at the sole discretion of the Director of Planning/Zoning Administrator.~~

7. ~~*Tree, utility pole and other related signs.* No sign, except official notices of the City of Danville, shall be attached to trees, utility poles, public property, improvements within public rights of way, or on any unapproved supporting structure, with such determination made at the sole discretion of the Director of Planning/Zoning Administrator.~~

8. ~~*Sign projecting over a public right of way.* No signs shall project over public right-of-way without express permission of the Planning Commission in conjunction with the approval of a site plan, except for permitted flat signs which may project not more than 18 inches.~~

9. ~~*Conspicuous vehicle sign.* Any sign mounted or painted on or otherwise affixed to any parked vehicle, parked trailer, or other parked device capable of being towed, which is obviously and conspicuously parked so as to advertise the business to the passing motorist or pedestrian, and for which the primary purpose is to provide additional on-site signage or is to serve the function of an outdoor advertising sign. Excluded from this sign type are vehicles and equipment in operating condition which are currently registered and licensed to operate on public streets with a valid inspection sticker and which are actively used in the daily function of the business to which such signs related. Such determination shall be made by and at the sole discretion of the Director of Planning/Zoning Administrator.~~

10. ~~*Signs attached to freestanding sign.* Separate signs attached to a freestanding sign or its supporting structure, advertising services including but not limited to automobile travel clubs and credit cards.~~

~~J. Nonconforming Signs.~~

~~Any sign which (1) was erected in accordance with all applicable regulations in effect at the time of its erection, (2) was lawfully in existence at the time of the effective date of this ordinance, and (3) which does not conform to the provisions herein, and any sign which is accessory to a lawful nonconforming principal use, shall be deemed a lawful nonconforming sign, and may remain, subject to the following:~~

1. ~~A nonconforming sign must be maintained in good repair and condition. However, any sign which is declared to be unsafe or unlawful by any authorized City official because of its physical condition may not be restored, repaired or rebuilt, and, further, such sign must be removed at the expense of the owner of such sign or establishment related thereto.~~

2. ~~Nonconforming signs may not be enlarged, extended, modified, reconstructed or structurally altered except in accordance with this article.~~

   (a) ~~A sign support, bracket or pole that is non-conforming due to location may be reused to erect a sign of conforming size or in compliance with subsections (b) and (c) below.~~

   (b) ~~A non-conforming sign may be removed from its on-site location to allow for routine maintenance or repair off-site for a period of forty-five (45) days from the date of permit issuance. Such sign must be repaired and reinstalled within the forty-five (45) day period. Failure to apply for a permit prior to removal of said sign, or removal of sign for a period longer than forty-five (45) days will result in the loss of the legal non-conforming status of the sign.~~

   (c) ~~A legal non-conforming sign due to size may be replaced with another sign of legal non-conforming size if said new legal non-conforming sign reduces the previous legal non-conformance by a minimum of thirty (30) percent.~~

3. ~~Nonconforming signs shall not be repainted or refaced when such action alters or changes the wording, composition, color or material of the sign unless such a change is specifically authorized by the issuance of a sign permit.~~

4. ~~No nonconforming sign shall be moved on the same lot or building or to another lot or building unless the sign as relocated is modified to comply with all requirements of this article.~~

5. ~~A nonconforming sign may not be reconstructed and must be removed if the structure building or use to which it is accessory is destroyed, or demolished to an extent exceeding fifty percent (50%) of the appraised value of the principal structure, building or use.~~

6. ~~A nonconforming sign which is destroyed or damaged to an extent exceeding fifty (50) percent of its appraised value may not be altered, replaced, or reinstalled unless it is in conformance with this article. If the damage or destruction is fifty (50) percent or less of the appraised value, the sign may be restored within 60 days of the damage, but shall not be enlarged in any manner.~~

7. ~~Applications for unusual signs or displays which give rise to questions of interpretation of these regulations may be referred by the Director of Planning/Zoning Administrator to the Planning Commission for the purpose of interpretation by the Planning Commission and recommendation for action on the application by the Director of Planning/Zoning Administrator. If, in the opinion of the Planning Commission, the application is not adequately covered by these regulations, the Planning Commission may direct the Director of Planning/Zoning Administrator to make recommendations for amendment of this article.~~

~~K. - Abandoned Signs.~~

~~Any sign face(s) shall be removed or covered by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer on the premises. Such sign, if not removed within thirty (30) days from the termination of occupancy by such business shall be considered to be in violation, and the Director of Planning/Zoning Administrator may cause the abandoned sign face(s) to be removed at the property owner's expense. Any sign structure and accompanying framing or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer on the premises. Such sign, if not removed within one hundred eighty (180) [days] from the termination of occupancy by such business shall be considered to be in violation, and the Director of Planning/Zoning Administrator may cause the abandoned sign to be removed at the property owner's expense. Any pole or ground sign support structure, pole(s) or pole brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer on the premises within three hundred sixty-five (365) days from the termination of occupancy by such business. This shall not apply to sign listings within a multi-tenant buildings in which tenants change. Allowances for tenant changes will be made for such signs, without requiring that the~~

~~sign be declared abandoned. This section shall not apply to ghost signs as defined in and permitted by Article 10.~~

G. - ~~L.~~ Permitted Signs in all Residential Districts.

SR-R	Sandy River Residential District
T-R	Threshold Residential District
S-R	Suburban Residential District
NT-R	Neo-Traditional Residential District
OT-R	Old Town Residential District
A-R	Attached Residential District
M-R	Multi-Family Residential District
MHP-R	Mobile Home Park Residential District

The following signs shall be permitted in the City's residential districts as listed hereinabove, according to the site's current use:

1. *Freestanding Signs.*

   a. ~~*Church, institutional or civic use identification.*~~ *Public and semi-public use.* One freestanding monument sign, limited to thirty-two (32) square feet, in area for ~~a church bulletin board or identifying a church, school, park, playground, library, museum, or other~~ permitted public or semi-public use~~, recreational use or club,~~ shall be permitted. An additional area not exceeding forty-four (44) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign. Pole signs are prohibited.

   b. *Single family detached subdivision or project ~~identification~~ sign.* One freestanding monument, sign per street entrance ~~identifying~~ for a single-family detached residential subdivision or manufactured home park, limited in area to twenty-four (24) square feet, shall be permitted. Two (2) such signs are permitted if erected in conjunction with a media (formal gateway entrance) and approved as part of the plan of development or subdivision application. An additional area not exceeding thirty-two (32) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign. Pole signs are prohibited.

   c. Other residential use sign. ~~*Multi-family subdivision or project, nursing home or day care facility identification sign.*~~ One freestanding monument sign not exceeding thirty-two (32) square feet in area for identifying a multi-family development, single-family attached development site, nursing home, day care facility, and similar permitted uses in the district,

shall be permitted. An additional area not exceeding forty-four (44) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign. Pole signs are prohibited.

d. *Accessory commercial use sign.* One freestanding sign limited in area to two (2) square feet for any permitted accessory commercial establishment, including home occupations, shall be permitted if the Zoning Administrator finds the sign to be compatible with home occupation regulations specified in Article 2, entitled "General Regulations", of this Chapter. Any use which was approved via a Special Use Permit may instead be permitted one sign not exceeding twelve (12) square feet in area. An additional area not exceeding sixteen (16) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.

~~*d Bed and breakfast identification sign.* One freestanding sign not exceeding twelve (12) square feet in area identifying a bed and breakfast, inn or tourist home, shall be permitted. An additional area not exceeding sixteen (16) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.~~

~~e. *Dwelling unit identification sign.* One freestanding sign limited in area to two (2) square feet, to identify the owner or occupant of a dwelling or building or a permitted home occupation, shall be permitted.~~

2. *Building Mounted Signs.*

a. *Single family residential use.* One sign limited in area to two (2) square feet shall be permitted.

b. *Other residential uses.* One or more signs limited to a total of 10 square feet for any multi-family residential development, single-family attached development site, nursing home, day care facility, and similar permitted residential uses in the district, shall be permitted.

~~a. *Dwelling unit identification sign.* One sign limited in area to two (2) square feet, to identify the owner or occupant of a dwelling or building or a permitted home occupation, shall be permitted.~~

~~b. *Multi-family building identification sign.* One or more signs limited in aggregate area to ten (10) square feet, to identify the building address, shall be permitted.~~

~~*Decorative flags.* One building mounted decorative flag, not to exceed fifteen (15) square feet in area, shall be allowed for a single-family dwelling unit. Such flag shall not indicate the name or logo of a business or home occupation, nor a written message pertaining to a business or home occupation.~~

3. *Directory Signs.*

a. ~~*Church*~~ *Public use directories.* Directory signs are not permitted in residential districts, except for directories associated with a public use ~~at churches and places of worship~~. Such directory signs shall not exceed sixteen (16) square feet in area. An additional area not exceeding twenty-four (24) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.

4. *Additional Regulations.*

a. *Sign Height and Setback.* All freestanding signs in these districts shall have a maximum height of 8 feet and shall not be located within five (5) feet of any public street right-of-way, or property line and shall not be located within ten (10) feet of any alley, private street or driveway intersecting a public or private street.

~~*b Historic Preservation Overlay District (HP-O).* In the HP-O District, the Review Commission shall approve the design compatibility of signs in accordance with Article 3.Q~~

~~and may authorize an alternative signage plan that does not strictly adhere to the area, number, height and location criteria within the HP-O District if it is determined that the design is more consistent with the architectural character of the building to which it relates and other surrounding properties and as guided by the City of Danville's Historic District Guidelines for signs.~~

b. *Non-residential uses.* Signs for non-residential uses shall be governed by the regulations for signs in the N-C and TO-C Districts.

~~5. *Summary Chart of Sign Regulations in Residential Districts.*~~

~~Summary of Danville Sign Regulations~~
~~Residential Districts~~

~~Sign Type~~	~~Signs Allowed~~	~~Maximum Sign Area~~	~~Maximum Sign Height~~	~~Setback Minimum~~	~~Illumination~~
~~For each lot or project:~~					
~~Freestanding or Monument Sign~~					
~~Public and semi-public use Church, institutional or civic use~~	~~1~~	~~32 square feet~~	~~8 feet~~	~~5' from public street R.O.W. or property line and 10' from any alley, private street or driveway.~~	~~Illuminated or non-illuminated signs are permitted in all residential districts.~~
~~Single family residential use detached development~~	~~1~~	~~24 square feet~~	~~8 feet~~		
~~Other residential Multi-family development~~	~~1~~	~~32 square feet~~	~~8 feet~~		
~~Nursing home or daycare facility~~	~~1~~	~~32 square feet~~	~~8 feet~~		
~~Home occupation Bed and breakfast~~	~~1~~	~~2 square feet, or 12 square feet if approved with Special Use~~	~~8 feet~~		

		~~Permit~~			
~~Church Directory~~ ~~Public and semi-public use directory~~	~~1~~	~~16 square feet~~	~~8 feet~~		
~~For each establishment:~~					
~~Building Mounted~~					
~~Dwelling identification - single family~~ ~~Single family residential use~~	~~1~~	~~2 square feet~~			
~~Multi-family building identification~~ ~~Other residential use~~	~~1 or more~~	~~10 sq. ft. in aggregate~~			
~~Decorative Flag - single family~~ ~~Building mounted flag~~	~~1~~	~~15 square feet~~			
~~Non-Residential Uses~~		~~Signs for non-residential uses in any residential district shall be governed by the regulations for signs in the N-C and TO-C Commercial Districts.~~			

H. - ~~M.~~ - Permitted Signs in the N-C and TO-C Commercial Districts.

The following signs shall be permitted in the N-C, Neighborhood Commercial District and the TO-C, Transitional Office District.

1. *Freestanding Signs.*

   a. ~~*Business identification*~~ *Commercial sign for a single occupant commercial building.* One freestanding commercial sign ~~for identification of a bank, office building, funeral home~~

~~studio, or its occupants or similar uses permitted in the N-C, Neighborhood Commercial District and the TO-C, Transitional Office District,~~ shall be permitted. Such sign shall be limited in area to twenty-four (24) square feet. An additional area not exceeding thirty-two (32) square feet may be devoted to architectural elements ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

b. ~~*Business identification*~~ *Commercial sign for a group of two or more ~~contiguous stores or businesses per building~~ establishments in a single commercial building*. ~~Permitted sign area shall be combined into a~~ A single freestanding ~~sign advertising all businesses on the premises~~ commercial sign shall be permitted. The sign shall not exceed thirty-two (32) square feet in area. An additional area not exceeding forty-four (44) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

2. ~~c. *Directional signs.* Directional signs limited in area to four (4) square feet shall be permitted as accessory signs and not included in any computation of sign area. One per entrance not to exceed three (3) feet in height nor located within five (5) feet of any street right-of-way line.~~ *Building Mounted Signs.*

   a. *Wall signs.* One wall sign per on-site establishment shall be permitted for each wall of the building facing a public street on the premises. Sign area shall be limited to one-half square ~~foot~~ (0.5 ~~sf.~~) foot of sign per linear foot of building frontage. Under no circumstances shall any single sign exceed thirty-two (32) square feet in area.

   b. *Projecting signs.* One projecting sign shall be permitted for each establishment on the premises. Sign area limited to nine (9) square feet of area.

   c. ~~*Awning, canopy,*~~ *Canopy or marquee signs.* One ~~awning,~~ canopy or marquee sign shall be permitted for each establishment on the premises. Sign identification affixed to an awning, canopy, or marquee sign is allowed by-right. Sign area shall be limited to one-half (0.5) square foot ~~feet~~ of sign per linear foot of building frontage. Under no circumstances shall any single sign exceed thirty-two (32) square feet in area.

3. *Directory Signs.*

   a. *Business directories.* One directory sign is allowed per commercial building. Such directory signs shall not exceed eight (8) square feet in area. When directory is freestanding, an additional area not exceeding twelve (12) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.

4. *Additional Regulations.*

   a. Unless otherwise specified, all ~~All~~ freestanding signs in these districts shall have a maximum height of ten (10) feet and shall not be located within ten (10) feet of any public street right-of-way, property line, alley, private street or driveway intersecting a public or private street. Additionally no freestanding sign shall be located within the area of a lot comprised of 30% of the total width or depth of the lot lying adjacent to a residential use.

   ~~b. Historic Preservation Overlay District (HP-O). In the HP-O District, the Review Commission shall approve the design compatibility of signs in accordance with Article 3.RQ and may authorize an alternative signage plan that does not strictly adhere to the area, number, height and location criteria within the HP-O District if it is determined that the design is more consistent with the architectural character of the building to which it relates and other surrounding properties and as guided by the City of Danville's Historic District Guidelines for signs.~~

   b. Signs permitted in all residential districts shall be permitted in the N-C and TO-C Commercial Districts, provided that signs identifying uses which are permitted in the residential districts shall be subject to the regulations set forth in that section.

c. Additional regulations for establishments with gasoline sales when permitted by right or special use permit.

1. Types of signs permitted shall be flat, canopy, detached, and pump island. See regulations for this zoning district for size requirements for flat, canopy, and detached signs.
2. Gasoline Pump Island signs are subject to the following additional conditions:
   a. Two non-illuminated "self-serve" or "full-serve" signs per pump island not to exceed 2 square feet each; and
   b. One fuel price or promotional information sign per fuel pump not to exceed two square feet.

~~5. Summary of Danville Sign Regulations~~
~~N-C and TO-C Commercial Districts~~

~~Sign Type~~	~~Signs Allowed~~	~~Maximum Sign Area~~	~~Maximum Sign Height~~	~~Setback Minimum~~	~~Illumination~~
~~For each lot:~~					
~~Freestanding or Monument Sign~~					
~~Single business~~	~~1~~	~~24 square feet~~	~~10 feet~~	~~10' from R.O.W., property line, alley, or driveway and not in the 30% of a lot adjacent to a residential use.~~	~~Illuminated or non-illuminated signs are permitted in the TO-C and N-C Commercial Districts~~
~~Two or more businesses~~	~~1~~	~~32 square feet~~	~~10 feet~~		
~~Directional Signs~~	~~1 per entrance~~	~~4 square feet~~	~~3 feet~~	~~5' from R.O.W.~~	
~~Directory~~	~~1 per building~~	~~8 square feet~~	~~10 feet~~		
~~For each establishment:~~					
~~Building Mounted~~					

~~Wall Sign~~	~~1 per wall facing public street~~	~~0.5 sq. ft. per lin. ft. of primary wall frontage max. sign 32 sq. ft.~~			
~~Projecting Sign~~	~~1 per business~~	~~9 sq. ft.~~			
~~Awning, Canopy or Marquee~~	~~1 per business~~	~~0.5 sq. ft. per lin. ft. of primary wall frontage max. sign 32 sq. ft.~~			
~~Other~~	~~Non-illuminated signs allowed in residential districts are allowed subject to the regulations of those districts.~~				

I.- ~~N.~~ Permitted Signs in the CB-C, Central Business Commercial District.

The following signs shall be permitted in the CB-C, Central Business Commercial District.

1. *Freestanding Signs.*

   a. ~~*Business identification*~~ *Commercial sign for a single occupant commercial building.* One (1) freestanding sign for identification of a single ~~business~~ commercial establishment shall be permitted. Such sign shall be limited in area to sixteen (16) square feet. An additional area not exceeding twenty-two (22) square feet may be devoted to architectural ~~elements which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   b. ~~Business identification~~ *Commercial sign for a group of two (2) or more establishments in a single commercial building* ~~contiguous stores or businesses per building. Permitted sign area shall be combined into a~~ A single freestanding commercial sign shall be permitted. ~~advertising all businesses on the premises.~~ The ~~combined~~ sign shall not exceed twenty-four (24) square feet in area. An additional area not exceeding thirty-two (32) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   ~~c. Directional signs. Directional signs limited in area to four (4) square feet shall be permitted as accessory signs and not included in any computation of sign area. One (1) per entrance not to exceed three (3) feet in height nor located within five (5) feet of any street right-of-way line.~~

2. *Building Mounted Signs.*

   a. Wall signs. Wall signs shall be permitted for each establishment on the premises based on allowable square footage.

b. Projecting signs. Four (4) projecting signs (including projecting banners) shall be permitted for each establishment on the premises with a maximum of fifty (50) square feet per projecting sign or banner, no more than two (2) projecting signs or banners per wall frontage per street or internal parking area, and a maximum total of one hundred (100) square feet per wall frontage may be used for projecting wall or banner signs. The minimum height of a projecting wall_of a projecting wall or banner type signage shall be ten (10) feet over any area accessible to a pedestrian or automobile.

c. *~~Awning, canopy~~ Canopy or marquee signs.* One (1) ~~awning,~~ canopy or marquee sign shall be permitted for each establishment on the premises.

d. The combined sign area of wall, canopy, ~~awning,~~ and marquee signs shall not exceed the sum of the following:

• Two (2) square feet of sign per linear foot of primary wall frontage of the first two hundred (200) linear feet; and

• One (1) square foot per each linear foot beyond two hundred (200) total linear feet; and

• Two (2) square feet per one (1) vertical foot for every foot over twenty (20) feet in building height.

3. *Directory Signs.*

a. Business directories. One (1) directory sign is allowed per commercial building. Such directory signs shall not exceed sixteen (16) square feet in area. When directory is freestanding, an additional area not exceeding twenty-four (24) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.

4. *Additional Regulations.*

a. Unless otherwise specified, all ~~All~~ freestanding signs in these districts shall have a maximum height of twelve (12) feet and shall not be located within five (5) feet of any public street right-of-way, property line, alley, private street or driveway intersecting a public or private street.

~~b. Historic Preservation Overlay District (HP-O). In the HP-O District, the Review Commission shall approve the design compatibility of signs in accordance with Article 3.Q and may authorize an alternative signage plan that does not strictly adhere to the area, number, height and location criteria within the HP-O District if it is determined that the design is more consistent with the architectural character of the building to which it relates and other surrounding properties and as guided by the City of Danville's Historic District Guidelines for signs.~~

b. Non-illuminated signs permitted in all residential districts shall be permitted in the TW-C Commercial District, provided that signs identifying uses which are permitted in the residential districts shall be subject to the regulations set forth in that section.

c. Additional regulations for establishments with gasoline sales when permitted by right or special use permit.

1. Types of signs permitted shall be flat, canopy, detached, and pump island. See regulations for this zoning district for size requirements for flat, canopy, and detached signs.

2. Gasoline Pump Island signs are subject to the following additional conditions:

a. Two (2) non-illuminated "self-serve" or "full-serve" signs per pump island not to exceed two (2) square feet each; and

b. One (1) fuel price or promotional information sign per fuel pump not to exceed two (2) square feet.

5. *Summary Chart of Sign Regulations for CB-C Commercial District.*

~~Summary of Danville Sign Regulations~~
~~CB-C Commercial District~~

~~Sign Type~~	~~Signs Allowed~~	~~Maximum Sign Area~~	~~Maximum Sign Height~~	~~Setback Minimum~~	~~Illumination~~
~~For each lot:~~					
~~Freestanding or Monument Sign~~					
~~Single business~~	~~1~~	~~16 square feet~~	~~10 feet~~	~~5' from R.O.W., private street, property line, alley, or driveway.~~	~~Illuminated or non-illuminated signs are permitted in the CB-C Commercial District.~~
~~Two or more businesses~~	~~1~~	~~24 square feet~~	~~10 feet~~		
~~Directional Signs~~	~~1 per entrance~~	~~4 square feet~~	~~3 feet~~	~~5' from R.O.W.~~	
~~Directory~~	~~1 per building~~	~~8 square feet~~	~~10 feet~~		
~~For each establishment:~~					
~~Building Mounted~~					
~~Wall Sign~~	~~1 per wall facing public street~~	~~1.0 sq. ft. per lin. ft. of primary wall frontage max. sign 32 sq. ft.~~			
~~Projecting Sign~~	~~1 per business~~	~~18 sq. ft.~~			

~~Awning, Canopy or Marquee~~	~~1 per business~~	~~1.0 sq. ft. per lin. ft. of primary wall frontage max. sign 32 sq. ft.~~			
~~Other~~	~~Non-illuminated signs allowed in residential districts are allowed subject to the regulations of those districts.~~				

J. - ~~O.~~ Permitted Signs in the TW-C, Tobacco Warehouse Commercial District.

The following signs shall be permitted in the TW-C, Tobacco Warehouse Commercial District.

1. *Freestanding Signs.*
   a. ~~Business identification~~ Commercial sign for a single occupant commercial building. One (1) freestanding sign for ~~identification of~~ a single business establishment shall be permitted. Such sign shall be limited in area to sixteen (16) square feet. An additional area not exceeding twenty-two (22) square feet may be devoted to architectural elements ~~which serve as support or base for such sign and which are not part of the message portion of the sign~~.

   b. ~~Business identification~~ Commercial sign for a group of two (2) or ~~more contiguous stores or businesses~~ on-site commercial establishments per building. ~~Permitted sign area shall be combined into a~~ A single freestanding sign ~~advertising all businesses on the premises~~ shall be permitted. The ~~combined~~ sign shall not exceed twenty-four (24) square feet in area. An additional area not exceeding thirty-two (32) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   ~~c. Directional signs. Directional signs limited in area to four (4) square feet shall be permitted as accessory signs and not included in any computation of sign area. One (1) per entrance not to exceed three (3) feet in height nor located within five (5) feet of any street right-of-way line.~~

2. *Building Mounted Signs.*
   a. Wall signs. Wall signs shall be permitted for each establishment on the premises based on allowable square footage.

   b. Projecting signs. Four (4) projecting signs (including projecting banners) shall be permitted for each establishment on the premises with a maximum of fifty (50) square feet per projecting sign or banner, no more than two (2) projecting signs or banners per wall frontage per street or internal parking area, and a maximum total of one hundred (100) square feet per wall frontage may be used for projecting wall or banner signs. The minimum height of a projecting wall of a projecting wall or banner type signage shall be ten (10) feet over any area accessible to a pedestrian or automobile.

   c. ~~Awning, canopy~~ Canopy or marquee signs. One (1) ~~awning,~~ canopy or marquee sign shall be permitted for each establishment on the premises.

   d. The combined sign area of wall, canopy, awning, and marquee signs shall not exceed the sum of the following:

• Two (2) square feet of sign per linear foot of primary wall frontage of the first two hundred (200) linear feet; and

• One (1) square foot per each linear foot beyond two hundred (200) total linear feet; and

• Two (2) square feet per one (1) vertical foot for every foot over twenty (20) feet in building height.

3. *Directory Signs.*

   a. Business directories. One (1) directory sign is allowed per commercial building. Such directory signs shall not exceed sixteen (16) square feet in area. When directory is freestanding, an additional area not exceeding twenty-four (24) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.

4. *Additional Regulations.*

   a. Unless otherwise specified, all ~~All~~ freestanding signs in these districts shall have a maximum height of twelve (12) feet and shall not be located within five (5) feet of any public street right-of-way, property line, alley, private street or driveway intersecting a public or private street.

   ~~b. Historic Preservation Overlay District (HP-O). In the HP-O District, the Review Commission shall approve the design compatibility of signs in accordance with Article 3.Q and may authorize an alternative signage plan that does not strictly adhere to the area, number, height and location criteria within the HP-O District if it is determined that the design is more consistent with the architectural character of the building to which it relates and other surrounding properties and as guided by the City of Danville's Historic District Guidelines for signs.~~

   b. Non-illuminated signs permitted in all residential districts shall be permitted in the TW-C Commercial District, provided that signs identifying uses which are permitted in the residential districts shall be subject to the regulations set forth in that section.

   c. Additional regulations for establishments with gasoline sales when permitted by right or special use permit.

      (1) Types of signs permitted shall be flat, canopy, detached, and pump island. See regulations for this zoning district for size requirements for flat, canopy, and detached signs.

      (2) Gasoline Pump Island signs are subject to the following additional conditions:

         a. Two (2) non-illuminated "self-serve" or "full-serve" signs per pump island not to exceed 2 square feet each; and

         b. One (1) fuel price or promotional information sign per fuel pump not to exceed two (2) square feet.

5. *Summary Chart of Sign Regulations in the TW-C Commercial District.*

~~Summary of Danville Sign Regulations~~
~~TW-C Commercial District~~

~~Sign Type~~	~~Signs Allowed~~	~~Maximum Sign Area~~	~~Maximum Sign Height~~	~~Setback Minimum~~	~~Illuminated~~

~~For each lot:~~					
~~Freestanding or Monument Sign~~					
~~Single business~~	~~1~~	~~16 square feet~~	~~12 feet~~	~~5' from R.O.W., private street, property line, alley, or driveway.~~	~~Illuminated or non-illuminated signs are permitted in the TW-C Commercial District.~~
~~Two or more businesses~~	~~1~~	~~24 square feet~~	~~12 feet~~		
~~Directional Signs~~	~~1 per entrance~~	~~4 square feet~~	~~3 feet~~	~~5' from R.O.W.~~	
~~Directory~~	~~1 per building~~	~~16 square feet~~	~~12 feet~~		
~~For each establishment:~~					
~~Building Mounted~~					
~~Wall Sign~~	~~1 per wall facing public street~~	~~The combined area of wall, projecting, awning, canopy or marquee signs shall not exceed 2 sq. ft. per lin. ft. of primary wall frontage of the first 200' linear ft. and 1 sq. ft. per each linear ft. beyond 200', in addition to 2 sq. ft. per 1 vertical ft. for every ft. over 20' in bldg. ht.~~			
~~Projecting Sign~~	~~1 per business~~				
~~Awning, Canopy or Marquee~~	~~1 per business~~				
~~Other~~	~~Non-illuminated signs allowed in residential districts are allowed subject to the regulations of those districts.~~				

K. - ~~P.~~ Permitted Signs in the HR-C, Highway Retail, ~~HR-C,~~ and PS-C, Planned Shopping Center, ~~PS-C~~ Commercial Districts.

The following signs shall be permitted in the HR-C and the PS-C Commercial Districts:

1. *Freestanding Signs.*

   a. ~~*Business identification*~~ *Commercial sign for a single occupant commercial building.* One freestanding or monument sign for ~~identification of~~ a single ~~business~~ commercial establishment shall be permitted. Such sign shall be limited in area to seventy-five (75) square feet. An additional area not exceeding one hundred (100) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   b. ~~*Business identification*~~ *Commercial sign for a group of two or more ~~contiguous stores or businesses~~ on-site commercial establishments per building and less than 60,000 gross leasable square feet.* ~~Permitted sign area shall be combined into a~~ A single freestanding or monument commercial sign ~~advertising all businesses on the premises~~ shall be permitted. The ~~combined~~ sign shall not exceed one hundred and twenty-five (125) square feet in area. An additional area not exceeding one hundred and fifty (150) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   c. ~~*Business identification*~~ *Commercial sign for a group of two or ~~more contiguous stores or businesses~~ commercial establishments per building and more than 60,000 gross leasable square feet.* ~~Permitted sign area shall be combined into a~~ A single freestanding or monument commercial sign ~~advertising all businesses on the premises~~ shall be permitted. The ~~combined~~ sign shall not exceed one hundred and seventy-five (175) square feet in area. An additional area not exceeding two hundred (200) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   ~~d. *Directional signs.* Directional signs limited in area to four (4) square feet shall be permitted as accessory signs and not included in any computation of sign area. One per entrance or exit not to exceed four (4) feet in height nor located within five (5) feet of any street right-of-way line.~~

   d. ~~e. *Business identification*~~ *Commercial signs for a group of four (4) or more ~~contiguous stores or businesses~~ on-site commercial establishments per building and more than four hundred thousand (400,000) gross leasable square feet in the contiguous building.* Notwithstanding anything contained in this section to the contrary:

      (1) Quantity. No more than one (1) freestanding signs per entrance to a public street connection of the premises shall be permitted. Any such sign may have two (2) faces counted as a single sign for area calculation (only one (1) face is included in the measurement) regardless of the thickness of the sign so long as such faces are attached to the same structure at no more than a sixty-five-degree angle from one another. A freestanding sign must be located adjacent to or within one hundred (100) feet of the entrance to a public street.

      ~~(2)~~ Area. The ~~combined~~ sign area of any individual sign face shall not exceed three hundred (300) square feet in area. An additional area not exceeding three hundred (300) square feet may be devoted to architectural elements ~~which serve as support or base for such sign.~~

      ~~(3) And which are not part of the message portion of the sign.~~

(3) Height. The freestanding signs shall have a maximum height of thirty (30) feet to be measured from the higher of the top of the nearest roadside curb or the surface elevation of the premises where the sign is located at the setback line.

(4) Setback. No sign shall be located within ten (10) feet of any public street right-of-way unless said sign is located at least eight (8) feet above grade at the lowest point of any ~~reader board or changeable panel~~. If a changeable copy sign ~~panel or reader board~~ is located eight (8) feet above grade, then the setback may be zero (0) feet. There will be no required setback from any internal driveway; however, no portion of any freestanding sign shall be located within ten (10) feet of any overhead electrical service cable.

2. *Building Mounted Signs.*

a. *Wall signs.* Wall signs shall be permitted for each establishment on the premises.

b. *Projecting signs.* One projecting sign shall be permitted for each establishment on the premises. Additionally each side of a projecting sign must be counted towards the total allowable sign area.

c. ~~*Awning, canopy*~~ *Canopy or marquee signs.* ~~Awning, canopy~~ Canopy and ~~or~~ marquee signs shall be permitted for each establishment on the premises.

d. The combined sign area of wall, projecting, canopy, ~~awning,~~ and marquee signs shall not exceed the sum of the following:

- Two (2) square feet of sign per linear foot of primary wall frontage of the first two hundred (200) linear feet;
- One (1) square foot per each linear foot beyond two hundred (200) total linear feet; and
- Two (2) square feet per one (1) vertical foot for every foot over twenty (20) feet in building height.

3. *Directory Signs.*

a. *Business directory for a single occupant commercial building.* One directory sign is allowed per commercial building. Such directory signs shall not exceed thirty (30) square feet in area When directory is freestanding, an additional area not exceeding forty-eight (48) square feet may be devoted to architectural elements ~~which serve as support or base for such sign and which are not part of the message portion of the sign~~.

b. *Business directory for a group of two or more contiguous stores or businesses per building and less than 60,000 gross leasable square feet.* One directory sign is allowed. Such directory signs shall not exceed thirty (30) square feet in area When directory is freestanding, an additional area not exceeding forty-eight (48) square feet may be devoted to architectural elements ~~which serve as support or base for such sign and which are not part of the message portion of the sign~~.

c. *Business directory for a group of two or more contiguous stores or businesses per building and more than 60,000 gross leasable square feet.* One directory sign is allowed. Such directory signs shall not exceed forty-five (45) square feet in area When directory is freestanding, an additional area not exceeding forty-eight (48) square feet may be devoted to architectural elements ~~which serve as support or base for such sign and which are not part of the message portion of the sign~~.

4. *Additional Regulations.*

a. Unless otherwise specified, all freestanding signs ~~Freestanding signs~~ for single occupant commercial buildings or buildings with two or more tenants and less than 60,000 gross leasable square feet, in these districts, shall have a maximum height of thirty (30) feet and shall not be located within ten (10) feet of any public street right-of-way, property line, alley private street or driveway entrance intersecting a public or private street. If a sign is located

a minimum of twenty (20) feet from any public street right-of-way then the minimum side yard and driveway setback shall be zero (0) feet.

b. Unless otherwise specified, all freestanding signs, all freestanding ~~freestanding~~ signs for buildings with two or more tenants and more than 60,000 gross leasable square feet, in these districts, shall have a maximum height of thirty (30) feet and shall not be located within ten (10) feet of any public street right-of-way, property line, alley, private street or driveway entrance intersecting a public or private street. If a sign is located a minimum of twenty (20) feet from any public street right-of-way then the minimum side yard and driveway setback shall be zero (0) feet.

c. Individual free-standing signs for individual shopping center tenants shall not be permitted. For the purposes of this section, lawfully subdivided out parcels which have been depicted on the approved shopping center site plan shall be considered as separate parcels and may be signed as such for the purposes of this code. ~~such.~~

~~d. Historic Preservation Overlay District (HP-O). In the HP-O District, the Review Commission shall approve the design compatibility of signs in accordance with Article 3.Q and may authorize an alternative signage plan that does not strictly adhere to the area, number, height and location criteria within the HP-O District if it is determined that the design is more consistent with the architectural character of the building to which it relates and other surrounding properties and as guided by the City of Danville's Historic District Guidelines for signs.~~

d. Non-illuminated signs permitted in all residential districts shall be permitted in the HR-C and PS-C Commercial Districts, provided that signs identifying uses which are permitted in the residential districts shall be subject to the regulations set forth in that section.

e. Additional regulations for establishments with gasoline sales when permitted by right or special use permit.

(1) Types of signs permitted shall be flat, canopy, detached, and pump island. See regulations for this zoning district for size requirements for flat, canopy, and detached signs.

(2) Gasoline Pump Island signs are subject to the following additional conditions:

a. Two non-illuminated "self-serve" or "full-serve" signs per pump island not to exceed 2 square feet each; and

b. One fuel price or promotional information sign per fuel pump not to exceed two square feet.

5. *Summary Chart of Sign Regulations in HR-C and PS-C Commercial Districts.*

~~Summary of Danville Sign Regulations~~
~~HR-C and PS-C Commercial Districts~~

~~Sign Type~~	~~Signs Allowed~~	~~Maximum Sign Area~~	~~Maximum Sign Height~~	~~Setback Minimum~~	~~Illumination~~
~~For each lot:~~					
~~Freestanding or~~					

~~Monument Sign~~					
~~Single business~~	~~1~~	~~75 square feet~~	~~30 feet~~	~~10' from R.O.W., private street, property line, alley, or driveway~~	~~Illuminated or non-illuminated signs are permitted in the HR-C and PS-C Commercial Districts.~~
~~Two or more businesses less than 60,000 sq. ft.~~	~~1~~	~~125 square feet~~	~~30 feet~~		
~~Two or more businesses more than 60,000 sq. ft.~~	~~1~~	~~175 square feet~~	~~30 feet~~		
~~Directional Signs~~	~~1 per entrance~~	~~4 square feet~~	~~4 feet~~	~~5' from R.O.W.~~	
~~Directory~~					
~~Single business~~	~~1 per entrance~~	~~30 square feet~~	~~16 feet~~		
~~Two or more businesses less than 60,000 sq. ft.~~	~~1 per entrance~~	~~30 square feet~~	~~16 feet~~		
~~Two or more businesses more than 60,000 sq. ft.~~	~~1 per entrance~~	~~45 square feet~~	~~24 feet~~		
~~For each establishment:~~					
~~Building Mounted~~					
~~Wall Sign~~	~~1 or more per~~	~~The combined area of wall, projecting, awning, canopy~~			

	~~business~~	~~or marquee signs shall not exceed 2 sq. ft. per lin. ft. of primary wall frontage of the first 200' linear ft. and 1 sq. ft. per each linear ft. beyond 200', in addition to 2 sq. ft. per 1 vertical ft. for every ft. over 20' in bldg. ht.~~			
~~Projecting Sign~~	~~1 per primary entrance~~				
~~Awning, Canopy or Marquee~~	~~1 or more per primary entrance~~				
~~Other~~	~~Non-illuminated signs allowed in residential districts are allowed subject to the regulations of those districts.~~				

L. – ~~Q.~~ – Permitted Signs in the CP-1, Cyber Park One District, the LED-I, Light Economic Development District and the M-I, Manufacturing Industrial District.

The following illuminated or non-illuminated signs shall be permitted in the CP-1, Cyber Park One District, the LED-I, Light Economic Development District and the M-I, Manufacturing Industrial District:

1. *Freestanding Signs.*

   a. ~~*Business identification*~~ *Commercial sign for a commercial building with 60,000 gross leasable square feet or less.* One freestanding or monument commercial sign for ~~identification of~~ a single business establishment shall be permitted. Such sign shall be limited in area to seventy-five (75) square feet. An additional area not exceeding one hundred (100) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   b. ~~*Business identification*~~ *Commercial sign for a commercial building with more than 60,000 gross leasable square feet.* ~~Permitted sign area shall be combined into a~~ A single freestanding commercial sign ~~advertising all businesses on the premises~~ shall be permitted. The ~~combined~~ sign shall not exceed one hundred (100) square feet in area. An additional area not exceeding one hundred and fifty (150) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

   ~~c. *Directional signs.* Directional signs limited in area to eight (8) square feet shall be permitted as accessory signs and not included in any computation of sign area. One sign per entrance or exit not to exceed ten (10) feet in height nor located within five (5) feet of any street right-of-way line.~~

   c. ~~d. *Development name sign*~~ *Commercial sign for business/industrial park provided that it is* :

      1. Located on private property.

      2. Is erected permanently as a marker at or visible from the entrance to a development.

3. Serves as an accessory use only to existing tenants within the boundaries of that specific development or park. ~~Denotes the name of the development and existing tenants within the boundaries of that specific development or park only.~~

4. ~~Permitted sign area shall be combined into~~ a A single freestanding or monument commercial sign shall be permitted, regardless of the number of commercial establishments within the boundaries of the development or park. ~~advertising all businesses/industries on the premises~~. The ~~combined~~ sign shall not exceed one hundred and seventy-five (175) square feet in area. An additional area not exceeding two hundred (200) square feet may be devoted to architectural elements. ~~which serve as support or base for such sign and which are not part of the message portion of the sign.~~

5. Existing businesses/industries shall be permitted individual signage as permitted in subsections a., b., or c. as applicable to the individual lot development.

2. *Building Mounted Signs.*

a. *Wall signs.* One wall sign shall be permitted for each establishment on the premises.

b. *Projecting signs.* One projecting sign shall be permitted for each establishment on the premises. Additionally each side of a projecting sign must be counted towards the total allowable sign area.

c. ~~*Awning, canopy*~~ *Canopy or marquee signs.* One ~~awning,~~ canopy or marquee sign shall be permitted for each establishment on the premises.

d. The combined sign area of wall, projecting, canopy, ~~awning,~~ and marquee signs shall not exceed the sum of the following:

- Two (2) square feet of sign per linear foot of primary wall frontage of the first two hundred (200) linear feet;
- One (1) square foot per each linear foot beyond two hundred (200) total linear feet;
- Two (2) square feet per one (1) vertical foot for every foot over twenty (20) feet in building height.

3. *Directory Signs.*

a. *Business directories.* One directory sign is allowed per commercial building. Such directory signs shall not exceed sixteen (24) square feet in area When directory is freestanding, an additional area not exceeding thirty-six (36) square feet may be devoted to architectural elements which serve as support or base for such sign and which are not part of the message portion of the sign.

4. *Additional Regulations.*

a. Unless otherwise specified, all ~~ALL~~ freestanding signs in these districts shall have a maximum height of twenty-four (24) feet and shall not be located within twenty (20) feet of any public street right-of-way, property line, alley, private street or driveway intersecting a public or private street. No sign shall be located within twenty (20) feet of any residential district.

~~b Historic Preservation Overlay District (HP-O). In the HP-O District, the Review Commission shall approve the design compatibility of signs in accordance with Article 3.Q and may authorize an alternative signage plan that does not strictly adhere to the area, number, height and location criteria within the HP-O District if it is determined that the design is more consistent with the architectural character of the building to which it relates and other surrounding properties and as guided by the City of Danville's Historic District Guidelines for signs.~~

b. Non-illuminated signs permitted in all residential districts shall be permitted in the in the CP-1, Cyber Park One District, the LED-I, Light Economic Development District and the M-I,

Manufacturing Industrial District, provided that signs identifying uses which are permitted in the residential districts shall be subject to the regulations set forth in that section.

c. Additional regulations for establishments with gasoline sales when permitted by right or special use permit.

(1) Types of signs permitted shall be flat, canopy, detached, and pump island. See regulations for this zoning district for size requirements for flat, canopy, and detached signs.

(2) Gasoline Pump Island signs are subject to the following additional conditions:

a. Two non-illuminated "self-serve" or "full-serve" signs per pump island not to exceed 2 square feet each; and

b. One fuel price or promotional information sign per fuel pump not to exceed two square feet.

5. *Summary Chart of Sign Regulations in CP-1, LED-I and M-I Industrial Districts.*

~~Summary of Danville Sign Regulations~~
~~CP-1, LED-I and M-I Industrial Districts~~

~~Sign Type~~	~~Signs Allowed~~	~~Maximum Sign Area~~	~~Maximum Sign Height~~	~~Setback Minimum~~	~~Illumination~~
~~For each lot:~~					
~~Freestanding or Monument Sign~~					
~~Commercial Building smaller than 60,000 sq. ft.~~	~~1~~	~~75 square feet~~	~~24 feet~~	~~20' from R.O.W., private street, property line, alley, or driveway.~~	~~Illuminated or non-illuminated signs are permitted in the HR-C and PS-C Commercial Districts.~~
~~Commercial Building larger than 60,000 sq. ft.~~	~~1~~	~~100 square feet~~	~~24 feet~~		
~~Directional Signs~~	~~1 per entrance or exit~~	~~8 square feet~~	~~10 feet~~	~~5' from R.O.W.~~	
~~Directory~~	~~1 per building~~	~~24 square feet~~	~~24 feet~~	~~10' from any public street~~	

				~~R.O.W. or private street.~~	
~~For each establishment:~~					
~~Building Mounted~~					
~~Wall Sign~~	~~1 per business~~	~~The combined area of wall, projecting, awning, canopy or marquee signs shall not exceed 2 sq. ft. per lin. ft. of primary wall frontage of the first 200' linear ft. and 1 sq. ft. per each linear ft. beyond 200', in addition to 2 sq. ft. per 1 vertical ft. for every ft. over 20' in bldg. ht.~~			
~~Projecting Sign~~	~~1 per business~~				
~~Awning, Canopy or Marquee~~	~~1 per business~~				
~~Other~~	~~Non-illuminated signs allowed in residential districts are allowed subject to the regulations of those districts.~~				

M.- ~~R.~~ Special Sign Exceptions.

1. *Cause for Exceptions.* In order to provide for adjustments in the relative locations of signs of the same or different classifications, to promote the usefulness of these regulations as instruments of fact finding, interpretation, application and adjustment, and to supply the necessary elasticity to their efficient operation, special sign exceptions may be granted by the ~~Director of Planning~~/Zoning Administrator, as permitted by the terms of these regulations. Towards this end, an owner of a property or business may apply to the ~~Director of Planning~~/Zoning Administrator for a special sign exception permit.

2. *Considerations for Exceptions.* In considering an application for a special sign exception, the ~~Director of Planning~~/Zoning Administrator shall give due regard to the specific guidelines and standards of this article and those listed elsewhere in this ordinance, and in general to the nature and condition of adjacent uses and structures, and probable effect upon them of the proposed exception. The ~~Director of Planning~~/Zoning Administrator shall also take into account the special characteristics, design, location, construction, method of operation, effect on nearby properties, or any other aspects of the particular sign that may be proposed by the applicant.

3. *Adverse Effect.* The ~~Director of Planning~~/Zoning Administrator may grant the exception and authorize the issuance of a special sign exception permit only if the proposed sign meets the following criteria:

   a. (The sign will not adversely affect the community appearance, health, safety, or welfare of persons residing or working on the premises or in the neighborhood or corridor;

   b. The sign will not unreasonably impair the desired character of the district, corridor or adjacent districts;

   c. The sign will not be incompatible with the land use plans and objectives of the official Comprehensive Plan of Danville;

   d. The sign is not likely to reduce or impair the value of buildings or property in surrounding areas; and

   e. Such sign will be in substantial accordance with the general purpose and objectives of this article.

~~3. Adverse Effect. If the Director of Planning/Zoning Administrator should find, after meeting with the applicant, that the proposed sign; (a.) will not adversely affect the community appearance, health, safety, or welfare of persons residing or working on the premises or in the neighborhood or corridor, (b.) will not unreasonably impair the desired character of the district, corridor or adjacent districts, (c.) nor be incompatible with the land use plans and objectives of the official Comprehensive Plan of Danville, (d.) nor be likely to reduce or impair the value of buildings or property in surrounding areas, (e.) but that such sign will be in substantial accordance with the general purpose and objectives of this article, then the Director of Planning/Zoning Administrator, may grant the exception and authorize the issuance, of a special sign exception permit.~~

4. *Conditions for Mitigation.* In those instances where the ~~Director of Planning~~/Zoning Administrator finds that the proposed sign may be likely to have an adverse effect as above, he shall determine whether such effect can be avoided by the imposition of any special requirements or conditions with respect to location, design, construction, equipment, maintenance or operation, in addition to those expressly stipulated in this article, and may grant a special sign exception subject to such reasonable conditions and limitations as the case may require, including but not limited to limitation as to size, type, color, graphic design, location or illumination.

5. *Application Checklist.* The ~~Director of Planning~~/Zoning Administrator shall develop a brief check list which summarizes the City's expectations with respect to special sign exceptions as outlined in this district. Applicants will be required to submit a completed checklist with each application for a special sign exception.

6. *Application Fee.* An application fee to be submitted with any special sign exception application shall be established by the City Council.

N. - ~~S.~~ Appeal to Board of Zoning Appeals.

Appeal on the grounds of hardship or on the basis of any other decision by the ~~Director of Planning~~/Zoning Administrator shall be made to the Board of Zoning Appeals. Such appeal can be made by filing with the ~~Director of Planning~~/Zoning Administrator a written request within ~~10 days~~ thirty (30) days of the final decision of the ~~Director of Planning~~/Zoning Administrator. The appeal shall proceed under the law, procedure and rules established for the function of the Board of Zoning Appeals.

~~T. - Ghost Signs.~~

~~A sign as defined by the following: (1) a sign painted on an exterior wall or walls of a building or structure that have become faded due to natural weathering. (2) Such sign(s) must be at least 50 years old. (3) No sign that has been painted over to make it no longer visible from a public right-of-way, or has~~

~~been painted over with a subsequent commercial message shall be considered a ghost sign, however if a sign is revealed through the removal of paint, this provision shall not apply. A ghost sign shall be deemed a lawful sign, and may remain, subject to the following:~~

1. ~~A Ghost sign must be visible from a public right-of-way, place or facility.~~
2. ~~A Ghost sign may not be enlarged, extended, or modified.~~
3. ~~A Ghost sign shall not be repainted or refaced when such action alters or changes the wording, composition, or color of the sign.~~
4. ~~No Ghost sign shall be moved on the same lot or building or to another lot or building.~~
5. ~~A Ghost sign may not be repainted and must be removed if the structure building or use to which it is accessory is destroyed, or demolished to an extent exceeding fifty percent (50%) of the appraised value of the principal structure, building or use.~~
6. ~~Application for a Ghost sign permit must be made by the owner of the building, lot or parcel on which the sign is to be repainted.~~
7. ~~Applications for Ghost sign permit shall be made to the Director of Planning/Zoning Administrator. If such a permit is denied by the Director of Planning/Zoning Administrator, an appeal of the determination of the Director of Planning/Zoning Administrator may be made to the City Council within thirty (30) days of the Director of Planning/Zoning Administrator's decision.~~

ARTICLE 8. - PARKING AND LOADING REQUIREMENTS

A. - Purpose.

The purpose of these regulations is to set forth off-street parking and off-street loading requirements in Danville for structures and uses governed by this article. The general criteria for these requirements shall be in accordance with the intensity of such use or structure, and with the aim of providing adequate parking for the public and reducing traffic hazards, conflicts and inconvenience.

(Ord. No. 2004-02.04, Art. 8, § A, 2-17-04)

B. - General Parking and Loading Provisions.

1. Every building or structure shall be provided, at the time of initial construction, or at any other time specified in this article, with the minimum required off-street parking space and the minimum required space for the loading of goods or commodities.
2. Every building or structure changed in use or structurally altered shall be furnished with off-street parking, ingress and egress, space for loading of goods and commodities and adequate circulation required, but only to the extent that the change in use or structural alteration necessitates the need for additional parking.
3. All off-street parking spaces required for any residential use permitted in any residential zoning district in the City shall be provided on the same lot with such use.
4. All off-street parking spaces required for any use other than a residential use permitted in any residential district shall be provided on the same lot with such use except where practical difficulties prevent such location or where the public safety or the public convenience would be better served by a location other than on the same lot. In such cases the Director of Planning/Zoning Administrator may authorize alternative and/or cooperative locations of required parking spaces, subject to the following:
   a. An alternative location shall be in the same ownership (fee simple or common) and zoning classification as that of the land on which the use is located.
   b. A common or cooperative location, which provides parking for two or more uses, shall be in the ownership (fee simple or common) of at least one of the participants and shall have combined parking space equal to the sum required for the separate uses, except that the amount of space may be reduced by the Director of Planning/Zoning Administrator for reason of different hours of activity among the various uses, and shall be subject to such arrangements as will guarantee the permanent availability of such space.
   c. The entrance to an alternative, common or cooperative location shall be within three hundred (300) feet pedestrian walking distance of the entrance to the use such location serves and be connected to such use by a pedestrian walkway. Such pedestrian access shall be accessible to the handicapped and shall meet ADA requirements where feasible in the determination of the Director of Planning/Zoning Administrator.
   d. The right to use such property for parking shall be established by deed, easement, lease or similar recorded covenant or agreement, shall be approved as to form and content by the City Attorney and shall be recorded in the Clerk's Office.
   e. Should such off-street parking spaces become unavailable for use at some future time, an equal number of parking spaces shall be constructed and provided on either the primary site or by another off-site arrangement meeting the requirements of this article. Failure to provide these parking spaces within ninety (90) days from

the date on which the use of the previously available spaces was terminated shall be a violation of this ordinance.

f. The Director of Planning/Zoning Administrator may require a detailed parking impact and pedestrian access study to be prepared by the applicant in support of the requirements herein.

5. All off-street parking spaces and parking bays and off-street loading spaces shall be curb and guttered and designed to provide safe and convenient access to a public street. Ingress and egress shall be provided only through driveway, travelway or private street openings of design, location, and criteria approved by the Director of Planning/Zoning Administrator or the Planning Commission as needed. Access by a vehicle to required parking spaces shall be afforded without requiring another vehicle to be moved.

6. Requirements for parking space and parking bay paving improvements:

   (a) For all residential, institutional and commercial uses (other than single family residential off-street parking and as otherwise addressed by the HP-O District), all required off street parking spaces and drives shall be constructed of an all weather, stabilized, dust free surface (concrete, bituminous concrete, paving blocks, or other similar material) with curb, guttering and drainage improvements. Curb and guttering must be concrete, asphalt, or paving blocks and conform to VDOT standards CG-2, CG-6, MC-3, MC-3B or their equivalent. The Director of Planning/Zoning Administrator may permit alternative materials or designs for curb and guttering if substantial compliance with the VDOT standards can be shown.

   (b) For commercial and industrial uses, all employee and customer parking, as well as all entrances into parking areas, shall be constructed of an all weather, stabilized, dust free surface with curb, guttering and drainage improvements. For industrial uses, such paved surfacing may be waived by the Planning Commission only for areas used for the parking and/or loading of heavy equipment. Curb and guttering must be concrete, asphalt, or paving blocks and conform to VDOT standards CG-2, CG-6, MC-3, MC-3B or their equivalent. The Director of Planning/Zoning Administrator may permit alternative materials or designs for curb and guttering if substantial compliance with the VDOT standards can be shown.

   (c) For parking areas of six (6) spaces or less, the requirement for paved parking with curb and gutter may be waived by the Planning Commission, provided that the parking surface be constructed with a minimum surface of six (6) inches of crushed stone with adequate compaction and storm drainage provisions.

   (d) The requirements of the City's Design and Construction Manual shall govern the parking space and parking lot design sections, width, base and subbase structural characteristics, and construction criteria. Storm drainage and stormwater management construction details and calculations shall be provided with parking space and parking lot designs. Curb and guttering must be concrete, asphalt, or paving blocks and conform to VDOT standards CG-2, CG-6, MC-3, MC-3B or their equivalent. The Director of Planning/Zoning Administrator may permit alternative materials or designs for curb and guttering if substantial compliance with the VDOT standards can be shown.

7. All off-street parking spaces and related accessibility requirements for handicapped persons shall conform with the most recent Americans with Disabilities Act (ADA) regulations and as otherwise provided in this article. Where ADA regulations are in conflict with or are more stringent than the regulations in this article, ADA regulations shall govern. A copy of these ADA regulations is available through the office of the Director of Planning/Zoning Administrator.

8. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the use to which the parking is accessory. No repair, dismantling or servicing of any vehicle, equipment, materials or supplies shall be permitted in any required off-street parking facility.

9. All off-street parking spaces, parking lots, loading areas, private streets, travelways and entrances shall comply with the geometric design criteria and pavement design standards as provided in the City's Design and Construction

Standards Manual or as otherwise approved by the Director of Planning/Zoning Administrator.

10. Appurtenant lighting to residential parking areas shall be designed to minimize glare away from adjoining residential districts and away from adjacent uses.
11. Computations of parking space requirements on an employee/person basis shall be based on (a) maximum number of employees on duty and/or (b) the occupancy load of the building and/or (c) a detailed parking impact analysis as provided by the applicant and approved by the Director of Planning/Zoning Administrator.
12. No off-street loading space shall be located within a front yard.
13. All parking spaces shall be designed to prevent vehicles from extending over any property line, right-of-way, sidewalk or travelway. Where parking spaces allow a vehicle to extend over the face of curb into such areas, an additional parking space depth of two (2) feet shall be provided and/or parking bumper stops shall be incorporated into the parking space design.
14. Computations and analysis of parking requirements shall be performed by the Engineer or Architect submitting the subdivision plat and/or site plan, and those computations shall be considered as an integral element of the plat or site plan certification.
15. Where parking spaces or loading requirements are unclear or not specifically mentioned, the requirements shall be the same as required for a use of similar nature or as otherwise stipulated by the Director of Planning/Zoning Administrator.
16. Spaces designated for off-street loading shall not be counted toward the required number of off-street parking spaces.
17. Available on-street parking spaces shall not be counted toward the required number of off-street parking spaces.
18. In addition to the number of parking spaces required for new uses under this article, a change in use from existing single family dwelling to permitted multifamily housing units or other tenant housing facilities shall meet the following requirements:
    a. Off-street parking spaces shall not be located within the established front yard area between the front property line and the building itself; and
    b. All areas on-site which comprise the off-street parking site plan shall be visually defined by appropriate use of surface materials for vehicular uses which shall be duly maintained as a condition of the occupancy permit.
19. In addition to the number of parking spaces required by use under this article, non-residential uses permitted in residential districts shall meet the following requirements:
    a. Non-residential parking spaces shall be designated so as to provide continuous visual separation of at least six (6) feet in width between parking and adjoining residential property, where applicable, by means of landscaping, fencing and/or ground cover. In addition, all areas between building setbacks and public street frontage shall be restricted to fifty percent (50%) development for parking area; and
    b. All areas on-site which comprise the off-street parking plan shall be visually defined by paved surfaces which shall be duly maintained as a condition of the occupancy permit.
20. Any parking arrangement which requires the moving of any vehicle on-site in order to maneuver another vehicle on-site into or out of a required parking space shall not meet the intent of this article.
21. Access to on-site parking shall not depend on the public right-of-way, other than alleys, in order to safely and conveniently maneuver into or out of parking spaces.
22. Required off street parking spaces may be provided within garages, carports, or enclosed buildings provided that the provisions of this Article pertaining to dimensions, layout, and accessibility are met.

(Ord. No. 2004-02.04, Art. 8, § B, 2-17-04; Ord. No. 2005-01.03, 1-4-05)

C. - Parking and Loading Space Dimensions.

1. *Minimum parking space dimensions and layout.*
   (a) Parallel spaces: Standard parallel parking spaces shall have minimum dimensions of seven (7) feet by twenty-three (23) feet.
   (b) Perpendicular spaces: Standard perpendicular parking spaces shall be designed with a width of nine (9) feet and a length of eighteen (18) feet, provided that travelways combined with parking bays providing perpendicular parking shall have a minimum width of twenty four (24) feet (with 2-12 foot lanes) to accommodate two-directional traffic movements. Long-term or compact car perpendicular parking spaces (such as parking lots for full day shift for office or industrial employees or other forms of long-term parking) may reduced to eight and one-half (8.5) feet upon petition to and acceptance by the Planning Commission, provided that such spaces are clearly designated.
   (c) Angled and other forms of parking spaces: In cases where parking space and adjoining travelway dimensions vary from those above due to the nature of the parking areas and circulation patterns, the applicant shall be required to submit a detailed parking study prepared by a qualified design professional to justify such parking space size variations. Documentation shall be provided addressing parking space geometry, travelway access and turning movements, and other elements related to parking space layout and design criteria.
   (d) Refer to the City's Design and Construction Standards Manual for additional information and design criteria for parking spaces and parking lots.
2. *Off-street loading space dimensions and layout.*
   (a) No loading space shall be less than fifteen (15) feet wide, twenty five (25) feet long and fifteen (15) in vertical clearance, provided that the depth shall be sufficient to accommodate the largest delivery trucks supplying the establishment and that loading space lengths for semi-trailer vehicles shall be not less than fifty (50) feet. Where more than one loading space has been provided and located parallel to the first, each additional space may be reduced to twelve (12) feet in width.
   (b) No off-street loading area shall necessitate maneuvering from a public right-of-way. No loading space shall be located in a front yard, except for industrial uses.
   (c) Off-street loading spaces shall not be located closer than forty (40) feet from the nearest point of intersection of the loading approach travelway with the public street right-of-way, provided that if such space is to access semi-trailer vehicles, then such distance be not closer than sixty (60) feet In cases where an innovative building or site design application is employed in such a way as the impacts associated with the loading area may be properly mitigated with less loading area, a waiver of this requirement may be granted upon application by the City Manager, or his designee.

(Ord. No. 2004-02.04, Art. 8, § C, 2-17-04)

D. - Computation of Required Parking Spaces.

1. Floor area shall mean the gross floor area of the specific use, measured from the exterior faces of exterior walls or from the center line of walls separating two attached buildings. Unless otherwise specified, gross floor area shall include associated corridors, utility rooms and storage space.
2. Net floor area shall be considered as the total floor area designed for tenant occupancy of all floors of all buildings on a lot, measured from the center line of joint partitions to the interior faces of exterior walls, which excludes areas designed for permanent uses such as toilets, utility closets, corridors for pedestrian or vehicle through traffic,

enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, fire exits, stairwells, elevators and escalators. For the purposes of this ordinance, the term "net floor area" shall not include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products.

3. When the units of measurements determining the number of required parking spaces result in calculations requiring a fractional space, one space shall be provided for said computed fractional space.
4. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, provided that the applicant may petition the Director of Planning/Zoning Administrator to permit shared parking and other forms of parking relief. Such petition shall be accompanied by a technical study of the parking requirements and recommendations for the planned parking for the mix of uses, including documentation on peak parking periods for individual uses, analysis of overlapping parking demands, and demonstration that the proposed parking will accommodate the anticipated demands.
5. The City Planning Commission may waive or reduce the number of required parking spaces when the following conditions have been met:
   a. The applicant is able to demonstrate fewer spaces are required because the current or proposed use does not warrant the required spaces or the required parking will be provided elsewhere;
   b. ADA requirements are fully satisfied;
   c. The provisions of Article 8 of the Zoning Ordinance shall apply to any and all off-site parking which may be expected to be used in place of the required on-site parking;
   d. The absence or reduction of parking spaces shall not cause any adverse impact on surrounding properties;
   e. The applicant is able to demonstrate that the property was acquired in good faith, and the request is not based on any hardship created by the applicant or property owner;
   f. The applicant or property owner complies with any additional conditions the City Planning Commission deems appropriate at the time it chooses to waive or reduce the number of required off-street parking spaces.

(Ord. No. 2004-02.04, Art. 8, § D, 2-17-04; Ord. No. 2018-12.01 , Art. 8, § D, 12-4-18)

:. - Minimum Required Parking Spaces.

The following parking requirements represent minimum standards for the provision of on-site parking for permitted and special permit uses:

1. *Accessory Living Unit.* Two (2) spaces per unit; such space must have convenient access to a street.
2. *Ambulance Service, Fire Department or Rescue Squad Facility.* Adequate space to accommodate all motor vehicles operated in connection with such use and two (2) additional parking spaces per each such vehicle.
3. *Automobile Service Station.* One (1) space per each employee plus two (2) spaces per each service stall, but not less than five (5) spaces. In addition, when accessory activities rental of automobiles, trucks and trailers of all types are involved on site, there shall be provided suitable area to accommodate the highest number of rental units expected at any one time.
4. *Barber Shop, Beauty Shop.* One (1) space per two hundred (200) square feet of gross floor area plus one (1) space per employee.
5. *Bed and Breakfast Lodging.* One (1) space per room accommodation, plus two (2) additional spaces for any permanent dwelling unit located within or ancillary to the principal use.
6. *Boardinghouse or Rooming house.* One (1) space per room accommodation, plus two (2) spaces per employee.

7. *Building Materials Sales.* One (1) space per five hundred (500) square feet of retail sales area.
8. *Car Wash.* Two (2) spaces per bay or stall; provided that such spaces may be stacked one behind another, plus one (1) space per employee on the major shift.
9. *Child Care Center/Adult Day Care Center.* One (1) space per employee on the major shift, plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions. A minimum total off-street parking of one (1) space per four (4) children shall be provided.
10. *Churches and Places of Worship.* One (1) space per four (4) seating accommodations (ie. chair or bench space) in the assembly area of the facility having the largest capacity.
11. *Country Club and Golf Course.* One (1) space per four (4) members based on maximum anticipated membership, plus one (1) space per two (2) employees on the major shift.
12. *Contractor's Office and Shop.* One (1) space per two (2) employees on the major shift.
13. *Convenience Store (Quick Food Shops).* One (1) space per two hundred (200) square feet of net floor area for the first one thousand (1,000) square feet, plus six (6) spaces per each additional one thousand (1,000) square feet.
14. *Dance Hall (including dance area in restaurant, hotel, etc.).* One (1) space per one hundred (100) square feet of gross floor area.
15. *Drive-in Bank.* One (1) space per 250 square feet of net floor area, plus sufficient area for eight (8) stacking spaces for the first drive-in window and two (2) stacking spaces per each additional window.
16. *Dwelling, Multi-Family, Duplex and Single-Family Attached Dwelling.* One and one-half (1.5) space per dwelling unit with one (1) bedroom; two and one half (2.5) spaces per dwelling unit with two (2) bedrooms; three (3) spaces per dwelling unit with three (3) bedrooms; four and one-quarter (4.25) spaces per dwelling unit with four or more bedrooms, provided that parking requirements for housing for the independent elderly (without central dining facilities) may be reduced to two (2) spaces per three (3) dwelling units plus one (1) space per employee at peak shift.
17. *Dwelling, Single Family Detached and Single Family Cluster Detached Residential.* Two (2) spaces per dwelling unit, if access to the lot is from a public street; Two and one-half (2.5) spaces per dwelling unit, if access to the lot is from a private street or common parking lot.
18. *Eating Establishment.* One and one quarter (1.25) space per four (4) seats (including outdoor seats), plus one (1) space per employee at the major shift.
19. *Elderly and Handicapped Housing (with central dining facilities).* One (1) space per three (3) dwelling units, plus one (1) space per employee at peak shift.
20. *Fast Food Restaurant.* One (1) space per one hundred (100) square feet of net floor area plus one (1) additional space for every two (2) employees with a minimum of eight (8) employee spaces.
21. *Financial Institution.* One (1) space per 250 square feet of net floor area.
22. *Funeral Home.* One (1) space for every four (4) seats in chapels or parlors with fixed seats: or one (1) space for each 100 square feet of floor area for assembly rooms used for services without fixed seats, plus one (1) space per two (2) employees, plus one (1) space for each vehicle used in connection with the business.
23. *Furniture Sales.* Same as for retail sales, provided that upon submission of design analysis supporting reduced need for parking, a reduction in number may be permitted with the approval of the Director of Planning/Zoning Administrator, provided that sufficient additional land area be reserved to allow for future alternative retail uses of the site.
24. *Green Houses and Plant Nursery.*

Enclosed Retail Sales Areas - One (1) space for each two hundred (200) square feet of retail sales;

Greenhouse Sales Areas - One (1) space per two hundred (200) square feet for the first one thousand (1,000) square feet and one (1) space for each five hundred (500) square feet of greenhouse sales area above one thousand (1,000) square feet;

Exterior Nursery Sales Areas - One (1) space per each five thousand (5,000) square feet of exterior nursery sales area.

25. *Hospitals and Medical Center.* One (1) space per two (2) hospital beds (at maximum rated capacity), plus one and one-half (1.5) spaces per each emergency room examination table or bed, plus one (1) space per employee on the major shift other than doctors, plus one (1) space per doctor assigned to the staff.
26. *Hotel or Motel.* One (1) space per rental unit plus one (1) space per employee on the major shift, in addition to spaces required for eating and assembly rooms as determined by the Director of Planning/Zoning Administrator.
27. *Industrial, Manufacturing and Warehousing Uses.* One (1) space per 1.5 employees on major shift, plus one (1) space per company vehicle / equipment, plus sufficient space to accommodate largest number of visitors and customers expected at any one time, but not less than one (1) space per 1,000 square feet of gross floor area.
28. *Institutional Housing.* One (1) space per two (2) patients, based on the occupancy load, plus (1) space per employee or staff member on a major shift.
29. *Kennels, Commercial.* One (1) space per four hundred (400) square feet of gross floor area including runs, plus one (1) space per employee.
30. *Laundromats.* One (1) space per four (4) washing machines.
31. *Laundry, Dry Cleaning.* One (1) space per fifty (50) square feet open to the public with a minimum of five (5) public parking spaces, plus one (1) space per employee on the major shift.
32. *Medical or Dental Office.* One (1) space per three hundred (300) square feet of net office floor area, plus one (1) space per employee, provided that no indivisual unit shall have fewer than three (3) spaces.
33. *Nursing or Convalescent Home.* One (1) space per three (3) residents, plus one (1) additional space for each employee on the major shift.
34. *Offices.* One (1) space per three hundred (300) square feet of net office floor area, with a minimum of one (1) space per employee, provided than no individual office unit shall have fewer than three (3) spaces.
35. *Outdoor Sales/Display Area.* One (1) space per five hundred (500) square feet of open sales/display.
36. *Personal Service Establishment Uses (not otherwise specified).* One (1) space per 200 square feet of net floor area.
37. *Recreational Facilities (including Billiard and Pool Halls, Bowling Alleys, Video Game Rooms, Health Clubs, Gyms and Paint Ball Parlors).* One (1) space per three (3) persons based on the maximum occupancy plus, one (1) space per employee on the major shift.
38. *Recycling Center.* One (1) space per employee on the major shift, plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions.
39. *Repair Service Establishment.* One (1) space per two hundred (200) square feet of net floor area.
40. *Retail Sales Establishment.* One (1) space per 200 square feet net floor area for the first 1000 square feet, plus four (4) spaces per each additional 1000 square feet. The wholesale component of any industrial, manufacturing or warehousing facility shall provide parking based on requirements for Retail Sales Establishments. Discount

stores, wholesale outlets, "big box retailers" and "superstores" marketing as wholesale establishments shall provide parking based on requirements for Retail Sales Establishments.

41. *School, Elementary.* Based on a review by the Director of Planning/Zoning Administrator of each proposal including such factors as the occupancy load of all classroom facilities, auditoriums and stadiums, proposed special education programs and student-teacher ratios, and the availability of areas on site that can be used for auxiliary parking in times of peak demand; but in no instance less than one (1) space per faculty and staff member and other employee, plus four (4) spaces for visitors.
42. *School, High.* Based on a review by the Director of Planning/Zoning Administrator of each proposal including such factors as the occupancy load of all classroom facilities, auditoriums, and stadiums, proposed special education programs and student-teacher ratios, and the availability of areas on site that can be used for auxiliary parking in times of peak demand; but in no instance less than one (1) space per faculty and staff member and other full-time employee, plus one (1) space per eight (8) students, based on the maximum number of students attending classes at any one time.
43. *School, Kindergarten or Nursery.* One (1) space per employee, plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions. A minimum total off-street parking of one (1) space per four (4) children shall be provided.
44. *Shopping Center.* One (1) space per 200 square feet net retail floor area for the first 1000 square feet, plus four (4) spaces per each additional 1000 square feet, plus additional spaces for restaurants, theaters, personal service establishments, and offices as determined by the requirements of this section.
45. *Swimming Pool, Commercial.* One (1) space per four (4) persons lawfully permitted in the pool at one time, plus one (1) space per employee.
46. *Tennis Courts/Tennis Club.* Four (4) spaces per court, plus such additional spaces as may be required herein for affiliated uses such as eating establishments.
47. *Theater, Auditorium, or Convention Center.* One (1) space per four (4) seat plus one (1) space per two (2) employees.
48. *Vehicle Sale, Rental and Ancillary Service Establishment.* One (1) space per 500 square feet of enclosed sales/rental floor area, plus one (1) space per 2500 square feet of open sales/rental display lot area, plus two (2) spaces per service bay, plus one (1) space per employee, but not less than five (5) spaces minimum.
49. *Vehicle Service Establishment.* Two (2) spaces per service bay, plus one (1) space per employee, but not less than five (5) spaces minimum.
50. *Veterinary Clinic.* One (1) space per one hundred (100) square feet of gross floor area exclusive of that area to house animals.
51. *Warehouse, Storage and Mini-storage.* Four (4) spaces per 1000 square feet of net floor area of office space associated with the use plus one (1) space per employee and/or two (2) spaces for a resident manager.
52. *Wholesale Trade Establishment.* One (1) space per 1.5 employees, plus one (1) space per company vehicle, but with a minimum of one (1) space per 1000 square feet of gross floor area.
53. *Miscellaneous Uses.* Where no specification is set forth herein for a specific use, parking requirements for such uses shall be based on facility usage by visitors, patrons, and/or customers plus employees, or as otherwise determined by Director of Planning/Zoning Administrator. At the discretion of the Director of Planning/Zoning Administrator, the applicant may be required to submit a parking impact study for uses for which regulations are not hereinabove provided.
54. *Handicap Spaces.* Minimum handicap space requirements shall be in accord with the table below unless ADA

requirements for the use stipulate otherwise:

Less than five (5) total spaces: 0

Five (5) to fifty (50) spaces: 1

Fifty-one (51) to 100 spaces: 2

One-hundred one (101) spaces to two hundred (200) spaces: 3

Over two hundred (200) spaces: 3, plus 1 for each additional 100 spaces

(Ord. No. 2004-02.04, Art. 8, § E, 2-17-04; Ord. No. 2005-01.03, 1-4-05; Ord. No. 2010-09.02, 9-7-10)

F. - Off-Street Loading Spaces.

Off-street loading spaces are not required. However, if spaces are provided, they must meet the following requirements:

1. All off-street loading spaces shall be located on the same lot as the use served.
2. Off-street loading spaces may be provided cooperatively for two or more uses, as long as the contractual arrangements for the permanent availability of such spaces meet the standards set by the Director of Planning/Zoning Administrator.
3. All off-street loading space shall be provided with safe and convenient access to a street. If such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall only be provided through such a curbed driveway.
4. No off-street loading area shall be used to satisfy the space requirement for any off-street parking facilities, and no loading area shall be so located as to interfere with the free circulation of vehicles in any off-street parking area.
5. No motor vehicle repair work, with the exception of emergency service, shall be permitted in any space designated as off-street loading area.
6. All off-street loading areas, including aisles and driveways, shall be constructed and maintained with a dustless (concrete or bituminous concrete) surface, except as otherwise permitted for heavy equipment storage for industrial uses.

(Ord. No. 2004-02.04, Art. 8, § F, 2-17-04)

G. - Stacking Lane Requirements.

1. Stacking spaces shall be required for any use having drive-through or drive-in-facilities.
2. Stacking spaces shall be a minimum of ten feet in width and eighteen feet in length, and shall be designed so as not to impede on- and off-site traffic movements.
3. Stacking lanes and spaces shall be separate from other circulation aisles and parking spaces.
4. Stacking lanes shall be separated from other on-site parking and circulation lanes by a raised median or other acceptable method to ensure the adequate channeling and safety of traffic movements.
5. Computation of required stacking spaces: The following minimum stacking space requirements shall be provided in accordance with the following schedule:
    a. Eating and fast food establishments: Ten (10) stacking spaces, with distance as measured from the closest drive-through window.

b. Car washes: Three (3) stacking spaces per car wash bay.

c. Financial institutions: Eight (8) stacking spaces for the first drive-through window and four (4) stacking spaces for each additional window.

d. Other uses: For uses not specifically provided for herein, the Director of Planning/Zoning Administrator shall make the final determination regarding the number of required stacking spaces.

(Ord. No. 2004-02.04, Art. 8, § G, 2-17-04)

H. - Handicap Parking Space Requirements.

1. Handicap parking spaces for the physically disabled or elderly shall be required at the rate of three percent (3%) of the first 200 parking spaces required for any use.
2. For uses which provide parking for more than 200 spaces, six (6) handicap spaces shall be provided for the first 200 parking spaces, plus one (1) percent of the required spaces in excess of 200 parking spaces.
3. Notwithstanding the above, all handicap parking space requirements shall conform with current ADA regulations.
4. Reserved.
5. Perpendicular handicap parking spaces shall be 13 feet wide and 18 feet long, including a 5 foot width for the delineation of aisles for access to vehicle, provided that two handicap spaces may share the same 5 foot access aisle. Spaces shall be located as close as possible to the primary building entrance(s).
6. No more than four (4) handicap spaces shall be grouped together within a parking lot.
7. Inclined access ramps shall be provided and designed to promote safe access from both sides of a vehicle directly to a sidewalk. Ramps shall have a minimum width of five (5) feet and a maximum slope of one unit vertical in twelve units horizontal (1:12), provided that if current ADA requirements for handicap space access are more restrictive, then ADA standards and criteria shall apply. These ramps should also provide suitable accessibility to vans.
8. All handicapped parking spaces shall be clearly identified by the placement of signs, with minimum height of four (4) feet and a maximum height of six (6) feet. Signs and parking spaces shall be marked with the standard handicap logo.

(Ord. No. 2004-02.04, Art. 8, § H, 2-17-04; Ord. No. 2018-12.01 , Art. 8, § H, 12-4-18)

. - Private Streets, Travelways and Combined Travelways and Parking Bays.

1. Private streets in any residential single family subdivision may be approved only by the Planning Commission. Private travelways and combined travelways/parking bays in townhouse, apartment and non-residential development may be allowed as a part of the site plan approval process.
2. Private streets, travelways, and combined travelways/parking bays (lots) are intended to provide on-site vehicular circulation and parking for projects such as townhouse and multi-family development, commercial shopping centers and freestanding uses, and other uses requiring a site plan for which public streets and parking is not deemed necessary. Private streets, travelways, and combined travelways/parking bays shall be limited to serve primarily non-through, fixed-traffic generating internal vehicular circulation conditions related to a particular site plan use and which, further, do not adversely affect the transportation objectives of the Comprehensive Plan or limit the ability of the City to provide for future public street improvements where such private facilities are proposed. See the City Design and Construction Standards Manual for illustrations of and design criteria for these private facilities.
3. Private streets, travelways and combined parking bays/travelways shall be designed based on the projected traffic demands for a given facility, and, further, shall comply with the standards and criteria of the City's Construction and Design Standards Manual and the Subdivision Ordinance. The engineer or architect submitting a site plan shall

provide a detailed traffic impact analysis and transportation improvements plan which provides analysis and specifications for pavement widths, street geometry, pavement design, signage, signalization, and private ingress/egress easement requirements.

4. Easements of ingress and egress shall be granted for public emergency vehicles and private maintenance vehicles.

(Ord. No. 2004-02.04, Art. 8, § I, 2-17-04)

20104783D

HOUSE BILL NO. 881

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 18.2-325 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-334.5, relating to illegal gambling; skill games; exception.

Patrons—Bulova, Carr and Knight

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-325 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-334.5 as follows:

§ 18.2-325. Definitions.

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

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

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

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

3. "Gambling device" includes:

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

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

c. Skill games.

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

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

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

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually.

§ 18.2-334.5. Exemptions to article; certain skill games offered at family entertainment centers.

A. As used in this section:

59 *"Coin-operated amusement games" means games that do not deliver or entitle the person playing or*
60 *operating the game to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or*
61 *electronic credits to be exchanged for cash; or merchandise or anything of value.*
62 *"Family entertainment center" means an establishment that (i) is located in a building that is owned,*
63 *leased, or occupied by the establishment for the primary purpose of providing amusement and*
64 *entertainment to the public; (ii) offers coin-operated amusement games and skill games pursuant to the*
65 *exemption created by this section; and (iii) markets its business to families with children.*
66 *B. Notwithstanding the provisions of § 18.2-325, a person operating a family entertainment center*
67 *may make skill games available for play if the prize won or distributed to a player is a noncash,*
68 *merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash,*
69 *merchandise prize (i) the value of which does not exceed the cost of playing the skill game or the total*
70 *aggregate cost of playing multiple skill games; (ii) that is not and does not include an alcoholic*
71 *beverage; (iii) that is not eligible for repurchase; and (iv) that is not exchangeable for cash, cash*
72 *equivalents, or anything of value whatsoever.*

20101803D

SENATE BILL NO. 908

Offered January 8, 2020

A BILL to amend and reenact § 18.2-325 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-334.5, relating to illegal gambling; skill games; exception.

Patron—Norment

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-325 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-334.5 as follows:

§ 18.2-325. Definitions.

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

For the purposes of this subdivision and notwithstanding any provision in this section to the contrary, the making, placing, or receipt of any bet or wager of money or other consideration or thing of value shall include the purchase of a product, Internet access, or other thing made in exchange for a chance to win a prize, stake, or other consideration or thing of value by means of the operation of a gambling device as described in subdivision 3 b, regardless of whether the chance to win such prize, stake, or other consideration or thing of value may be offered in the absence of a purchase.

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

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

3. "Gambling device" includes:

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

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

c. Skill games.

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

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

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

6. "Skill game" means an electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually.

§ 18.2-334.5. Exemptions to article; certain skill games offered at family entertainment centers.

A. As used in this section:

"Coin-operated amusement games" means games that do not deliver or entitle the person playing or

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operating the game to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; or merchandise or anything of value.

"Family entertainment center" means an establishment that (i) is located in a building that is owned, leased, or occupied by the establishment for the primary purpose of providing amusement and entertainment to the public; (ii) offers coin-operated amusement games and skill games pursuant to the exemption created by this section; (iii) receives a majority of its gross receipts from the operation of coin-operated amusement games and skill games operated pursuant to the exemption created by this section; and (iv) markets its business to families with children.

B. Notwithstanding the provisions of § 18.2-325, a person operating a family entertainment center may make skill games available for play if the prize won or distributed to a player is a noncash, merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash, merchandise prize (i) the value of which does not exceed the cost of playing the skill game or the total aggregate cost of playing multiple skill games; (ii) that is not and does not include an alcoholic beverage; (iii) that is not eligible for repurchase; and (iv) that is not exchangeable for cash, cash equivalents, or anything of value whatsoever.

20104736D

SENATE BILL NO. 960

Offered January 14, 2020

A BILL to amend and reenact §§ 2.2-3705.6, 2.2-3711, 18.2-334.3, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4006, 58.1-4007, 58.1-4012, and 58.1-4027 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056, relating to the Virginia Lottery Board; regulation of the manufacturing, distributing, operating, hosting, and playing of dominant skill video games; penalties.

Patrons—Ruff and Bell

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.6, 2.2-3711, 18.2-334.3, 19.2-389, as it is currently effective and as it shall become effective, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4006, 58.1-4007, 58.1-4012, and 58.1-4027 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 11 a section numbered 11-16.1, by adding in Article 1 of Chapter 3 of Title 37.2 a section numbered 37.2-314.1, and by adding in Chapter 40 of Title 58.1 an article numbered 2, consisting of sections numbered 58.1-4030 through 58.1-4056 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

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

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

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

121 relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services,
122 adoption of new technologies or implementation of improvements, where such new services,
123 technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale
124 in the franchise area, and where, if such information were made public, the competitive advantage or
125 financial interests of the franchisee would be adversely affected.
126 In order for trade secrets or confidential proprietary information to be excluded from the provisions
127 of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of
128 the data or other materials for which protection from disclosure is sought, (b) identify the data or other
129 materials for which protection is sought, and (c) state the reason why protection is necessary.
130 No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the
131 bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the
132 applicable franchising authority serves on the management board or as an officer of the bidder,
133 applicant, or franchisee.
134 14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of
135 charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to
136 subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming
137 Board related to approval of electronic and mechanical equipment.
138 15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board
139 pursuant to § 3.2-1215.
140 16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless
141 Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the
142 provision of wireless E-911 service.
143 17. Information relating to a grant or loan application, or accompanying a grant or loan application,
144 to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.)
145 of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3
146 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary
147 business or research-related information produced or collected by the applicant in the conduct of or as a
148 result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly
149 issues, when such information has not been publicly released, published, copyrighted, or patented, and
150 (ii) be harmful to the competitive position of the applicant.
151 18. Confidential proprietary information and trade secrets developed and held by a local public body
152 (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television
153 services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such
154 information would be harmful to the competitive position of the locality.
155 In order for confidential proprietary information or trade secrets to be excluded from the provisions
156 of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify
157 with specificity the information for which protection is sought, and (c) state the reasons why protection
158 is necessary. However, the exemption provided by this subdivision shall not apply to any authority
159 created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).
160 19. Confidential proprietary information and trade secrets developed by or for a local authority
161 created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to
162 provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of
163 Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive
164 position of the authority, except that information required to be maintained in accordance with
165 § 15.2-2160 shall be released.
166 20. Trade secrets or financial information of a business, including balance sheets and financial
167 statements, that are not generally available to the public through regulatory disclosure or otherwise,
168 provided to the Department of Small Business and Supplier Diversity as part of an application for
169 certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1
170 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the
171 provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or
172 other materials for which protection from disclosure is sought, (ii) identify the data or other materials for
173 which protection is sought, and (iii) state the reasons why protection is necessary.
174 21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health
175 Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.
176 22. Trade secrets, including, but not limited to, financial information, including balance sheets and
177 financial statements, that are not generally available to the public through regulatory disclosure or
178 otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State
179 Inspector General for the purpose of an audit, special investigation, or any study requested by the Office
180 of the State Inspector General in accordance with law.
181 In order for the information specified in this subdivision to be excluded from the provisions of this

chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

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

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

c. Stating the reasons why protection is necessary.

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

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

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

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

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

c. Stating the reasons why protection is necessary.

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

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

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

protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

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

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

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

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

c. Stating the reasons why protection is necessary.

28. Information relating to a grant or loan application, or accompanying a grant or loan application, submitted to the Virginia Research Investment Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.

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

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

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

c. Stating the reasons why protection is necessary.

The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

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

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

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

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

c. Stating the reasons why protection is necessary.

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

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

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

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

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

c. Stating the reasons why protection is necessary.

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

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

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

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

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

c. Stating the reasons why protection is necessary.

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

33. Confidential proprietary information or trade secrets, not publicly available, provided to the Virginia Lottery by a manufacturer, distributor, operator, or host of dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, such entity shall (i) invoke such exclusion upon submission of the information for which protection from disclosure is sought, (ii) identify the information for which protection is sought, and (iii) state the reason why protection is necessary.

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

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

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

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

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

367 the bargaining position or negotiating strategy of the public body.
368 4. The protection of the privacy of individuals in personal matters not related to public business.
369 5. Discussion concerning a prospective business or industry or the expansion of an existing business
370 or industry where no previous announcement has been made of the business' or industry's interest in
371 locating or expanding its facilities in the community.
372 6. Discussion or consideration of the investment of public funds where competition or bargaining is
373 involved, where, if made public initially, the financial interest of the governmental unit would be
374 adversely affected.
375 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
376 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
377 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
378 litigation" means litigation that has been specifically threatened or on which the public body or its legal
379 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in
380 this subdivision shall be construed to permit the closure of a meeting merely because an attorney
381 representing the public body is in attendance or is consulted on a matter.
382 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
383 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
384 construed to permit the closure of a meeting merely because an attorney representing the public body is
385 in attendance or is consulted on a matter.
386 9. Discussion or consideration by governing boards of public institutions of higher education of
387 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
388 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
389 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
390 accepted by a public institution of higher education in the Commonwealth shall be subject to public
391 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
392 (i) "foreign government" means any government other than the United States government or the
393 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
394 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
395 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
396 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
397 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
398 citizen or national of the United States or a trust territory or protectorate thereof.
399 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
400 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,
401 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from
402 private sources.
403 11. Discussion or consideration of honorary degrees or special awards.
404 12. Discussion or consideration of tests, examinations, or other information used, administered, or
405 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.
406 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
407 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
408 filed by the member, provided the member may request in writing that the committee meeting not be
409 conducted in a closed meeting.
410 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
411 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
412 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating
413 position of the governing body or the establishment of the terms, conditions and provisions of the siting
414 agreement, or both. All discussions with the applicant or its representatives may be conducted in a
415 closed meeting.
416 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
417 activity and estimating general and nongeneral fund revenues.
418 16. Discussion or consideration of medical and mental health records subject to the exclusion in
419 subdivision 1 of § 2.2-3705.5.
420 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
421 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
422 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
423 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
424 and subdivision 11 of § 2.2-3705.7.
425 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
426 of, or information tending to identify, any prisoner who (i) provides information about crimes or
427 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the

428 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
429 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.
430 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
431 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
432 or emergency service officials concerning actions taken to respond to such matters or a related threat to
433 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
434 where discussion in an open meeting would jeopardize the safety of any person or the security of any
435 facility, building, structure, information technology system, or software program; or discussion of reports
436 or plans related to the security of any governmental facility, building or structure, or the safety of
437 persons using such facility, building or structure.
438 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
439 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
440 trustees of a trust established by one or more local public bodies to invest funds for postemployment
441 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
442 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
443 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
444 holding or disposition of a security or other ownership interest in an entity, where such security or
445 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
446 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
447 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
448 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
449 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
450 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
451 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
452 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
453 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
454 of information relating to the identity of any investment held, the amount invested or the present value
455 of such investment.
456 21. Those portions of meetings in which individual child death cases are discussed by the State Child
457 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
458 individual child death cases are discussed by a regional or local child fatality review team established
459 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
460 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
461 which individual adult death cases are discussed by the state Adult Fatality Review Team established
462 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
463 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
464 meetings in which individual death cases are discussed by overdose fatality review teams established
465 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
466 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.
467 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
468 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
469 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
470 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
471 proprietary, business-related information pertaining to the operations of the University of Virginia
472 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
473 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
474 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
475 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
476 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
477 Medical School, as the case may be.
478 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
479 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
480 disposition by the Authority of real property, equipment, or technology software or hardware and related
481 goods or services, where disclosure would adversely affect the bargaining position or negotiating
482 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
483 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
484 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
485 affect the competitive position of the Authority; and members of the Authority's medical and teaching
486 staffs and qualifications for appointments thereto.
487 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
488 the Department of Health Professions to the extent such discussions identify any practitioner who may
489 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

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

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

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

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

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

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

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

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

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

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

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

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

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

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

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

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

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant

613 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
614 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
615 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
616 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
617 of such bonds.
618 ***§ 11-16.1. Exemption; play of authorized dominant skill video games.***
619 *This chapter shall not apply to the play of dominant skill video games or related activity that is*
620 *lawful under Article 2 (§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1 or to any contract, conduct, or*
621 *transaction arising from conduct lawful thereunder.*
622 **§ 18.2-334.3. Exemptions to article; state lottery.**
623 Nothing in this article shall apply to ~~any~~*:*
624 *1. Any* lottery conducted by the Commonwealth of Virginia pursuant to *Article 1 (§ 58.1-4000 et*
625 *seq.) of* Chapter 40 of Title 58.1*; or*
626 *2. The play of any dominant skill video games or related activity that is lawful under Article 2*
627 *(§ 58.1-4030 et seq.) of Chapter 40 of Title 58.1.*
628 **§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record**
629 **information.**
630 A. Criminal history record information shall be disseminated, whether directly or through an
631 intermediary, only to:
632 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
633 purposes of the administration of criminal justice and the screening of an employment application or
634 review of employment by a criminal justice agency with respect to its own employees or applicants, and
635 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
636 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
637 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
638 purposes of this subdivision, criminal history record information includes information sent to the Central
639 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
640 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
641 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
642 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
643 Commonwealth for the purposes of the administration of criminal justice;
644 2. Such other individuals and agencies that require criminal history record information to implement
645 a state or federal statute or executive order of the President of the United States or Governor that
646 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
647 conduct, except that information concerning the arrest of an individual may not be disseminated to a
648 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
649 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
650 pending;
651 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
652 services required for the administration of criminal justice pursuant to that agreement which shall
653 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
654 security and confidentiality of the data;
655 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
656 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
657 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
658 security of the data;
659 5. Agencies of state or federal government that are authorized by state or federal statute or executive
660 order of the President of the United States or Governor to conduct investigations determining
661 employment suitability or eligibility for security clearances allowing access to classified information;
662 6. Individuals and agencies where authorized by court order or court rule;
663 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
664 owned, operated or controlled by any political subdivision, and any public service corporation that
665 operates a public transit system owned by a local government for the conduct of investigations of
666 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
667 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
668 conviction record would be compatible with the nature of the employment, permit, or license under
669 consideration;
670 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
671 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
672 position of employment whenever, in the interest of public welfare or safety and as authorized in the
673 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person

674 with a conviction record would be compatible with the nature of the employment under consideration;
675 8. Public or private agencies when authorized or required by federal or state law or interstate
676 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
677 adult members of that individual's household, with whom the agency is considering placing a child or
678 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
679 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
680 the data shall not be further disseminated to any party other than a federal or state authority or court as
681 may be required to comply with an express requirement of law;
682 9. To the extent permitted by federal law or regulation, public service companies as defined in
683 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
684 personal contact with the public or when past criminal conduct of an applicant would be incompatible
685 with the nature of the employment under consideration;
686 10. The appropriate authority for purposes of granting citizenship and for purposes of international
687 travel, including, but not limited to, issuing visas and passports;
688 11. A person requesting a copy of his own criminal history record information as defined in
689 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
690 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
691 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
692 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
693 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
694 Solvers or Crime Line program as defined in § 15.2-1713.1;
695 12. Administrators and board presidents of and applicants for licensure or registration as a child
696 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
697 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
698 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
699 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
700 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
701 that the data shall not be further disseminated by the facility or agency to any party other than the data
702 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
703 may be required to comply with an express requirement of law for such further dissemination;
704 13. The school boards of the Commonwealth for the purpose of screening individuals who are
705 offered or who accept public school employment and those current school board employees for whom a
706 report of arrest has been made pursuant to § 19.2-83.1;
707 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
708 (§ 58.1-4000 et seq.) *and dominant skill video games as set forth in Article 2 (§ 58.1-4030 et seq.) of*
709 *Chapter 40 of Title 58.1*, and the Department of Agriculture and Consumer Services for the conduct of
710 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;
711 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
712 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
713 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject
714 to the limitations set out in subsection E;
715 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
716 investigations of applicants for compensated employment in licensed assisted living facilities and
717 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
718 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
719 in § 4.1-103.1;
720 18. The State Board of Elections and authorized officers and employees thereof and general registrars
721 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
722 voter registration, limited to any record of felony convictions;
723 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
724 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
725 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
726 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
727 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
728 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
729 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
730 Department of Education, or the Department of Behavioral Health and Developmental Services for the
731 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
732 services;
733 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
734 Department for the purpose of determining an individual's fitness for employment pursuant to
735 departmental instructions;

736 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
737 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
738 records information on behalf of such governing boards or administrators pursuant to a written
739 agreement with the Department of State Police;
740 24. Public institutions of higher education and nonprofit private institutions of higher education for
741 the purpose of screening individuals who are offered or accept employment;
742 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
743 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
744 higher education, for the purpose of assessing or intervening with an individual whose behavior may
745 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
746 history record information obtained pursuant to this section or otherwise use any record of an individual
747 beyond the purpose that such disclosure was made to the threat assessment team;
748 26. Executive directors of community services boards or the personnel director serving the
749 community services board for the purpose of determining an individual's fitness for employment,
750 approval as a sponsored residential service provider, or permission to enter into a shared living
751 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
752 §§ 37.2-506 and 37.2-607;
753 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
754 determining an individual's fitness for employment, approval as a sponsored residential service provider,
755 or permission to enter into a shared living arrangement with a person receiving medical assistance
756 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
757 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
758 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
759 name, address, demographics and social security number of the data subject shall be released;
760 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
761 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
762 purpose of determining if any applicant who accepts employment in any direct care position or requests
763 approval as a sponsored residential service provider or permission to enter into a shared living
764 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
765 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
766 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
767 37.2-607;
768 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
769 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
770 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
771 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
772 for the purpose of determining if any person being considered for election to any judgeship has been
773 convicted of a crime;
774 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
775 determining an individual's fitness for employment in positions designated as sensitive under Department
776 of Human Resource Management policies developed pursuant to § 2.2-1201.1;
777 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
778 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
779 Violent Predators Act (§ 37.2-900 et seq.);
780 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
781 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
782 companies, for the conduct of investigations of applications for employment or for access to facilities,
783 by contractors, leased laborers, and other visitors;
784 35. Any employer of individuals whose employment requires that they enter the homes of others, for
785 the purpose of screening individuals who apply for, are offered, or have accepted such employment;
786 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
787 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
788 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
789 subject to the restriction that the data shall not be further disseminated by the agency to any party other
790 than a federal or state authority or court as may be required to comply with an express requirement of
791 law for such further dissemination, subject to limitations set out in subsection G;
792 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
793 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
794 or have accepted a position related to the provision of transportation services to enrollees in the
795 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
796 program administered by the Department of Medical Assistance Services;

797 38. The State Corporation Commission for the purpose of investigating individuals who are current
798 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
799 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
800 other provision of law, if an application is denied based in whole or in part on information obtained
801 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
802 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
803 its designee;
804 39. The Department of Professional and Occupational Regulation for the purpose of investigating
805 individuals for initial licensure pursuant to § 54.1-2106.1;
806 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
807 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
808 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
809 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
810 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
811 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
812 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
813 43. The Department of Social Services and directors of local departments of social services for the
814 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
815 or a local department of social services for the provision of child care services for which child care
816 subsidy payments may be provided;
817 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
818 a juvenile's household when completing a predispositional or postdispositional report required by §
819 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and
820 45. Other entities as otherwise provided by law.
821 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
822 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
823 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
824 designated in the order on whom a report has been made under the provisions of this chapter.
825 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
826 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
827 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
828 copy of conviction data covering the person named in the request to the person making the request;
829 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
830 making of such request. A person receiving a copy of his own conviction data may utilize or further
831 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
832 subject, the person making the request shall be furnished at his cost a certification to that effect.
833 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
834 section shall be limited to the purposes for which it was given and may not be disseminated further.
835 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
836 history record information for employment or licensing inquiries except as provided by law.
837 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
838 Exchange prior to dissemination of any criminal history record information on offenses required to be
839 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
840 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
841 where time is of the essence and the normal response time of the Exchange would exceed the necessary
842 time period. A criminal justice agency to whom a request has been made for the dissemination of
843 criminal history record information that is required to be reported to the Central Criminal Records
844 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
845 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
846 made by the criminal justice agency maintaining the record as required by § 15.2-1722.
847 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
848 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
849 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.
850 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
851 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
852 for any offense specified in § 63.2-1720.
853 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
854 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
855 definition of barrier crime in § 19.2-392.02.
856 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
857 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
858 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in

859 the request to the employer or prospective employer making the request, provided that the person on
860 whom the data is being obtained has consented in writing to the making of such request and has
861 presented a photo-identification to the employer or prospective employer. In the event no conviction data
862 is maintained on the person named in the request, the requesting employer or prospective employer shall
863 be furnished at his cost a certification to that effect. The criminal history record search shall be
864 conducted on forms provided by the Exchange.
865 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
866 information pursuant to the rules of court for obtaining discovery or for review by the court.
867 **§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.**
868 A. Criminal history record information shall be disseminated, whether directly or through an
869 intermediary, only to:
870 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
871 purposes of the administration of criminal justice and the screening of an employment application or
872 review of employment by a criminal justice agency with respect to its own employees or applicants, and
873 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
874 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
875 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
876 purposes of this subdivision, criminal history record information includes information sent to the Central
877 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
878 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
879 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
880 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
881 Commonwealth for the purposes of the administration of criminal justice;
882 2. Such other individuals and agencies that require criminal history record information to implement
883 a state or federal statute or executive order of the President of the United States or Governor that
884 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
885 conduct, except that information concerning the arrest of an individual may not be disseminated to a
886 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
887 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
888 pending;
889 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
890 services required for the administration of criminal justice pursuant to that agreement which shall
891 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
892 security and confidentiality of the data;
893 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
894 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
895 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
896 security of the data;
897 5. Agencies of state or federal government that are authorized by state or federal statute or executive
898 order of the President of the United States or Governor to conduct investigations determining
899 employment suitability or eligibility for security clearances allowing access to classified information;
900 6. Individuals and agencies where authorized by court order or court rule;
901 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
902 owned, operated or controlled by any political subdivision, and any public service corporation that
903 operates a public transit system owned by a local government for the conduct of investigations of
904 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
905 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
906 conviction record would be compatible with the nature of the employment, permit, or license under
907 consideration;
908 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
909 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
910 position of employment whenever, in the interest of public welfare or safety and as authorized in the
911 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
912 with a conviction record would be compatible with the nature of the employment under consideration;
913 8. Public or private agencies when authorized or required by federal or state law or interstate
914 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
915 adult members of that individual's household, with whom the agency is considering placing a child or
916 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
917 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
918 the data shall not be further disseminated to any party other than a federal or state authority or court as
919 may be required to comply with an express requirement of law;

920 9. To the extent permitted by federal law or regulation, public service companies as defined in
921 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
922 personal contact with the public or when past criminal conduct of an applicant would be incompatible
923 with the nature of the employment under consideration;
924 10. The appropriate authority for purposes of granting citizenship and for purposes of international
925 travel, including, but not limited to, issuing visas and passports;
926 11. A person requesting a copy of his own criminal history record information as defined in
927 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
928 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
929 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
930 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
931 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
932 Solvers or Crime Line program as defined in § 15.2-1713.1;
933 12. Administrators and board presidents of and applicants for licensure or registration as a child
934 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
935 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
936 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
937 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
938 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
939 that the data shall not be further disseminated by the facility or agency to any party other than the data
940 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
941 may be required to comply with an express requirement of law for such further dissemination;
942 13. The school boards of the Commonwealth for the purpose of screening individuals who are
943 offered or who accept public school employment and those current school board employees for whom a
944 report of arrest has been made pursuant to § 19.2-83.1;
945 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
946 (§ 58.1-4000 et seq.) *and dominant skill video games as set forth in Article 2 (§ 58.1-4030 et seq.) of*
947 *Chapter 40 of Title 58.1*, and the Department of Agriculture and Consumer Services for the conduct of
948 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;
949 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
950 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
951 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
952 the limitations set out in subsection E;
953 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
954 investigations of applicants for compensated employment in licensed assisted living facilities and
955 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
956 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
957 in § 4.1-103.1;
958 18. The State Board of Elections and authorized officers and employees thereof and general registrars
959 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
960 voter registration, limited to any record of felony convictions;
961 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
962 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
963 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
964 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
965 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
966 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
967 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
968 Department of Education, or the Department of Behavioral Health and Developmental Services for the
969 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
970 services;
971 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
972 Department for the purpose of determining an individual's fitness for employment pursuant to
973 departmental instructions;
974 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
975 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
976 records information on behalf of such governing boards or administrators pursuant to a written
977 agreement with the Department of State Police;
978 24. Public institutions of higher education and nonprofit private institutions of higher education for
979 the purpose of screening individuals who are offered or accept employment;
980 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
981 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of

982 higher education, for the purpose of assessing or intervening with an individual whose behavior may
983 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
984 history record information obtained pursuant to this section or otherwise use any record of an individual
985 beyond the purpose that such disclosure was made to the threat assessment team;
986 26. Executive directors of community services boards or the personnel director serving the
987 community services board for the purpose of determining an individual's fitness for employment,
988 approval as a sponsored residential service provider, or permission to enter into a shared living
989 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
990 §§ 37.2-506 and 37.2-607;
991 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
992 determining an individual's fitness for employment, approval as a sponsored residential service provider,
993 or permission to enter into a shared living arrangement with a person receiving medical assistance
994 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
995 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
996 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
997 name, address, demographics and social security number of the data subject shall be released;
998 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
999 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1000 purpose of determining if any applicant who accepts employment in any direct care position or requests
1001 approval as a sponsored residential service provider or permission to enter into a shared living
1002 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1003 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1004 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1005 37.2-607;
1006 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1007 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1008 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
1009 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1010 for the purpose of determining if any person being considered for election to any judgeship has been
1011 convicted of a crime;
1012 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1013 determining an individual's fitness for employment in positions designated as sensitive under Department
1014 of Human Resource Management policies developed pursuant to § 2.2-1201.1;
1015 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
1016 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
1017 Violent Predators Act (§ 37.2-900 et seq.);
1018 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
1019 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
1020 companies, for the conduct of investigations of applications for employment or for access to facilities,
1021 by contractors, leased laborers, and other visitors;
1022 35. Any employer of individuals whose employment requires that they enter the homes of others, for
1023 the purpose of screening individuals who apply for, are offered, or have accepted such employment;
1024 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
1025 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
1026 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
1027 subject to the restriction that the data shall not be further disseminated by the agency to any party other
1028 than a federal or state authority or court as may be required to comply with an express requirement of
1029 law for such further dissemination, subject to limitations set out in subsection G;
1030 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
1031 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
1032 or have accepted a position related to the provision of transportation services to enrollees in the
1033 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
1034 program administered by the Department of Medical Assistance Services;
1035 38. The State Corporation Commission for the purpose of investigating individuals who are current
1036 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
1037 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
1038 other provision of law, if an application is denied based in whole or in part on information obtained
1039 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
1040 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
1041 its designee;
1042 39. The Department of Professional and Occupational Regulation for the purpose of investigating

1043 individuals for initial licensure pursuant to § 54.1-2106.1;
1044 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
1045 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
1046 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
1047 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
1048 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
1049 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
1050 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
1051 43. The Department of Social Services and directors of local departments of social services for the
1052 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
1053 or a local department of social services for the provision of child care services for which child care
1054 subsidy payments may be provided;
1055 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
1056 a juvenile's household when completing a predispositional or postdispositional report required by §
1057 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
1058 45. The State Corporation Commission, for the purpose of screening applicants for insurance
1059 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and
1060 46. Other entities as otherwise provided by law.
1061 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
1062 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
1063 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
1064 designated in the order on whom a report has been made under the provisions of this chapter.
1065 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
1066 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
1067 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
1068 copy of conviction data covering the person named in the request to the person making the request;
1069 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
1070 making of such request. A person receiving a copy of his own conviction data may utilize or further
1071 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
1072 subject, the person making the request shall be furnished at his cost a certification to that effect.
1073 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
1074 section shall be limited to the purposes for which it was given and may not be disseminated further.
1075 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
1076 history record information for employment or licensing inquiries except as provided by law.
1077 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
1078 Exchange prior to dissemination of any criminal history record information on offenses required to be
1079 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
1080 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
1081 where time is of the essence and the normal response time of the Exchange would exceed the necessary
1082 time period. A criminal justice agency to whom a request has been made for the dissemination of
1083 criminal history record information that is required to be reported to the Central Criminal Records
1084 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
1085 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
1086 made by the criminal justice agency maintaining the record as required by § 15.2-1722.
1087 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
1088 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
1089 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.
1090 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
1091 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
1092 for any offense specified in § 63.2-1720.
1093 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
1094 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
1095 definition of barrier crime in § 19.2-392.02.
1096 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
1097 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
1098 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
1099 the request to the employer or prospective employer making the request, provided that the person on
1100 whom the data is being obtained has consented in writing to the making of such request and has
1101 presented a photo-identification to the employer or prospective employer. In the event no conviction data
1102 is maintained on the person named in the request, the requesting employer or prospective employer shall
1103 be furnished at his cost a certification to that effect. The criminal history record search shall be
1104 conducted on forms provided by the Exchange.

1105 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
1106 information pursuant to the rules of court for obtaining discovery or for review by the court.
1107 **§ 37.2-304. Duties of Commissioner.**
1108 The Commissioner shall be the chief executive officer of the Department and shall have the
1109 following duties and powers:
1110 1. To supervise and manage the Department and its state facilities.
1111 2. To employ the personnel required to carry out the purposes of this title.
1112 3. To make and enter into all contracts and agreements necessary or incidental to the performance of
1113 the Department's duties and the execution of its powers under this title, including contracts with the
1114 United States, other states, and agencies and governmental subdivisions of the Commonwealth,
1115 consistent with policies and regulations of the Board and applicable federal and state statutes and
1116 regulations.
1117 4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the
1118 United States government, agencies and instrumentalities thereof, and any other source, subject to the
1119 approval of the Governor. To these ends, the Commissioner shall have the power to comply with
1120 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with
1121 policies and regulations of the Board.
1122 5. To accept, execute, and administer any trust in which the Department may have an interest, under
1123 the terms of the instruments creating the trust, subject to the approval of the Governor.
1124 6. To transfer between state hospitals and training centers school-age individuals who have been
1125 identified as appropriate to be placed in public school programs and to negotiate with other school
1126 divisions for placements in order to ameliorate the impact on those school divisions located in a
1127 jurisdiction in which a state hospital or training center is located.
1128 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,
1129 established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical
1130 incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities
1131 and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to
1132 § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the
1133 Department within 15 working days of the critical incident, serious injury, or death.
1134 8. To work with the appropriate state and federal entities to ensure that any individual who has
1135 received services in a state facility for more than one year has possession of or receives prior to
1136 discharge any of the following documents, when they are needed to obtain the services contained in his
1137 discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days
1138 from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a
1139 social security card from the Social Security Administration. State facility directors, as part of their
1140 responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.
1141 9. To work with the Department of Veterans Services and the Department for Aging and
1142 Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia
1143 veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces
1144 Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.
1145 10. To establish and maintain a pharmaceutical and therapeutics committee composed of
1146 representatives of the Department of Medical Assistance Services, state facilities operated by the
1147 Department, community services boards, at least one health insurance plan, and at least one individual
1148 receiving services to develop a drug formulary for use at all community services boards, state facilities
1149 operated by the Department, and providers licensed by the Department.
1150 11. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to
1151 § 37.2-312.2.
1152 12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and
1153 the Chairmen of the House Appropriations and Senate Finances Committees that provides information
1154 on the operation of Virginia's publicly funded behavioral health and developmental services system. The
1155 report shall include a brief narrative and data on the number of individuals receiving state facility
1156 services or community services board services, including purchased inpatient psychiatric services; the
1157 types and amounts of services received by these individuals; and state facility and community services
1158 board service capacities, staffing, revenues, and expenditures. The annual report shall describe major
1159 new initiatives implemented during the past year and shall provide information on the accomplishment
1160 of systemic outcome and performance measures during the year.
1161 *13. To administer the Problem Gambling Treatment and Support Fund established pursuant to §*
1162 *37.2-314.1.*
1163 Unless specifically authorized by the Governor to accept or undertake activities for compensation, the
1164 Commissioner shall devote his entire time to his duties.
1165 ***§ 37.2-314.1. Problem Gambling Treatment and Support Fund.***

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

CHAPTER 40.

VIRGINIA LOTTERY LAW*; DOMINANT SKILL VIDEO GAMES.*

Article 1.

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

§ 58.1-4000. Short title.

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

§ 58.1-4002. Definitions.

For the purposes of this chapter:

"Board" means the Virginia Lottery Board established by this chapter.

"Department" means the independent agency responsible for the administration of the Virginia Lottery created in this ~~chapter~~ *article and the regulation of dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.).*

"Director" means the Director of the Virginia Lottery.

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

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

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer ~~the~~*:*

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

2. The regulation of dominant skill video games in accordance with Article 2 (§ 58.1-4030 et seq.) and with the rules and regulations promulgated hereunder.

B. The Director shall also:

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

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

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

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

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

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

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

8. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate *Committee on* Finance ~~Committee~~, House *Committee on* Finance ~~Committee~~ and House *Committee on* Appropriations ~~Committee~~ the total lottery revenues, prize disbursements, and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of

lottery revenues, prize disbursements, and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this ~~chapter~~ *article* as the Director and Board deem necessary or desirable.

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

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

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

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

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

§ 58.1-4007. Powers of the Board.

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

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

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

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

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

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

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

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

8. The method to be used in selling tickets or shares.

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

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

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

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

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

14. The operation of dominant skill video games pursuant to Article 2 (§ 58.1-4030 et seq.).

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

The Board shall have the power to advise and recommend, but shall have no power to veto or

modify administrative decisions of the Director. However, the Board shall have the power to accept, modify or reject any revenue projections before such projections are forwarded to the Governor.

B. The Board shall carry on a continuous study and investigation of the lottery *and dominant skill video games* throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery *or the regulation of dominant skill video games* and any evasions of such provisions.

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

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

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

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

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

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

§ 58.1-4012. Suspension and revocation of licenses.

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

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;

2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;

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

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

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

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

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

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

9. Other factors established by Department regulation.

§ 58.1-4027. Judicial review.

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

Article 2.

Dominant Skill Video Games.

§ 58.1-4030. Definitions.

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

"Approved game" means game software that has been approved the Director pursuant to § 58.1-4039.

"Distributor" means any person that (i) creates and sells or leases approved game software and terminal collection and control software to manufacturer licensees for assembly by such manufacturer into terminals, (ii) sells or leases dominant skill video games to operator licensees, (iii) maintains the dominant skill video games that the distributor provides to operator licensees, and (iv) sells fills to operator licensees.

"Dominant skill video game" means a game system with game software (i) in which the outcome is based on an individual's use of strategy and skill rather than any inherent element of chance; (ii) that requires the use of skill in each play and throughout the course of a session in order for the player to win a prize; (iii) that enables a player to preview the next game outcome without consideration; (iv) that is such that the general public can learn to score and win prizes; and (v) that, in the event that a player utilizes a perfect play strategy, such player has the ability, on every play, to win more prize money than such player spent to initiate a single game play.

"Fill" means a software license renewal that grants additional game plays and is sold by a distributor to an operator. One fill is capable of generating $10,000 in gross profits.

"Game system" means the combination of game software and the terminal collection and control system that is assembled into a terminal by a manufacturer.

"Host location" means an establishment at which dominant skill video games are placed and offered to the public for play.

"Individual" means a natural person.

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

"Manufacturer" means any person who (i) purchases or leases approved game software and terminal collection and control systems from a distributor, (ii) creates game systems by assembling terminals and installing such software into the terminals, and (iii) sells or leases such game systems to operator licensees.

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

"Operator" means a person that (i) purchases or leases dominant skill video games from distributor licensees, (ii) provides dominant skill video games to host location licensees, (iii) maintains such games, (iv) purchases fills from distributor licensees, (v) sells fills to location host licensees, and (vi) is responsible for on-site data collection and accounting.

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

"Player" means an individual who plays a dominant skill video game.

"Quick response code" or "QR code" means a pattern of black and white squares that form a two-dimensional barcode that is embedded with information and that, when scanned by a scanner or smartphone, provides the information in a visual format.

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

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

"Successful player" means an individual who wins on one or more plays of a dominant skill video game.

"Terminal" means the video game or other computer device that houses the game software.

"Terminal collection and control system" means a combination of hardware and software components that are not directly connected to the Internet, that are provided by a distributor and installed as part of all game systems, and that monitor all gaming activities and report true and accurate records of the information required by § 58.1-4032.

"Ticket redemption terminal" means a terminal where a bearer scrip dispensed by a dominant skill video game may be redeemed for cash. Such terminals shall only dispense cash after the player seeking to redeem the bearer scrip has validated his age by scanning his state-issued driver's license or identification card.

§ 58.1-4031. Powers and duties of the Director related to dominant skill video games; reporting.

A. The Director shall have the following additional powers and duties related to the regulation of dominant skill video games:

1. Issue licenses under this article, and supervise all activities licensed under the provisions of this article, including the manufacturing, distributing, operating, hosting, and playing of dominant skill video games.

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

1412 *3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of*
1413 *any licensee, and compel the production of any books, documents, records, or memoranda of any*
1414 *licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied*
1415 *with.*
1416 *4. Order such audits as deemed necessary.*
1417 *5. Certify monthly to the State Comptroller and the Board a full and complete statement of dominant*
1418 *skill video game revenue and expenses for the previous month;*
1419 *6. Assess and collect civil penalties for violations of this article and Board regulations;*
1420 *7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate*
1421 *Committee on Finance, House Committee on Finance, and House Committee on Appropriations the total*
1422 *dominant skill video game revenues and expenses for the previous month and make an annual report,*
1423 *which shall include a full and complete statement of dominant skill video game revenues and expenses,*
1424 *to the Governor and the General Assembly, including recommendations for changes in this article as the*
1425 *Director and Board deem prudent; and*
1426 *8. Do all acts necessary and advisable to carry out the purposes of this article.*
1427 *B. The Director may require bond or other surety satisfactory to the Director from license holders in*
1428 *such amount as provided in the rules and regulations of the Board adopted under this article;*
1429 ***§ 58.1-4032. Powers and duties of the Board related to dominant skill video games.***
1430 *In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate*
1431 *regulations related to dominant skill video games that:*
1432 *1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient*
1433 *for the administration of this article;*
1434 *2. Provide a schedule of application, license, and renewal fees;*
1435 *3. Establish requirements for all licensees under this article for the form, content, and retention of*
1436 *all records and accounts;*
1437 *4. Establish a process for the approval or disapproval of dominant skill video games and games*
1438 *offered on such machines;*
1439 *5. Require inspections of all licensees at a frequency determined by the Board; and*
1440 *6. Establish a program of periodic testing and inspection for all dominant skill video games.*
1441 ***§ 58.1-4033. Licenses that may be granted by the Director.***
1442 *The Director may grant the following licenses:*
1443 *1. Manufacturer license, which shall authorize the licensee to (i) purchase or lease approved game*
1444 *software and terminal collection and control systems from a distributor, (ii) create games systems by*
1445 *assembling terminals and installing such software and systems into the terminals, and (iii) sell or lease*
1446 *such games systems to operator licensees.*
1447 *2. Distributor license, which shall authorize the licensee to (i) create and sell or lease approved*
1448 *game software and terminal collection and control systems to manufacturer licensees for assembly by*
1449 *such manufacturer into terminals, (ii) sell or lease dominant skill video games to operator licensees, (iii)*
1450 *maintain the dominant skill video games that the distributor provides to operator licensees, and (iv) sell*
1451 *fills to operator licensees.*
1452 *3. Operator license, which shall authorize the licensee to (i) purchase or lease dominant skill video*
1453 *games from distributor licensees, (ii) provide dominant skill video games to host location licensees, (iii)*
1454 *maintain such games, (iv) purchase fills from distributor licensees, and (v) sell fills to location host*
1455 *licensees.*
1456 *4. Host location licensee, which shall authorize the licensee to allow the placement and offering for*
1457 *play by the public of dominant skill video games at such licensee's establishment. The primary business*
1458 *of a host location licensee shall not be the offering for play of dominant skill video games. Host*
1459 *locations may use fills provided by an operator licensee.*
1460 ***§ 58.1-4034. General licensing requirements; penalty.***
1461 *A. An applicant for a manufacturer, distributor, operator, or host location license shall submit an*
1462 *application to the Director on forms provided by the Director, accompanied by the following fees:*
1463 *1. $100,000 for a manufacturer license;*
1464 *2. $1 million for a distributor license;*
1465 *3. $50,000 for an operator license; or*
1466 *4. $250 for a host location license.*
1467 *B. The chief security officer of the Virginia Lottery shall conduct a background investigation, to*
1468 *include a Virginia criminal history records search and fingerprinting, that shall be submitted to the*
1469 *Federal Bureau of Investigation if the Director deems a national criminal records search is necessary,*
1470 *on applicants for licensure pursuant to this article.*
1471 *C. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license*
1472 *issued pursuant to this article to any person who has been (i) convicted of a crime involving moral*
1473 *turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud*

or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in conduct prejudicial to public confidence in the Lottery and dominant skill video games.

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

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

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

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

3. The Director reasonably believes that the applicant will be unable to maintain effective security to prevent violations of this article;

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

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

6. The applicant's license to manufacture, distribute, operate, or host a dominant skill video game issued by any other jurisdiction has been suspended or revoked;

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

8. The applicant's application is incomplete.

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

§ 58.1-4035. Multiple licenses granted to one person permitted; exceptions; transferability of licenses.

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

B. A person may be issued both a manufacturer license and a distributor license, provided such person meets the requirements for obtaining both licenses and pays all applicable fees associated with each license.

C. A person may be issued both a manufacturer license and an operator license, provided such person meets the requirements for obtaining both licenses and pays all applicable fees associated with each license.

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

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

F. Licenses issued pursuant to this article may be sold by the licensee, provided the license is sold to a person permitted to possess such license pursuant to this section and license purchaser otherwise meets all requirements of this article and Board regulations promulgated thereunder.

§ 58.1-4036. License posting; expiration; renewal.

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

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

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

D. The Director may grant licenses for one year or for multiple years, not to exceed three years.

1535 *Qualifications for a multiyear license shall be determined on the basis of criteria established by the*
1536 *Director. Fees for multiyear licenses shall not be refundable.*
1537 *E. At least 60 days before the expiration of a license, the license holder may submit a renewal*
1538 *application, on forms prescribed by the Director, along with the following renewal fee:*
1539 *1. $10,000 for a manufacturer license;*
1540 *2. $100,000 for a distributor license;*
1541 *3. $5,000 for an operator license; or*
1542 *4. $250 for a host location license.*
1543 *The Director may deny a license renewal if he finds grounds for denial as described in § 58.1-4034.*
1544 ***§ 58.1-4037. Suspension and revocation of licenses; civil penalties; hearing and appeal.***
1545 *A. If the Director determines that any provision of this article, or any regulation or condition of the*
1546 *Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days'*
1547 *notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed*
1548 *$100,000 and (ii) suspend or revoke the license holder's license. If any license or permit is suspended or*
1549 *revoked, the Director shall state its reasons for doing so, which shall be entered of record.*
1550 *B. Any person aggrieved by a refusal of the Director to issue any license or permit, the suspension*
1551 *or revocation of a license or permit, the imposition of a fine, or any other action of the Director may*
1552 *seek review of such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative*
1553 *Process Act in the Circuit Court of the City of Richmond. Further appeals shall also be in accordance*
1554 *with Article 5 of the Administrative Process Act.*
1555 *C. Suspension or revocation of a license or permit by the Director for any violation shall not*
1556 *preclude criminal liability for such violation.*
1557 ***§ 58.1-4038. Requirement for written contract between distributor and associated licensees.***
1558 *A. No manufacturer licensee, operator licensee, or host location licensee may do business with a*
1559 *distributor licensee unless such manufacturer licensee, operator licensee, or host location licensee has*
1560 *entered into a written contract with the distributor licensee setting forth the terms and conditions of*
1561 *their business operations together.*
1562 *B. A copy of the written contract shall be maintained in the business office of both contracting*
1563 *licensees and shall be available at all times for inspection by the Director.*
1564 *C. The written contract between the distributor licensee and its associated manufacturer, operator,*
1565 *and host location licensees shall provide for the following allocation of gross profits:*
1566 *1. A host location licensee shall receive 40 percent of the gross profits received from the play of*
1567 *dominant skill video games placed at its establishment;*
1568 *2. An operator licensee shall receive 40 percent of the gross profits received from the play of*
1569 *dominant skill video games that it has placed with a host location; and*
1570 *3. The distributor licensee and the manufacturer licensee combined shall receive the remaining 20*
1571 *percent of the gross profits received from the dominant skill video games that such manufacturer has*
1572 *manufactured and such distributor has distributed. The distributor licensee and manufacturer licensee*
1573 *shall agree within the written contract as to the allocation of the gross profits among the two licensees.*
1574 ***§ 58.1-4039. Requirements of game software; approval of game software by the Director.***
1575 *A. In addition to meeting the definition of dominant skill video game under this article, game*
1576 *software shall also be programmed (i) such that winnings may only be provided by the ejection of a*
1577 *bearer scrip, and not cash; (ii) to expire after gross profits from game play exceed $10,000; (iv) so that*
1578 *the maximum price to play an individual game shall not exceed $5; (v) so that the maximum allowable*
1579 *winnings for a single play shall not exceed $5,000; (vi) so that the version of the software or other*
1580 *identifying nomenclature of the software is easily identifiable and accurate; and (vii) meet such other*
1581 *requirements that are prescribed by Board regulations.*
1582 *B. No game software shall be installed into a terminal and subsequently offered for play by the*
1583 *public as a dominant skill video game in the Commonwealth unless such game software has first been*
1584 *approved by the Director.*
1585 *C. Before selling, leasing, or otherwise distributing game software to a manufacturer for installation*
1586 *into a game system, a distributor shall provide a prototype or production sample of such software to an*
1587 *independent testing laboratory, which shall evaluate and certify whether such software meets the*
1588 *definition of a dominant skill video game under § 58.1-4030 and the requirements of this section.*
1589 *The report of the independent testing laboratory shall be submitted by the distributor to the Director.*
1590 *The Director shall use the report in evaluating whether the game software shall be approved under this*
1591 *article.*
1592 *If at any time a distributor makes a substantive change to any game software that has previously*
1593 *been approved by the Director, such distributor shall resubmit the game software to the Director in a*
1594 *manner prescribed by Board regulation.*
1595 ***§ 58.1-4040. Requirements for terminal collection and control systems.***
1596 *A. Each distributor shall develop a terminal collection and control system that monitors all gaming*

activities and reports true and accurate records of the number of all dominant skill video games placed at host locations in the Commonwealth, the location of all dominant skill video games placed at host locations in the Commonwealth; cash in, payouts, points played, points won, net terminal income, the number of plays of the game, the amounts paid to play the game, the number of fills sold, the amount of revenue derived by fills, all taxes accrued and paid, and any other information required by Board regulations.

B. A terminal collection and control system shall be installed into every dominant skill video game and used by the game's distributor to meet the reporting and tax requirements imposed by this article.

§ 58.1-4041. Requirements for game systems.

A. Game systems shall:

1. Be equipped with the ability to accept currency;

2. Distribute winnings by ejection of bearer scrip that shall be redeemable for cash only through a ticket redemption terminal located at the host location where the dominant skill video game is located. Cash shall not be dispensed directly from the game system;

3. Not be connected to directly to the Internet. Game systems may be connected to a local area network (LAN);

4. Have no external data ports or disc drives located outside of a locked area within the terminal, except as may be required by the Director to accommodate inspections by the Director, employees of the Department, or law-enforcement authorities;

5. Be assigned a unique terminal identification number;

6. Have a prominently displayed QR code. Such code shall be capable of being scanned only by the Director, employees of the Department, or law-enforcement authorities, and shall be embedded with the (i) terminal identification number and (ii) name and contact information of the manufacturer, distributor, operator, and assigned location host of the game system;

7. Utilize software fills;

8. Prominently display the rules of play of the game, either on the game system itself or on the game screens; and

9. Be equipped with a terminal collection and control system that meets the requirements of § 58.1-4040.

B. Games systems installed with approved game software shall prominently display the following statement printed in bold print and in a clear and legible fashion: "THIS GAME IS LICENSED BY THE COMMONWEALTH OF VIRGINIA."

§ 58.1-4042. Inspections.

The Director, employees of the Department, and law-enforcement authorities shall have the right to inspect at any time any dominant skill video game sold, leased, hosted, or otherwise distributed or possessed by a manufacturer, distributor, operator, or host location licensee for compliance with the provisions of this chapter and Board regulations.

The Director, employees of the Department, or law-enforcement authorities shall be permitted to conduct a field inspection of the game software using instructions provided by the distributor or take possession of the entire dominant skill video game and transport it to a different location to conduct a detailed forensic or laboratory examination.

If the Director, employees of the Department, or law-enforcement authorities determine that such dominant skill video game does not meet the requirements of this chapter or Board regulations, the Director shall have the authority to immediately require that the manufacture, distribution, operation, hosting, and use of such dominant skill video game be immediately discontinued.

§ 58.1-4043. Requirements of manufacturer licensees.

A. Manufacturer licensees shall be required to maintain a warehouse facility in the Commonwealth with at least 10,000 square feet of storage space for the storage of dominant skill video games that is secured by an independently monitored security system that is capable of detecting and reporting fires and unauthorized intrusions into the premises.

B. On or before the seventh day of each month, each manufacturer shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number of game systems that it has sold or leased to the distributor during the preceding calendar month;

2. The number of game systems in its inventory that have not been sold or licensed by it to a distributor; and

3. Any additional information required by the distributor from manufacturer licensees according to Board regulations.

§ 58.1-4044. Requirements of distributor licensees.

A. Distributor licensees shall be responsible for:

1. Monitoring and managing all market activities of the manufacturer, operator, and host location

1658 *licensees with which it has entered into a written contract, and reporting such information as may be*
1659 *required by the Director or Board regulations on behalf of all such licensees;*
1660 *2. Collecting and remitting the tax owed by it pursuant to § 58.1-4048, as well as the taxes owed by*
1661 *the manufacturer, operator, and host location licensees with which it has entered into a written*
1662 *contract;*
1663 *3. Employing an internal compliance team composed of individuals with prior law-enforcement*
1664 *experience. Such compliance team shall (i) monitor compliance with and enforce the provisions of the*
1665 *written contracts in existence between the distributor licensee and its associated licensees, including the*
1666 *code of conduct included in each written contract, and (ii) ensure compliance by the distributor and its*
1667 *affiliated businesses with the provisions of this chapter and Board regulations; and*
1668 *4. Arranging for a yearly independent audit of its business conducted by an independent auditing*
1669 *firm selected by the Director. The cost of such audit shall not exceed $250,000.*
1670 *B. On or before the fifteenth day of each month, each distributor shall submit a report to the*
1671 *Director detailing:*
1672 *1. All revenues derived by the distributor from the sale of fills to operators;*
1673 *2. All revenues derived by the distributor and its associated licensees from the play of dominant skill*
1674 *video games;*
1675 *3. Information concerning game play and hardware statistics;*
1676 *4. Information on the number and location of all dominant skill video games owned by the*
1677 *distributor and its associated licensees; and*
1678 *5. Any additional information required by Board regulations.*
1679 *C. By January 30 of each year, each distributor shall submit an annual report to the Director with*
1680 *the following information:*
1681 *1. The number and terminal identification numbers of all dominant skill video games purchased by*
1682 *the distributor from a manufacturer licensee;*
1683 *2. The number and type of dominant skill video games that operators placed at host locations;*
1684 *3. The number, terminal identification number, and type of dominant skill video games that the*
1685 *distributor and each of its associated licensees had in inventory as of December 31;*
1686 *4. The number of dominant skill video games in operation in each county; and*
1687 *5. Any additional information required by Board regulations.*
1688 *Such monthly report shall also include the monthly reports submitted to the distributor by the*
1689 *manufacturer, operator, and host location licensees that are associated with the distributors.*
1690 ***§ 58.1-4045. Requirements of operator licensees.***
1691 *A. Each distributor licensee shall provide each host location to which it provides dominant skill*
1692 *video games with a video camera security system that has been approved by the distributor of the*
1693 *dominant skill video game and that monitors all dominant skill video games that have been placed at*
1694 *such host location. The purpose of such video camera security system shall be to create a safe*
1695 *environment for the public and to provide a visible deterrent against any criminal activity by the public*
1696 *or employees of the host location. The video camera security system shall (i) record all play of*
1697 *dominant skill video games within such location and retain such recordings for a minimum of at least*
1698 *60 days; (ii) record remotely to a website; (iii) record in color at a frame rate of at least 30 frames per*
1699 *second, and have infrared support for periods of darkness; and (iv) enable the Director, employees of*
1700 *the Department, law-enforcement authorities, and the distributor's compliance team to remotely retrieve*
1701 *and view such recordings.*
1702 *B. On or before the seventh day of each month, each operator shall submit a report to the*
1703 *distributor with whom it has entered into a written contract detailing:*
1704 *1. The number and type of each dominant skill video game that the operator has in its inventory;*
1705 *2. The number and type of each dominant skill video game that the operator has placed on the*
1706 *premises of host locations;*
1707 *3. The number of fills that the operator has sold to host locations; and*
1708 *4. Any additional information required from operator licensees by the distributor or Board*
1709 *regulations.*
1710 ***§ 58.1-4046. Requirements of host location licensees.***
1711 *A. The following locations are eligible to receive a host location license:*
1712 *1. Establishments licensed to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of*
1713 *Title 4.1;*
1714 *2. Qualified organizations permitted to conduct charitable gaming pursuant to Chapter 8 (§*
1715 *18.2-340.15 et seq.) of Title 18.2; and*
1716 *3. Truck stops.*
1717 *As used in this subsection, "truck stop" means an establishment (i) that is equipped with diesel*
1718 *islands used for fueling commercial motor vehicles; (ii) has sold, on average, at least 50,000 gallons of*
1719 *diesel or biodiesel fuel each month for the previous 12 months, or is projected to sell an average of at*

least 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months; (iii) has parking spaces dedicated to commercial motor vehicles; (iv) has a convenience store; and (v) is situated on not less than three acres of land that the establishment owns or leases.

B. No more than five dominant skill video games may be located in an establishment listed in subdivision A 1 or 2. No more than 10 dominant skill video games may be located in an establishment listed in subdivision A 3.

C. No host location licensee shall derive more than 50 percent of such location's monthly gross receipts from the play of dominant skill video games.

D. On or before the seventh day of each month, each host location shall submit a report to the distributor with whom it has entered into a written contract detailing:

1. The number and type of each dominant skill video game that the location host is hosting;

2. The number of fills and amount paid for such fills that the location host has purchased from an operator;

3. The gross profits of each dominant skill video game that the location hosts;

4. The overall gross receipts of the business operated by the location host; and

5. Any additional information required from operator licensees by the distributor or Board regulations.

§ 58.1-4047. Local regulation of dominant skill video games.

No locality may approve zoning or land use requirements that restrict or prohibit the placement or use of dominant skill video games in any zoning district that allows the sale of alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of Title 4.1, the sale of lottery tickets or shares pursuant to Chapter 40 (§ 58.1-4000 et seq.) of Title 58.1, or pari-mutuel wagering pursuant to Chapter 29 (§ 59.1-364 et seq.) of Title 59.1.

§ 58.1-4048. Tax on gross profits.

A. In addition to any taxes imposed pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1, there shall be imposed a tax of 20 percent on all gross profits generated from the play of dominant skill video games and the sale of fills by distributor licensees to operator licensees.

B. The tax imposed pursuant to this section is due monthly to the Department, and the distributor licensee shall remit it on or before the twentieth day of the next succeeding calendar month. If the distributor licensee's accounting necessitates corrections to a previously remitted tax, such licensee shall document such corrections when remitting the following month's taxes.

§ 58.1-4049. Distribution of tax revenue.

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

B. The Department shall allocate 10 percent of the tax revenue collected pursuant to § 58.1-4048 to the locality in which the revenue was generated. For the purposes of this section, "the locality in which the revenue was generated" means the location of the dominant skill video game at which the revenue subject to tax pursuant to this article was generated.

C. The Department shall allocate 65 percent of the tax revenue collected pursuant to § 58.1-4048 to the Dominant Skill Video Game Education Support Fund established pursuant to § 58.1-4050.

D. The Department shall allocate the remaining 24.5 percent of the tax revenue collected pursuant to § 58.1-4048 to the general fund. From this amount, a sum sufficient shall be appropriated to fund the operations of the Board related to the administration and regulation of dominant skill video games pursuant to this article.

§ 58.1-4050. Dominant Skill Video Game Education Support Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Dominant Skill Video Game Education Support Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues allocated by the Department under § 58.1-4049 for deposit into the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of public education. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Board.

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

A. No person shall:

1. Purchase or lease approved game software and terminal collection and control systems from a distributor; create game systems by assembling terminals and installing such software and systems into the terminals; or sell or lease such game systems to operator licensees without a manufacturer license issued by the Director.

2. Create and sell or lease approved game software and terminal collection and control systems to manufacturer licensees for assembly by such manufacturer into terminals; sell or lease dominant skill video games to operator licensees; maintain the dominant skill video games that the distributor provides to operator licensees; or sell fills to operator licensees without a distributor license issued by the Director.

3. Purchase or lease dominant skill video games from distributor licensees; provide dominant skill video games to host location licensees; maintain such games; purchase fills from distributor licensees; or sell fills to location host licensees without an operator license issued by the Director.

4. Allow the placement and offering for play by the public of dominant skill video games at such licensee's establishment without a host location licensee issued by the Director.

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

§ 58.1-4052. Underage play prohibited; penalty.

No person shall play any dominant skill video game unless such person is 18 years of age or older.

A violation of this section is a Class 1 misdemeanor.

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

A. No host location licensee shall:

1. Permit any person who is not 18 years of age or older to play a dominant skill video game;

2. Redeem any bearer scrip for a prize from any person who is not 18 years of age or older;

3. Give any prize for the play of dominant skill video games that is not authorized by this article;

4. Give any prize for the play of dominant skill video games that is redeemable at a location other than the host location licensee's premises; or

5. Have on its premises more dominant skill video games than permitted by § 58.1-4046.

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

§ 58.1-4054. Illegal tampering with dominant skill video games; penalty.

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

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

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

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

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

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

2. That the Virginia Lottery Board's initial adoption of regulations necessary to implement the provisions of this act shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Virginia Lottery Board shall provide an opportunity for public comment on the regulations prior to adoption.

3. That the games of a profit corporation incorporated in the state of Wyoming on November 15, 2000, that were approved for purposes of compliance with alcoholic beverage control laws and regulation by the Deputy Chief of Operations of the Virginia Alcoholic Beverage Control Authority's Bureau of Enforcement on July 7, 2017, and that were offered for play by the public on March 31, 2019, shall be deemed approved games under § 58.1-4039 of the Code of Virginia, as created by this act.

4. That the entity described in the third enactment of this act and any associated manufacturers, distributors, operators, and host locations with which such entity had contracted as of January 1, 2020, may continue to operate after the effective date of this act and shall be eligible to receive a provisional license from the Virginia Lottery Board, provided such entities apply to the Board for such provisional licenses within 60 days of the effective date of this act. The Board shall issue such provisional licenses as soon as practicable, but no later than 90 days after the effective date of this act. The Board shall develop and implement a plan to begin issuing licenses to all other applicants seeking licensure under § 58.1-4033 of the Code of Virginia, as created by this act, by January 1, 2021.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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SENATE BILL NO. 1063

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology on January 29, 2020)

(Patron Prior to Substitute—Senator McPike)

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

Be it enacted by the General Assembly of Virginia:

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

§ 2.2-419. Definitions.

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

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;

2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;

3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;

4. A stock, bond, note, or other investment interest in an entity;

5. A receipt given for the payment of money or other property;

6. A right in action;

7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;

8. A loan or forgiveness of indebtedness;

9. A work of art, antique, or collectible;

10. An automobile or other means of personal transportation;

11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;

12. An honorarium or compensation for services;

13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;

14. A promise or offer of employment; or

15. Any other thing of value that is pecuniary or compensatory in value to a person.

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

"Compensation" means:

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

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

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SENATE SUBSTITUTE

SB1063S1

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

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

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

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

"Executive official" means:

1. The Governor;

2. The Lieutenant Governor;

3. The Attorney General;

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

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

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

"Expenditure" means:

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

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

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

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

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

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

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

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

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

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

"Gift" does not mean:

1. Printed informational or promotional material;

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

3. A devise or inheritance;

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

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

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

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

8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;

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

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

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

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

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

"Legislative action" means:

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

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

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

"Legislative official" means:

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

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

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

"Lobbying" means:

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

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

"Lobbying" does not mean:

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

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

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

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

"Lobbyist" means:

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

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

3. A local government employee who lobbies.

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

"Local government" means:

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

2. Any school division;

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

183 4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of
184 this definition.
185 "Local government employee" means a public employee of a local government.
186 "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company,
187 syndicate, business trust, estate, company, corporation, association, club, committee, organization, or
188 group of persons acting in concert.
189 "Procurement transaction" means all functions that pertain to obtaining all goods, services, or
190 construction on behalf of an executive agency, including description of requirements, selection and
191 solicitation of sources, preparation and award of contract, and all phases of contract administration
192 where the stated or expected value of the contract is $5 million or more.
193 "Secretary" means the Secretary of the Commonwealth.
194 "Value" means the actual cost or fair market value of an item or items, whichever is greater. If the
195 fair market value cannot be determined, the actual amount paid for the item or items shall be given
196 consideration.
197 "Widely attended event" means an event at which at least 25 persons have been invited to attend or
198 there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
199 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
200 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.
201 **§ 2.2-2905. Certain officers and employees exempt from chapter.**
202 The provisions of this chapter shall not apply to:
203 1. Officers and employees for whom the Constitution specifically directs the manner of selection;
204 2. Officers and employees of the Supreme Court and the Court of Appeals;
205 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either
206 house thereof is required or not;
207 4. Officers elected by popular vote or by the General Assembly or either house thereof;
208 5. Members of boards and commissions however selected;
209 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of
210 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and
211 notaries public;
212 7. Officers and employees of the General Assembly and persons employed to conduct temporary or
213 special inquiries, investigations, or examinations on its behalf;
214 8. The presidents and teaching and research staffs of state educational institutions;
215 9. Commissioned officers and enlisted personnel of the National Guard;
216 10. Student employees at institutions of higher education and patient or inmate help in other state
217 institutions;
218 11. Upon general or special authorization of the Governor, laborers, temporary employees, and
219 employees compensated on an hourly or daily basis;
220 12. County, city, town, and district officers, deputies, assistants, and employees;
221 13. The employees of the Virginia Workers' Compensation Commission;
222 14. The officers and employees of the Virginia Retirement System;
223 15. Employees whose positions are identified by the State Council of Higher Education and the
224 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the
225 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of
226 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The
227 Library of Virginia, and approved by the Director of the Department of Human Resource Management
228 as requiring specialized and professional training;
229 16. Employees of the Virginia Lottery *and Gaming Department*;
230 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing
231 and service industries who have a human resources classification of industry worker;
232 18. Employees of the Virginia Commonwealth University Health System Authority;
233 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for
234 such employees shall be subject to the review and approval of the Board of Visitors of the University of
235 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia
236 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the
237 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
238 20. In executive branch agencies the employee who has accepted serving in the capacity of chief
239 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential
240 assistant for policy or administration. An employee serving in either one of these two positions shall be
241 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve
242 in this exempt capacity;
243 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the
244 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

22. Officers and employees of the Virginia Port Authority;

23. Employees of the Virginia College Savings Plan;

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

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

26. Employees of the Virginia Indigent Defense Commission;

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

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

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

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

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

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

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

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

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

306 governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for
307 public inspection such declaration for a period of five years from the date of recording or receipt. If
308 reasonable time is not available to comply with the provisions of this subsection prior to participation in
309 the transaction, the officer or employee shall prepare and file the required declaration by the end of the
310 next business day.
311 G. An officer or employee of state government who is required to declare his interest pursuant to
312 subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a
313 party to the transaction is a client of his firm, (iii) that he does not personally represent or provide
314 services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in
315 the public interest. The officer or employee shall either make his declaration orally to be recorded in
316 written minutes for his agency or file a signed written declaration with the clerk or administrative head
317 of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make
318 available for public inspection such declaration for a period of five years from the date of recording or
319 receipt. If reasonable time is not available to comply with the provisions of this subsection prior to
320 participation in the transaction, the officer or employee shall prepare and file the required declaration by
321 the end of the next business day.
322 H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher
323 education in the Commonwealth shall not be required to file the disclosure form prescribed by the
324 Council pursuant to § 2.2-3117 or 2.2-3118.
325 **§ 2.2-3202. Eligibility for transitional severance benefit.**
326 A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia
327 Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act
328 pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16
329 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the
330 Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System,
331 (vi) who is employed by the Virginia Lottery *and Gaming Department*, (vii) who is employed by the
332 Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is
333 employed at a state educational institution as faculty (including, but not limited to, presidents and
334 teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions
335 in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia
336 Personnel Act pursuant to subdivision 3, 20, 23, or 28 of § 2.2-2905; and (a) for whom reemployment
337 with the Commonwealth is not possible because there is no available position for which the employee is
338 qualified or the position offered to the employee requires relocation or a reduction in salary and (b)
339 whose involuntary separation was due to causes other than job performance or misconduct, shall be
340 eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter.
341 The date of involuntary separation shall mean the date an employee was terminated from employment or
342 placed on leave without pay-layoff or equivalent status.
343 B. An otherwise eligible employee whose position is contingent upon project grants as defined in the
344 Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit
345 conferred by this chapter unless the funding source had agreed to assume all financial responsibility
346 therefor in its written contract with the Commonwealth.
347 C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular
348 vote shall not be eligible for the transitional severance benefit conferred by this chapter.
349 D. Eligibility shall commence on the date of involuntary separation.
350 E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the
351 administrative head of an agency shall adhere to the same criteria for eligibility for transitional
352 severance benefits as is required for gubernatorial appointees pursuant to subsection A.
353 **§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative**
354 **investigations.**
355 The following information contained in a public record is excluded from the mandatory disclosure
356 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
357 disclosure is prohibited by law. Redaction of information excluded under this section from a public
358 record shall be conducted in accordance with § 2.2-3704.01.
359 1. Information relating to investigations of applicants for licenses and permits, and of all licensees
360 and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia
361 Lottery *and Gaming Department*, the Virginia Racing Commission, the Department of Agriculture and
362 Consumer Services relating to investigations and applications pursuant to Article 1.1:1 (§ 18.2-340.15 et
363 seq.) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal
364 Justice Services.
365 2. Records of active investigations being conducted by the Department of Health Professions or by
366 any health regulatory board in the Commonwealth pursuant to § 54.1-108.
367 3. Investigator notes, and other correspondence and information, furnished in confidence with respect

368 to an active investigation of individual employment discrimination complaints made to the Department
369 of Human Resource Management, to such personnel of any local public body, including local school
370 boards, as are responsible for conducting such investigations in confidence, or to any public institution
371 of higher education. However, nothing in this subdivision shall prevent the disclosure of information
372 taken from inactive reports in a form that does not reveal the identity of charging parties, persons
373 supplying the information, or other individuals involved in the investigation.
374 4. Records of active investigations being conducted by the Department of Medical Assistance
375 Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.
376 5. Investigative notes and other correspondence and information furnished in confidence with respect
377 to an investigation or conciliation process involving an alleged unlawful discriminatory practice under
378 the Virginia Human Rights Act (§ 2.2-3900 et seq.) or under any local ordinance adopted in accordance
379 with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,
380 1987, in accordance with applicable law, relating to local human rights or human relations commissions.
381 However, nothing in this subdivision shall prevent the distribution of information taken from inactive
382 reports in a form that does not reveal the identity of the parties involved or other persons supplying
383 information.
384 6. Information relating to studies and investigations by the Virginia Lottery *and Gaming Department*
385 of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv)
386 defects in the law or regulations that cause abuses in the administration and operation of the lottery and
387 any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and
388 illegal gambling where such information has not been publicly released, published or copyrighted. All
389 studies and investigations referred to under clauses (iii), (iv), and (v) shall be open to inspection and
390 copying upon completion of the study or investigation.
391 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise
392 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of
393 Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority
394 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and
395 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General
396 with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation
397 initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a
398 state agency or by any public institution of higher education; (vi) the committee or the auditor with
399 respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by
400 the local governing body of any county, city, or town or a school board, who by charter, ordinance, or
401 statute have responsibility for conducting an investigation of any officer, department, or program of such
402 body. Information contained in completed investigations shall be disclosed in a form that does not reveal
403 the identity of the complainants or persons supplying information to investigators. Unless disclosure is
404 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of
405 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to
406 resolve the complaint. If an investigation does not lead to corrective action, the identity of the person
407 who is the subject of the complaint may be released only with the consent of the subject person. Local
408 governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.
409 8. The names, addresses, and telephone numbers of complainants furnished in confidence with
410 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
411 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
412 seq.) made to a local governing body.
413 9. Records of active investigations being conducted by the Department of Criminal Justice Services
414 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.),
415 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.
416 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of
417 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
418 unauthorized alteration, or improper administration of tests by local school board employees responsible
419 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
420 of such information to (i) a local school board or division superintendent for the purpose of permitting
421 such board or superintendent to consider or to take personnel action with regard to an employee or (ii)
422 any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the
423 identity of any person making a complaint or supplying information to the Board on a confidential basis
424 and (b) does not compromise the security of any test mandated by the Board.
425 11. Information contained in (i) an application for licensure or renewal of a license for teachers and
426 other school personnel, including transcripts or other documents submitted in support of an application,
427 and (ii) an active investigation conducted by or for the Board of Education related to the denial,
428 suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses

429 including investigator notes and other correspondence and information, furnished in confidence with
430 respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)
431 application information to the applicant at his own expense or (b) investigation information to a local
432 school board or division superintendent for the purpose of permitting such board or superintendent to
433 consider or to take personnel action with regard to an employee. Information contained in completed
434 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
435 supplying information to investigators. The completed investigation information disclosed shall include
436 information regarding the school or facility involved, the identity of the person who was the subject of
437 the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an
438 investigation fails to support a complaint or does not lead to corrective action, the identity of the person
439 who was the subject of the complaint may be released only with the consent of the subject person. No
440 personally identifiable information regarding a current or former student shall be released except as
441 permitted by state or federal law.
442 12. Information provided in confidence and related to an investigation by the Attorney General under
443 Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10
444 (§ 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1
445 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been
446 inactive for more than six months shall, upon request, be disclosed provided such disclosure is not
447 otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons
448 supplying information, witnesses, or other individuals involved in the investigation.
449 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**
450 **other limited exclusions.**
451 The following information contained in a public record is excluded from the mandatory disclosure
452 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such
453 disclosure is prohibited by law. Redaction of information excluded under this section from a public
454 record shall be conducted in accordance with § 2.2-3704.01.
455 1. State income, business, and estate tax returns, personal property tax returns, and confidential
456 records held pursuant to § 58.1-3.
457 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or
458 the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
459 Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any
460 political subdivision of the Commonwealth; or the president or other chief executive officer of any
461 public institution of higher education in the Commonwealth. However, no information that is otherwise
462 open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been
463 attached to or incorporated within any working paper or correspondence. Further, information publicly
464 available or not otherwise subject to an exclusion under this chapter or other provision of law that has
465 been aggregated, combined, or changed in format without substantive analysis or revision shall not be
466 deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of
467 any resumes or applications submitted by persons who are appointed by the Governor pursuant to
468 § 2.2-106 or 2.2-107.
469 As used in this subdivision:
470 "Members of the General Assembly" means each member of the Senate of Virginia and the House of
471 Delegates and their legislative aides when working on behalf of such member.
472 "Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of
473 policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those
474 individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.
475 "Working papers" means those records prepared by or for a public official identified in this
476 subdivision for his personal or deliberative use.
477 3. Information contained in library records that can be used to identify (i) both (a) any library patron
478 who has borrowed material from a library and (b) the material such patron borrowed or (ii) any library
479 patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent,
480 including a noncustodial parent, or guardian of such library patron.
481 4. Contract cost estimates prepared for the confidential use of the Department of Transportation in
482 awarding contracts for construction or the purchase of goods or services, and records and automated
483 systems prepared for the Department's Bid Analysis and Monitoring Program.
484 5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,
485 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by
486 the political subdivision.
487 6. Information furnished by a member of the General Assembly to a meeting of a standing
488 committee, special committee, or subcommittee of his house established solely for the purpose of
489 reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of
490 formulating advisory opinions to members on standards of conduct, or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

private sources.

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

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

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

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

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

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

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

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

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

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

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

798 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
799 meetings in which individual death cases are discussed by overdose fatality review teams established
800 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
801 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.
802 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
803 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
804 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
805 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
806 proprietary, business-related information pertaining to the operations of the University of Virginia
807 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
808 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
809 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
810 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
811 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
812 Medical School, as the case may be.
813 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
814 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
815 disposition by the Authority of real property, equipment, or technology software or hardware and related
816 goods or services, where disclosure would adversely affect the bargaining position or negotiating
817 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
818 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
819 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
820 affect the competitive position of the Authority; and members of the Authority's medical and teaching
821 staffs and qualifications for appointments thereto.
822 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
823 the Department of Health Professions to the extent such discussions identify any practitioner who may
824 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.
825 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
826 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
827 by or on behalf of individuals who have requested information about, applied for, or entered into
828 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
829 of Title 23.1 is discussed.
830 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
831 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
832 § 56-484.12, related to the provision of wireless E-911 service.
833 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
834 Professional and Occupational Regulation, Department of Health Professions, or the Board of
835 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
836 a decision or meetings of health regulatory boards or conference committees of such boards to consider
837 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
838 requested by either of the parties.
839 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
840 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
841 defined in § 33.2-1800, or any independent review panel appointed to review information and advise the
842 responsible public entity concerning such records.
843 29. Discussion of the award of a public contract involving the expenditure of public funds, including
844 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
845 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
846 the public body.
847 30. Discussion or consideration of grant or loan application information subject to the exclusion in
848 subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation
849 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory
850 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.
851 31. Discussion or consideration by the Commitment Review Committee of information subject to the
852 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
853 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.
854 32. Discussion or consideration of confidential proprietary information and trade secrets developed
855 and held by a local public body providing certain telecommunication services or cable television services
856 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
857 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
858 seq.).
859 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2.2-4002. Exemptions from chapter generally.

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

1. The General Assembly.

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

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

4. The Virginia Housing Development Authority.

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

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

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

8. The Virginia Resources Authority.

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

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

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

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

983 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and
984 Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601,
985 subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206,
986 and subsection A of § 3.2-5406.
987 14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,
988 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of
989 optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
990 15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to
991 § 2.2-2001.3.
992 16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to
993 § 22.1-203.2.
994 17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or
995 in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual
996 live horse racing at race meetings licensed by the Commission.
997 18. The Virginia Small Business Financing Authority.
998 19. The Virginia Economic Development Partnership Authority.
999 20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations
1000 pursuant to subsection A (ii) of § 59.1-156.
1001 21. The Insurance Continuing Education Board pursuant to § 38.2-1867.
1002 22. The Board of Health in promulgating the list of diseases that shall be reported to the Department
1003 of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to
1004 subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to
1005 restaurants or food service.
1006 23. The Commissioner of the Marine Resources Commission in setting a date of closure for the
1007 Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to
1008 § 28.2-1000.2.
1009 24. The Board of Pharmacy when specifying special subject requirements for continuing education
1010 for pharmacists pursuant to § 54.1-3314.1.
1011 25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant
1012 to § 58.1-3219.7 or 58.1-3219.11.
1013 26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any
1014 training standards established by the Criminal Justice Services Board under § 9.1-102, provided such
1015 actions are authorized by the Governor in the interest of public safety.
1016 B. Agency action relating to the following subjects shall be exempted from the provisions of this
1017 chapter:
1018 1. Money or damage claims against the Commonwealth or agencies thereof.
1019 2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
1020 3. The location, design, specifications or construction of public buildings or other facilities.
1021 4. Grants of state or federal funds or property.
1022 5. The chartering of corporations.
1023 6. Customary military, militia, naval or police functions.
1024 7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of
1025 the Commonwealth.
1026 8. The conduct of elections or eligibility to vote.
1027 9. Inmates of prisons or other such facilities or parolees therefrom.
1028 10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other
1029 state institutions as well as the treatment, supervision, or discharge of such persons.
1030 11. Traffic signs, markers or control devices.
1031 12. Instructions for application or renewal of a license, certificate, or registration required by law.
1032 13. Content of, or rules for the conduct of, any examination required by law.
1033 14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
1034 15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent
1035 with duly adopted regulations of the Virginia Lottery *and Gaming Oversight* Board, and provided that
1036 such regulations are published and posted.
1037 16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish,
1038 finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
1039 17. Any operating procedures for review of child deaths developed by the State Child Fatality
1040 Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed
1041 by the Adult Fatality Review Team pursuant to § 32.1-283.5, and any operating procedures for review of
1042 adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.
1043 18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the

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

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

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

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

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

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

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

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

§ 8.01-195.11. Compensation for wrongful incarceration.

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

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

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

§ 9.1-101. Definitions.

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

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

"Board" means the Criminal Justice Services Board.

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

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

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

1106 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
1107 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
1108 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
1109 status information.
1110 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
1111 which as its principal function performs the administration of criminal justice and any other agency or
1112 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for
1113 the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which,
1114 within the context of its criminal justice activities, employs special conservators of the peace appointed
1115 under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency
1116 requires its officers or special conservators to meet compulsory training standards established by the
1117 Criminal Justice Services Board and submits reports of compliance with the training standards and (b)
1118 the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only
1119 to the extent that the private corporation or agency so designated as a criminal justice agency performs
1120 criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities
1121 otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil
1122 Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).
1123 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to
1124 § 18.2-271.2.
1125 "Criminal justice agency" includes the Department of Criminal Justice Services.
1126 "Criminal justice agency" includes the Virginia State Crime Commission.
1127 "Criminal justice information system" means a system including the equipment, facilities, procedures,
1128 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of
1129 criminal history record information. The operations of the system may be performed manually or by
1130 using electronic computers or other automated data processing equipment.
1131 "Department" means the Department of Criminal Justice Services.
1132 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
1133 means. The term shall not include access to the information by officers or employees of a criminal
1134 justice agency maintaining the information who have both a need and right to know the information.
1135 "Law-enforcement officer" means any full-time or part-time employee of a police department or
1136 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
1137 thereof, or any full-time or part-time employee of a private police department, and who is responsible
1138 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
1139 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
1140 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
1141 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
1142 division of the Department of Game and Inland Fisheries; (v) investigator who is a sworn member of
1143 the security division of the Virginia Lottery *and Gaming Department*; (vi) conservation officer of the
1144 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn
1145 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to
1146 § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus
1147 police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of
1148 the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
1149 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
1150 with internal investigations authority designated by the Department of Corrections pursuant to
1151 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of
1152 § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are
1153 those compensated officers who are not full-time employees as defined by the employing police
1154 department, sheriff's office, or private police department.
1155 "Private police department" means any police department, other than a department that employs
1156 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
1157 authorized by statute or an act of assembly to establish a private police department or such entity's
1158 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
1159 to operate a private police department or represent that it is a private police department unless such
1160 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
1161 an entity that has been authorized pursuant to this section, provided it complies with the requirements
1162 set forth herein. The authority of a private police department shall be limited to real property owned,
1163 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
1164 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
1165 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
1166 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum

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

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

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

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

§ 9.1-801. Public safety officer defined.

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

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

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

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

1229 A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:
1230 1. Any State Police officer retired from the Department of State Police, any officer retired from the
1231 Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control
1232 officer retired from a police department or sheriff's office within the Commonwealth, any special agent
1233 retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority,
1234 any employee with internal investigations authority designated by the Department of Corrections
1235 pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation
1236 police officer retired from the Department of Game and Inland Fisheries, any conservation officer retired
1237 from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from
1238 the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer
1239 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police
1240 department, any retired member of the enforcement division of the Department of Motor Vehicles
1241 appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia
1242 Lottery *and Gaming Department*, other than an officer or agent terminated for cause, (i) with a
1243 service-related disability; (ii) following at least 10 years of service with any such law-enforcement
1244 agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv)
1245 who is on long-term leave from such law-enforcement agency or board due to a service-related injury,
1246 provided such officer carries with him written proof of consultation with and favorable review of the
1247 need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency
1248 from which the officer retired or the agency that employs the officer or, in the case of special agents,
1249 issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A
1250 copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or
1251 Board to the Department of State Police for entry into the Virginia Criminal Information Network. The
1252 chief law-enforcement officer shall not without cause withhold such written proof if the retired
1253 law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause
1254 (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof
1255 of consultation upon return to work as a law-enforcement officer or upon termination of employment
1256 with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State
1257 Police for entry into the Virginia Criminal Information Network. However, if such officer retires on
1258 disability because of the service-related injury, and would be eligible under clause (i) for written proof
1259 of consultation to carry a concealed handgun, he may retain the previously issued written proof of
1260 consultation.
1261 2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement
1262 agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such
1263 law-enforcement agency, commission, or board to accept a position covered by a retirement system that
1264 is authorized under Title 51.1, provided such person carries with him written proof of consultation with
1265 and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement
1266 officer of the agency from which he resigned or, in the case of special agents, issued by the State
1267 Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of
1268 consultation and favorable review shall be forwarded by the chief, Commission, or Board to the
1269 Department of State Police for entry into the Virginia Criminal Information Network. The chief
1270 law-enforcement officer shall not without cause withhold such written proof if the law-enforcement
1271 officer otherwise meets the requirements of this section.
1272 3. Any State Police officer who is a member of the organized reserve forces of any of the Armed
1273 Services of the United States or National Guard, while such officer is called to active military duty,
1274 provided such officer carries with him written proof of consultation with and favorable review of the
1275 need to carry a concealed handgun issued by the Superintendent of State Police. The proof of
1276 consultation and favorable review shall be valid as long as the officer is on active military duty and
1277 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
1278 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
1279 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
1280 good standing and is qualified to carry a weapon while on active law-enforcement duty.
1281 4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the
1282 Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement
1283 or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards
1284 for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii)
1285 carries with him written proof of consultation with and favorable review of the need to carry a
1286 concealed handgun issued by the attorney for the Commonwealth from whose office he retired or
1287 resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the
1288 federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of
1289 consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the

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

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

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

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

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

Nothing in this article shall apply to ~~any~~*:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1413 Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.)
1414 of Chapter 8 of Title 18.2;
1415 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
1416 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
1417 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
1418 the limitations set out in subsection E;
1419 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
1420 investigations of applicants for compensated employment in licensed assisted living facilities and
1421 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
1422 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
1423 in § 4.1-103.1;
1424 18. The State Board of Elections and authorized officers and employees thereof and general registrars
1425 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
1426 voter registration, limited to any record of felony convictions;
1427 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
1428 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
1429 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
1430 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1431 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1432 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
1433 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1434 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1435 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1436 services;
1437 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1438 Department for the purpose of determining an individual's fitness for employment pursuant to
1439 departmental instructions;
1440 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1441 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1442 records information on behalf of such governing boards or administrators pursuant to a written
1443 agreement with the Department of State Police;
1444 24. Public institutions of higher education and nonprofit private institutions of higher education for
1445 the purpose of screening individuals who are offered or accept employment;
1446 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1447 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1448 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1449 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1450 history record information obtained pursuant to this section or otherwise use any record of an individual
1451 beyond the purpose that such disclosure was made to the threat assessment team;
1452 26. Executive directors of community services boards or the personnel director serving the
1453 community services board for the purpose of determining an individual's fitness for employment,
1454 approval as a sponsored residential service provider, or permission to enter into a shared living
1455 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
1456 §§ 37.2-506 and 37.2-607;
1457 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1458 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1459 or permission to enter into a shared living arrangement with a person receiving medical assistance
1460 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
1461 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1462 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1463 name, address, demographics and social security number of the data subject shall be released;
1464 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1465 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1466 purpose of determining if any applicant who accepts employment in any direct care position or requests
1467 approval as a sponsored residential service provider or permission to enter into a shared living
1468 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1469 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1470 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1471 37.2-607;
1472 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1473 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1474 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

1475 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1476 for the purpose of determining if any person being considered for election to any judgeship has been
1477 convicted of a crime;
1478 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1479 determining an individual's fitness for employment in positions designated as sensitive under Department
1480 of Human Resource Management policies developed pursuant to § 2.2-1201.1;
1481 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
1482 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
1483 Violent Predators Act (§ 37.2-900 et seq.);
1484 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
1485 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
1486 companies, for the conduct of investigations of applications for employment or for access to facilities,
1487 by contractors, leased laborers, and other visitors;
1488 35. Any employer of individuals whose employment requires that they enter the homes of others, for
1489 the purpose of screening individuals who apply for, are offered, or have accepted such employment;
1490 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
1491 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
1492 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
1493 subject to the restriction that the data shall not be further disseminated by the agency to any party other
1494 than a federal or state authority or court as may be required to comply with an express requirement of
1495 law for such further dissemination, subject to limitations set out in subsection G;
1496 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
1497 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
1498 or have accepted a position related to the provision of transportation services to enrollees in the
1499 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
1500 program administered by the Department of Medical Assistance Services;
1501 38. The State Corporation Commission for the purpose of investigating individuals who are current
1502 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
1503 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
1504 other provision of law, if an application is denied based in whole or in part on information obtained
1505 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
1506 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
1507 its designee;
1508 39. The Department of Professional and Occupational Regulation for the purpose of investigating
1509 individuals for initial licensure pursuant to § 54.1-2106.1;
1510 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
1511 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
1512 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
1513 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
1514 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
1515 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
1516 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
1517 43. The Department of Social Services and directors of local departments of social services for the
1518 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
1519 or a local department of social services for the provision of child care services for which child care
1520 subsidy payments may be provided;
1521 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
1522 a juvenile's household when completing a predispositional or postdispositional report required by
1523 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and
1524 45. Other entities as otherwise provided by law.
1525 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
1526 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
1527 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
1528 designated in the order on whom a report has been made under the provisions of this chapter.
1529 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
1530 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
1531 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
1532 copy of conviction data covering the person named in the request to the person making the request;
1533 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
1534 making of such request. A person receiving a copy of his own conviction data may utilize or further
1535 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1659 investigations of applicants for compensated employment in licensed assisted living facilities and
1660 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
1661 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
1662 in § 4.1-103.1;
1663 18. The State Board of Elections and authorized officers and employees thereof and general registrars
1664 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
1665 voter registration, limited to any record of felony convictions;
1666 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
1667 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
1668 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
1669 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
1670 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
1671 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
1672 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
1673 Department of Education, or the Department of Behavioral Health and Developmental Services for the
1674 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
1675 services;
1676 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
1677 Department for the purpose of determining an individual's fitness for employment pursuant to
1678 departmental instructions;
1679 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
1680 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
1681 records information on behalf of such governing boards or administrators pursuant to a written
1682 agreement with the Department of State Police;
1683 24. Public institutions of higher education and nonprofit private institutions of higher education for
1684 the purpose of screening individuals who are offered or accept employment;
1685 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
1686 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
1687 higher education, for the purpose of assessing or intervening with an individual whose behavior may
1688 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
1689 history record information obtained pursuant to this section or otherwise use any record of an individual
1690 beyond the purpose that such disclosure was made to the threat assessment team;
1691 26. Executive directors of community services boards or the personnel director serving the
1692 community services board for the purpose of determining an individual's fitness for employment,
1693 approval as a sponsored residential service provider, or permission to enter into a shared living
1694 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
1695 §§ 37.2-506 and 37.2-607;
1696 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
1697 determining an individual's fitness for employment, approval as a sponsored residential service provider,
1698 or permission to enter into a shared living arrangement with a person receiving medical assistance
1699 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
1700 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
1701 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
1702 name, address, demographics and social security number of the data subject shall be released;
1703 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
1704 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
1705 purpose of determining if any applicant who accepts employment in any direct care position or requests
1706 approval as a sponsored residential service provider or permission to enter into a shared living
1707 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
1708 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
1709 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
1710 37.2-607;
1711 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
1712 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
1713 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;
1714 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
1715 for the purpose of determining if any person being considered for election to any judgeship has been
1716 convicted of a crime;
1717 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
1718 determining an individual's fitness for employment in positions designated as sensitive under Department
1719 of Human Resource Management policies developed pursuant to § 2.2-1201.1;
1720 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under

1721 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
1722 Violent Predators Act (§ 37.2-900 et seq.);
1723 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
1724 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
1725 companies, for the conduct of investigations of applications for employment or for access to facilities,
1726 by contractors, leased laborers, and other visitors;
1727 35. Any employer of individuals whose employment requires that they enter the homes of others, for
1728 the purpose of screening individuals who apply for, are offered, or have accepted such employment;
1729 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
1730 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
1731 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
1732 subject to the restriction that the data shall not be further disseminated by the agency to any party other
1733 than a federal or state authority or court as may be required to comply with an express requirement of
1734 law for such further dissemination, subject to limitations set out in subsection G;
1735 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
1736 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
1737 or have accepted a position related to the provision of transportation services to enrollees in the
1738 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
1739 program administered by the Department of Medical Assistance Services;
1740 38. The State Corporation Commission for the purpose of investigating individuals who are current
1741 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
1742 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
1743 other provision of law, if an application is denied based in whole or in part on information obtained
1744 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
1745 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
1746 its designee;
1747 39. The Department of Professional and Occupational Regulation for the purpose of investigating
1748 individuals for initial licensure pursuant to § 54.1-2106.1;
1749 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
1750 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
1751 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
1752 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
1753 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
1754 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
1755 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
1756 43. The Department of Social Services and directors of local departments of social services for the
1757 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
1758 or a local department of social services for the provision of child care services for which child care
1759 subsidy payments may be provided;
1760 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
1761 a juvenile's household when completing a predispositional or postdispositional report required by
1762 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
1763 45. The State Corporation Commission, for the purpose of screening applicants for insurance
1764 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and
1765 46. Other entities as otherwise provided by law.
1766 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
1767 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
1768 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
1769 designated in the order on whom a report has been made under the provisions of this chapter.
1770 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
1771 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
1772 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
1773 copy of conviction data covering the person named in the request to the person making the request;
1774 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
1775 making of such request. A person receiving a copy of his own conviction data may utilize or further
1776 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
1777 subject, the person making the request shall be furnished at his cost a certification to that effect.
1778 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
1779 section shall be limited to the purposes for which it was given and may not be disseminated further.
1780 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
1781 history record information for employment or licensing inquiries except as provided by law.

1782 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
1783 Exchange prior to dissemination of any criminal history record information on offenses required to be
1784 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
1785 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
1786 where time is of the essence and the normal response time of the Exchange would exceed the necessary
1787 time period. A criminal justice agency to whom a request has been made for the dissemination of
1788 criminal history record information that is required to be reported to the Central Criminal Records
1789 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
1790 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
1791 made by the criminal justice agency maintaining the record as required by § 15.2-1722.
1792 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
1793 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
1794 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.
1795 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
1796 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
1797 for any offense specified in § 63.2-1720.
1798 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
1799 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
1800 definition of barrier crime in § 19.2-392.02.
1801 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
1802 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
1803 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
1804 the request to the employer or prospective employer making the request, provided that the person on
1805 whom the data is being obtained has consented in writing to the making of such request and has
1806 presented a photo-identification to the employer or prospective employer. In the event no conviction data
1807 is maintained on the person named in the request, the requesting employer or prospective employer shall
1808 be furnished at his cost a certification to that effect. The criminal history record search shall be
1809 conducted on forms provided by the Exchange.
1810 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
1811 information pursuant to the rules of court for obtaining discovery or for review by the court.
1812 **§ 37.2-304. Duties of Commissioner.**
1813 The Commissioner shall be the chief executive officer of the Department and shall have the
1814 following duties and powers:
1815 1. To supervise and manage the Department and its state facilities.
1816 2. To employ the personnel required to carry out the purposes of this title.
1817 3. To make and enter into all contracts and agreements necessary or incidental to the performance of
1818 the Department's duties and the execution of its powers under this title, including contracts with the
1819 United States, other states, and agencies and governmental subdivisions of the Commonwealth,
1820 consistent with policies and regulations of the Board and applicable federal and state statutes and
1821 regulations.
1822 4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the
1823 United States government, agencies and instrumentalities thereof, and any other source, subject to the
1824 approval of the Governor. To these ends, the Commissioner shall have the power to comply with
1825 conditions and execute agreements that may be necessary, convenient, or desirable, consistent with
1826 policies and regulations of the Board.
1827 5. To accept, execute, and administer any trust in which the Department may have an interest, under
1828 the terms of the instruments creating the trust, subject to the approval of the Governor.
1829 6. To transfer between state hospitals and training centers school-age individuals who have been
1830 identified as appropriate to be placed in public school programs and to negotiate with other school
1831 divisions for placements in order to ameliorate the impact on those school divisions located in a
1832 jurisdiction in which a state hospital or training center is located.
1833 7. To provide to the Director of the Commonwealth's designated protection and advocacy system,
1834 established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical
1835 incidents, as that term is defined in § 37.2-709.1, or deaths of individuals receiving services in facilities
1836 and (ii) serious injuries, as that term is defined in regulations adopted by the Board pursuant to
1837 § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the
1838 Department within 15 working days of the critical incident, serious injury, or death.
1839 8. To work with the appropriate state and federal entities to ensure that any individual who has
1840 received services in a state facility for more than one year has possession of or receives prior to
1841 discharge any of the following documents, when they are needed to obtain the services contained in his
1842 discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days
1843 from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a

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

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

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

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

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

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

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

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

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

§ 58.1-3. Secrecy of information; penalties.

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

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

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

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

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

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court

1905 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent
1906 or by the commissioner of accounts making a settlement of accounts filed in such estate;
1907 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when
1908 requested by the General Assembly or any duly constituted committee of the General Assembly;
1909 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the
1910 provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the
1911 Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow
1912 fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the
1913 Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two
1914 calendar years or in any year in which the Attorney General receives Stamping Agent information that
1915 potentially alters the required escrow deposit of the manufacturer. The information shall only be
1916 provided in the following manner: the manufacturer may make a written request, on a quarterly or
1917 yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the
1918 amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who
1919 reported stamping or selling its products and the amount reported. The Attorney General shall provide
1920 the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the
1921 reports the Stamping Agents filed with the Attorney General, it must first request them from the
1922 Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the
1923 reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the
1924 Attorney General, including a copy of the prior written request to the Stamping Agent and any response
1925 received, for copies of any reports not received. The Attorney General shall provide copies of the
1926 reports within 45 days of receipt of the request.
1927 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so
1928 classified as to prevent the identification of particular reports or returns and the items thereof or the
1929 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together
1930 with any relevant information which in the opinion of the Department may assist in the collection of
1931 such delinquent taxes. Notwithstanding any other provision of this section or other law, the Department,
1932 upon request by the General Assembly or any duly constituted committee of the General Assembly,
1933 shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers,
1934 regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This
1935 section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or
1936 corporation is licensed to do business in that locality and divulging, upon written request, the name and
1937 address of any person, firm or corporation transacting business under a fictitious name. Additionally,
1938 notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon
1939 written request stating the reason for such request, the Tax Commissioner with information obtained
1940 from local tax returns and other information pertaining to the income, sales and property of any person,
1941 firm or corporation licensed to do business in that locality.
1942 2. This section shall not prohibit the Department from disclosing whether a person, firm, or
1943 corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or
1944 whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding
1945 any other provision of law, the Department is hereby authorized to make available the names and
1946 certificate of registration numbers of dealers who are currently registered for retail sales and use tax.
1947 3. This section shall not prohibit the Department from disclosing information to nongovernmental
1948 entities with which the Department has entered into a contract to provide services that assist it in the
1949 administration of refund processing or other services related to its administration of taxes.
1950 4. This section shall not prohibit the Department from disclosing information to taxpayers regarding
1951 whether the taxpayer's employer or another person or entity required to withhold on behalf of such
1952 taxpayer submitted withholding records to the Department for a specific taxable year as required
1953 pursuant to subdivision C 1 of § 58.1-478.
1954 5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or
1955 other similar local official who collects or administers taxes for a county, city, or town from disclosing
1956 information to nongovernmental entities with which the locality has entered into a contract to provide
1957 services that assist it in the administration of refund processing or other non-audit services related to its
1958 administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar
1959 local official who collects or administers taxes for a county, city, or town shall not disclose information
1960 to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality
1961 and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that
1962 such entity agrees to abide by such obligations.
1963 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
1964 Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director
1965 of finance, or other similar collector of county, city, or town taxes who, for the performance of his
1966 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the

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

2028 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
2029 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
2030 stating the reason for such request, the chief executive officer of any county or city with information
2031 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
2032 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
2033 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
2034 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
2035 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
2036 profession or occupation administered by the Department of Professional and Occupational Regulation,
2037 only after the Department of Professional and Occupational Regulation exhausts all other means of
2038 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
2039 association, property owners' association or real estate cooperative association, or to the owner of
2040 property governed by any such association, the names and addresses of parties having a security interest
2041 in real property governed by any such association; however, such information shall be released only
2042 upon written request stating the reason for such request, which reason shall be limited to proposing or
2043 opposing changes to the governing documents of the association, and any information received by any
2044 person under this subsection shall be used only for the reason stated in the written request. The treasurer
2045 or other local assessing official may require any person requesting information pursuant to clause (iii) of
2046 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
2047 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
2048 prescribed herein as though he were a tax official.
2049 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the
2050 treasurer or other collector of taxes for a county, city or town is authorized to provide information
2051 relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course
2052 of performing his duties to the commissioner of the revenue or other assessing official for such
2053 jurisdiction for use by such commissioner or other official in performing assessments.
2054 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
2055 motor vehicle local license decal the year, make, and model and any other legal identification
2056 information about the particular motor vehicle for which that local license decal is assigned.
2057 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
2058 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
2059 written request, the name, address, and social security number of a taxpayer, necessary for the
2060 performance of the Commissioner's official duties regarding the administration and enforcement of laws
2061 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
2062 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
2063 Commissioner of the obligations under this section.
2064 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
2065 any confidential tax document which he knows or has reason to know is a confidential tax document. A
2066 confidential tax document is any correspondence, document, or tax return that is prohibited from being
2067 divulged by subsection A, B, C, or D and includes any document containing information on the
2068 transactions, property, income, or business of any person, firm, or corporation that is required to be filed
2069 with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document
2070 has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person
2071 violating the provisions of this subsection is guilty of a Class 1 misdemeanor.
2072 **§ 58.1-302. Definitions.**
2073 For the purpose of this chapter and unless otherwise required by the context:
2074 "Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to
2075 each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or
2076 others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same
2077 interests.
2078 "Compensation" means wages, salaries, commissions and any other form of remuneration paid or
2079 accrued to employees for personal services.
2080 "Corporation" includes associations, joint stock companies and insurance companies.
2081 "Domicile" means the permanent place of residence of a taxpayer and the place to which he intends
2082 to return even though he may actually reside elsewhere. In determining domicile, consideration may be
2083 given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not
2084 limited to, financial independence, business pursuits, employment, income sources, residence for federal
2085 income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of
2086 personal and real property owned by the applicant, motor vehicle and other personal property
2087 registration, residence for purposes of voting as proven by registration to vote, if any, and such other
2088 factors as may reasonably be deemed necessary to determine the person's domicile.
2089 "Foreign source income" means:

2090 1. Interest, other than interest derived from sources within the United States;
2091 2. Dividends, other than dividends derived from sources within the United States;
2092 3. Rents, royalties, license, and technical fees from property located or services performed without
2093 the United States or from any interest in such property, including rents, royalties, or fees for the use of
2094 or the privilege of using without the United States any patents, copyrights, secret processes and
2095 formulas, good will, trademarks, trade brands, franchises, and other like properties;
2096 4. Gains, profits, or other income from the sale of intangible or real property located without the
2097 United States; and
2098 5. The amount of an individual's share of net income attributable to a foreign source qualified
2099 business unit of an electing small business corporation (S corporation). For purposes of this subsection,
2100 qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such
2101 income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.
2102 In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the
2103 Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.
2104 "Income and deductions from Virginia sources" includes:
2105 1. Items of income, gain, loss and deduction attributable to:
2106 a. The ownership of any interest in real or tangible personal property in Virginia;
2107 b. A business, trade, profession or occupation carried on in Virginia; or
2108 c. Prizes paid by the Virginia Lottery *and Gaming* Department, and gambling winnings from wagers
2109 placed or paid at a location in Virginia.
2110 2. Income from intangible personal property, including annuities, dividends, interest, royalties and
2111 gains from the disposition of intangible personal property to the extent that such income is from
2112 property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.
2113 "Income tax return preparer" means any person who prepares for compensation, or who employs one
2114 or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for
2115 refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion
2116 of a return or claim for refund shall be treated as if it were the preparation of the return or claim for
2117 refund. A person shall not be an "income tax return preparer" merely because the person:
2118 1. Furnishes typing, reproducing, or other mechanical assistance;
2119 2. Prepares a return or claim for refund of the employer (or of an officer or employee of the
2120 employer) by whom he is regularly and continuously employed;
2121 3. Prepares as a fiduciary a return or claim for refund for any person; or
2122 4. Prepares an application for correction of an erroneous assessment or a protective claim for refund
2123 for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in
2124 response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the
2125 taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly
2126 affects the tax liability of such taxpayer.
2127 "Individual" means all natural persons whether married or unmarried and fiduciaries acting for
2128 natural persons, but not fiduciaries acting for trusts or estates.
2129 "Intangible expenses and costs" means:
2130 1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or
2131 indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any
2132 other disposition of intangible property to the extent such amounts are allowed as deductions or costs in
2133 determining taxable income;
2134 2. Losses related to or incurred in connection directly or indirectly with factoring transactions or
2135 discounting transactions;
2136 3. Royalty, patent, technical and copyright fees;
2137 4. Licensing fees; and
2138 5. Other similar expenses and costs.
2139 "Intangible property" means patents, patent applications, trade names, trademarks, service marks,
2140 copyrights and similar types of intangible assets.
2141 "Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163
2142 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue
2143 Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection
2144 with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease,
2145 transfer, or disposition of intangible property.
2146 "Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.
2147 "Related entity" means:
2148 1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318
2149 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own,
2150 directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the

taxpayer's outstanding stock;

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

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

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

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

"Resident estate or trust" means:

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

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

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

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

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

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

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

§ 58.1-322.02. Virginia taxable income; subtractions.

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

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

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

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

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

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

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

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

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

2213 of such service or $3,000, whichever amount is less; however, only those persons in the ranks of O3
2214 and below shall be entitled to the deductions specified in this subdivision.
2215 9. Amounts received by an individual, not to exceed $1,000 in any taxable year, as a reward for
2216 information provided to a law-enforcement official or agency, or to a nonprofit corporation created
2217 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of
2218 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an
2219 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime
2220 for which the reward was paid, or any person who is compensated for the investigation of crimes or
2221 accidents.
2222 10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction
2223 for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the
2224 Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and
2225 members of limited liability companies to the extent and in the same manner as other deductions may
2226 pass through to such partners, shareholders, and members.
2227 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or
2228 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account
2229 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as
2230 defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the
2231 contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the
2232 extent the contributions to such plan or program were subject to taxation under the income tax in
2233 another state.
2234 12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract
2235 or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7
2236 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be
2237 limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a
2238 scholarship.
2239 13. All military pay and allowances, to the extent included in federal adjusted gross income and not
2240 otherwise subtracted, deducted, or exempted under this section, earned by military personnel while
2241 serving by order of the President of the United States with the consent of Congress in a combat zone or
2242 qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112
2243 of the Internal Revenue Code.
2244 14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange
2245 of real property or the sale or exchange of an easement to real property which results in the real
2246 property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230,
2247 for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with
2248 this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed
2249 for three years following the year in which the subtraction is taken.
2250 15. Fifteen thousand dollars of military basic pay for military service personnel on extended active
2251 duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar
2252 by the amount by which the taxpayer's military basic pay exceeds $15,000 and shall be reduced to zero
2253 if such military basic pay amount is equal to or exceeds $30,000.
2254 16. The first $15,000 of salary for each federal and state employee whose total annual salary from all
2255 employment for the taxable year is $15,000 or less.
2256 17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.
2257 18. Any amount received as military retirement income by an individual awarded the Congressional
2258 Medal of Honor.
2259 19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from,
2260 hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii)
2261 damages, reparations, or other consideration received by a victim or target of Nazi persecution to
2262 compensate such individual for performing labor against his will under the threat of death, during World
2263 War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such
2264 items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost
2265 to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The
2266 provisions of this subdivision shall only apply to an individual who was the first recipient of such items
2267 of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or
2268 stepchild of such victim.
2269 As used in this subdivision:
2270 "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those
2271 European countries allied with Nazi Germany, or any other neutral European country or area in Europe
2272 under the influence or threat of Nazi invasion.
2273 "Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by

2274 the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or
2275 omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath,
2276 (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution,
2277 or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II
2278 and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual
2279 forced into labor against his will, under the threat of death, during World War II and its prelude and
2280 direct aftermath.
2281 20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased
2282 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction
2283 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal
2284 gross income in accordance with § 134 of the Internal Revenue Code.
2285 21. The death benefit payments from an annuity contract that are received by a beneficiary of such
2286 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an
2287 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under
2288 this subdivision shall be allowed only for that portion of the death benefit payment that is included in
2289 federal adjusted gross income.
2290 22. Any gain recognized from the sale of launch services to space flight participants, as defined in
2291 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of
2292 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch
2293 services must be performed in Virginia or originate from an airport or spaceport in Virginia.
2294 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined
2295 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the
2296 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,
2297 and launched from an airport or spaceport in Virginia.
2298 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income
2299 taxed as investment services partnership interest income (otherwise known as investment partnership
2300 carried interest income) for federal income tax purposes. To qualify for a subtraction under this
2301 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in
2302 § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided
2303 that the business has its principal office or facility in the Commonwealth and less than $3 million in
2304 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this
2305 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No
2306 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4
2307 shall be eligible for the subtraction under this subdivision for an investment in the same business.
2308 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for
2309 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's
2310 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36
2311 and (ii) interest income or other income for federal income tax purposes attributable to such person's
2312 first-time home buyer savings account.
2313 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction
2314 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys
2315 or funds withdrawn from the first-time home buyer savings account were used for any purpose other
2316 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under
2317 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable
2318 year that was used for other than the payment of eligible costs, computed by multiplying the amount
2319 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in
2320 the account at the time of the withdrawal to the total balance in the account at such time.
2321 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)
2322 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the
2323 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101
2324 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)
2325 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified
2326 beneficiary.
2327 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings
2328 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.
2329 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year
2330 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of
2331 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal
2332 Revenue Code.
2333 27. a. Income, including investment services partnership interest income (otherwise known as
2334 investment partnership carried interest income), attributable to an investment in a Virginia venture
2335 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or

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

b. As used in this subdivision 27:

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

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

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

b. As used in this subdivision 28:

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

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

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

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

§ 58.1-460. Definitions.

For the purposes of this article:

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

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

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

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

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

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

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

CHAPTER 40.

VIRGINIA LOTTERY *AND GAMING* LAW.

Article 1.

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

§ 58.1-4000. Short title.

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

§ 58.1-4002. Definitions.

For the purposes of this chapter:

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

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

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

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

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

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

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

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer ~~the~~*:*

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

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

B. The Director shall also:

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 58.1-4007. Powers of the Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2582 However, all division directors of the ~~Virginia Lottery~~ *Department* and employees of the ~~Virginia~~
2583 ~~Lottery~~ *Department* performing duties primarily related to security matters shall be subject to a
2584 background investigation report conducted by the Department of State Police prior to employment by the
2585 Department. The Department of State Police shall be reimbursed by the ~~Virginia Lottery~~ *Department* for
2586 the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been
2587 convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral
2588 turpitude shall be employed by the Department or on contracts with vendors described in this section.

2589 **§ 58.1-4009. Licensing of lottery sales agents; penalty.**

2590 A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in
2591 business primarily as a lottery sales agent. Before issuing such license, the Director shall consider such
2592 factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the
2593 accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to
2594 serve the public convenience; and (iv) the volume of expected sales.

2595 B. For the purposes of this section, the term "person" means an individual, association, partnership,
2596 corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee,
2597 or any other person acting in a fiduciary or representative capacity, whether appointed by a court or
2598 otherwise, and any combination of individuals. "Person" also means all departments, commissions,
2599 agencies, and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies,
2600 and instrumentalities thereof.

2601 C. The chief security officer of the ~~Virginia Lottery~~ *Department* shall conduct a background
2602 investigation, to include a Virginia Criminal History Records search, and fingerprints that shall be
2603 submitted to the Federal Bureau of Investigation if the Director deems a National Criminal Records
2604 search necessary, on applicants for licensure as lottery sales agents. The Director may refuse to issue a
2605 license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted
2606 of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling,
2607 (iii) found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v)
2608 engaged in conduct prejudicial to public confidence in the Lottery. The Director may refuse to grant a
2609 license or may suspend, revoke or refuse to renew a license issued pursuant to this chapter to a
2610 partnership or corporation, if he determines that any general or limited partner, or officer or director of
2611 such partnership or corporation has been (a) convicted of a crime involving moral turpitude, (b)
2612 convicted of bookmaking or other forms of illegal gambling, (c) found guilty of any fraud or
2613 misrepresentation in any connection, (d) convicted of a felony, or (e) engaged in conduct prejudicial to
2614 public confidence in the Lottery. Whoever knowingly and willfully falsifies, conceals, or misrepresents a
2615 material fact or knowingly and willfully makes a false, fictitious, or fraudulent statement or
2616 representation in any application for licensure to the ~~Virginia Lottery~~ *Department* for lottery sales agent
2617 is guilty of a Class 1 misdemeanor.

2618 D. In the event an applicant is a former lottery sales agent whose license was suspended, revoked, or
2619 refused renewal pursuant to this section or § 58.1-4012, no application for a new license to sell lottery
2620 tickets or shares shall be considered for a minimum period of 90 days following the suspension,
2621 revocation, or refusal to renew.

2622 E. Prior to issuance of a license, every lottery sales agent shall either (i) be bonded by a surety
2623 company entitled to do business in this Commonwealth in such amount and penalty as may be
2624 prescribed by the regulations of the Department or (ii) provide such other surety as may be satisfactory
2625 to the Director, payable to the Virginia Lottery *and Gaming Department* and conditioned upon the
2626 faithful performance of his duties.

2627 F. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the
2628 regulations of the Department.

2629 **§ 58.1-4011. Meaning of "gross receipts."**

2630 A. Notwithstanding the provisions of Chapter 37 (§ 58.1-3700 et seq.) or § 58.1-4025 relating to
2631 local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation
2632 actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent
2633 with the provisions of subdivision A 11 of § 58.1-4007.

2634 B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental
2635 payments for the business premises on which state lottery tickets are sold on the basis of retail sales
2636 shall have that portion of rental payment based on sales of state lottery tickets or shares computed on
2637 the basis of the compensation received as a lottery agent from the ~~Virginia Lottery~~ *Department*.

2638 **§ 58.1-4012. Suspension and revocation of licenses.**

2639 The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued
2640 pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without
2641 prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the
2642 Director. A license may be suspended, revoked, or refused renewal by the Director for one or more of

the following reasons:

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;

2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;

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

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

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

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

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

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

9. Other factors established by Department regulation.

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

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

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

The contract shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 58.1-4027. Judicial review.

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

Article 2.

Electronic Gaming Devices.

§ 58.1-4030. Definitions.

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

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

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

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

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

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

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

"Individual" means a natural person.

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

2766 *board.*
2767 *"Inducement" does not include costs paid by a terminal operator applicant or licensee related to:*
2768 *1. Structural changes necessary to segregate the video gaming area or maintain the security of video*
2769 *gaming terminals and redemption terminals as required by the Board that do not exceed $2,500,*
2770 *provided, however that any changes, in excess of $2,500 may be shared equally between the terminal*
2771 *applicant or licensee and the establishment applicant or licensee.*
2772 *2. Surveillance technology to monitor only the video gaming area.*
2773 *3. Making video gaming terminals operate at a licensed establishment, including wiring and*
2774 *rewiring, software updates, ongoing video gaming terminal maintenance, redemption terminals, network*
2775 *connections, site controllers and costs associated with communicating with the central control computer*
2776 *system.*
2777 *4. Installation of security and alarm systems at an establishment licensee's premises that are*
2778 *reasonably necessary to protect video gaming terminals.*
2779 *5. Any requirement established by the Board regarding minimum standards for a video gaming area.*
2780 *6. Any cosmetic renovations or improvements within a video gaming area that are reasonably*
2781 *necessary, as determined by the Board, to provide a suitable environment for players.*
2782 *7. Fees established by the Board.*
2783 *"Institutional investor" means a retirement fund administered by a public agency for the exclusive*
2784 *benefit of federal, state, or local public employees, an investment company registered under the*
2785 *Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.), a collective investment trust*
2786 *organized by banks under Part Nine of the Rules of the Comptroller of the Currency, a closed-end*
2787 *investment trust, a chartered or licensed life insurance company or property and casualty insurance*
2788 *company, a banking and other chartered or licensed lending institution, an investment advisor registered*
2789 *under the Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.), and such other*
2790 *person as the Board may determine consistent with this definition.*
2791 *"Licensee" or "license holder" means any person holding a manufacturer, distributor, operator, or*
2792 *host location license under this article.*
2793 *"Manufacturer" means any person that manufactures and sells or leases major components or parts,*
2794 *including software and hardware, for electronic gaming devices to distributors or operators.*
2795 *"Operator" means any person that leases or owns electronic gaming devices and provides such*
2796 *terminals to host locations.*
2797 *"Person" means any individual, group of individuals, firm, company, corporation, partnership,*
2798 *business, trust, association, or other legal entity.*
2799 *"Player" means an individual who plays an electronic gaming device.*
2800 *"Procurement agent" means a person that acts as the agent of an operator or operators and shares*
2801 *in the gross profits or is otherwise compensated for the purpose of soliciting or procuring a written*
2802 *agreement between an operator licensee and a host location licensee for the placement of an electronic*
2803 *gaming device by the operator at the host location.*
2804 *"Publicly traded corporation" means a person, other than an individual, that (i) has a class or series*
2805 *of securities registered under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et*
2806 *seq.), (ii) is a registered management company under the Investment Company Act of 1940, or (iii) is*
2807 *subject to the reporting obligations imposed by § 15(d) of the Securities Exchange Act of 1934 by*
2808 *reason of having filed a registration statement that has become effective under the Securities Act of*
2809 *1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.).*
2810 *"Single play" means the period beginning when a player activates and pays for the interactive game*
2811 *play function of an electronic gaming device and ending at the time when the game play function or*
2812 *series of free subgames thereunder will not continue without payment by the player of additional*
2813 *consideration.*
2814 *"Subsidiary" means a person, other than an individual, including (i) a corporation, a significant part*
2815 *of whose outstanding equity securities are owned, subject to a power or right of control or held with*
2816 *power to vote, by a holding company or an intermediary company; (ii) a significant interest in a person,*
2817 *other than an individual, that is owned, subject to a power or right of control or held with power to*
2818 *vote, by a holding company or an intermediary company; or (iii) a person deemed to be a subsidiary by*
2819 *the Board.*
2820 *"Successful player" means an individual who wins on one or more plays of an electronic gaming*
2821 *device.*
2822 *"Ticket redemption terminal" means a terminal where a voucher dispensed by an electronic gaming*
2823 *device may be redeemed for cash or a cash equivalent.*
2824 ***§ 58.1-4031. Powers and duties of the Director related to electronic gaming devices; reporting.***
2825 *A. The Director shall have the following additional powers and duties related to the regulation of*
2826 *electronic gaming devices:*
2827 *1. Issue licenses under this article, and supervise all activities licensed under the provisions of this*

2828 *article, including the manufacturing, distributing, operating, hosting, and playing of electronic gaming*
2829 *devices;*
2830 *2. Suspend, revoke, or refuse to renew any license issued pursuant to this article or the rules and*
2831 *regulations adopted pursuant to this article;*
2832 *3. Inspect, investigate, and have free access to the offices, facilities, or other places of business of*
2833 *any licensee, and compel the production of any books, documents, records, or memoranda of any*
2834 *licensee for the purpose of satisfying himself that this article and Board regulations are strictly complied*
2835 *with;*
2836 *4. Order such audits as deemed necessary;*
2837 *5. Certify monthly to the State Comptroller and the Board a full and complete statement of electronic*
2838 *gaming device revenue and expenses for the previous month;*
2839 *6. Assess and collect civil penalties for violations of this article and Board regulations;*
2840 *7. Report monthly to the Governor, the Secretary of Finance, and the Chairmen of the Senate*
2841 *Committee on Finance and Appropriations, House Committee on Finance, and House Committee on*
2842 *Appropriations the total electronic gaming device revenues and expenses for the previous month and*
2843 *make an annual report, which shall include a full and complete statement of electronic gaming device*
2844 *revenues and expenses, to the Governor and the General Assembly, including recommendations for*
2845 *changes in this article as the Director and Board deem prudent; and*
2846 *8. Do all acts necessary and advisable to carry out the purposes of this article.*
2847 *B. The Director may require bond or other surety satisfactory to the Director from license holders in*
2848 *such amount as provided in the rules and regulations of the Board adopted under this article;*
2849 ***§ 58.1-4032. Powers and duties of the Board related to electronic gaming devices.***
2850 *In addition to the regulations adopted pursuant to § 58.1-4007, the Board shall promulgate*
2851 *regulations related to electronic gaming devices that:*
2852 *1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient*
2853 *for the administration of this article;*
2854 *2. Provide a schedule of application, license, and renewal fees that shall be sufficient to cover the*
2855 *costs of the administration and regulation of electronic gaming devices pursuant to this article;*
2856 *3. Establish requirements for all licensees under this article for the form, content, and retention of*
2857 *all records and accounts;*
2858 *4. Establish a process for the approval or disapproval of electronic gaming devices and games*
2859 *offered on such devices;*
2860 *5. Establish cash handling procedures for operator and host location licensees that require such*
2861 *licensees to keep separate accounts for gaming and non-gaming transactions;*
2862 *6. Require inspections of all licensees at a frequency determined by the Board; and*
2863 *7. Establish a program of periodic testing and inspection for all electronic gaming devices.*
2864 ***§ 58.1-4033. Licenses that may be granted by the Director.***
2865 *A. The Director may grant the following licenses:*
2866 *1. Manufacturer license, which shall authorize the licensee to manufacture and sell or lease to*
2867 *distributors and operators major components or parts, including software and hardware, for electronic*
2868 *gaming devices.*
2869 *2. Distributor license, which shall authorize the licensee to lease or buy electronic gaming devices*
2870 *from a manufacturer and lease, sell, or otherwise distribute them to operators.*
2871 *3. Operator license, which shall authorize the licensee to (i) buy or lease electronic gaming devices*
2872 *from a manufacturer or distributor, (ii) supply such devices to host locations, and (iii) maintain and*
2873 *service such devices.*
2874 *4. Host location license, which shall authorize the licensee to allow the placement and offering for*
2875 *play by the public of electronic gaming devices at such licensee's establishment.*
2876 *B. Notwithstanding the provisions of subsection A, no application or license shall be required by the*
2877 *Director for an institutional investor if the institutional investor holds less than 10 percent of the*
2878 *securities or other ownership interests referred to in a licensee, the securities or interests are publicly*
2879 *traded securities, and its holdings of the securities were purchased for investment purposes only. No*
2880 *application or license shall be required for an institutional investor that holds more than 10 percent of*
2881 *the securities or other ownership interests, so long as such institutional investor files with the Director a*
2882 *certified statement to the effect that it has no intention of influencing or affecting, directly or indirectly,*
2883 *the affairs of the licensee, provided, however, that such institutional investor shall be permitted to vote*
2884 *on matters put to the vote of the outstanding security holders.*
2885 ***§ 58.1-4034. General licensing requirements; penalty.***
2886 *A. An applicant for a manufacturer, distributor, operator, or host location license shall submit an*
2887 *application to the Director on forms provided by the Director, accompanied by any fees required by the*
2888 *Board.*

2889 *B. The chief security officer of the Department shall conduct a background investigation, to include a*
2890 *Virginia criminal history records search and fingerprinting, that shall be submitted to the Federal*
2891 *Bureau of Investigation if the Director deems a national criminal records search is necessary, on*
2892 *applicants for licensure pursuant to this article.*
2893 *C. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license*
2894 *issued pursuant to this article to any person who has been (i) convicted of a crime involving moral*
2895 *turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud*
2896 *or misrepresentation in any connection, (iv) convicted of a felony, or (v) found to have engaged in*
2897 *conduct prejudicial to public confidence in electronic gaming devices.*
2898 *D. The Director may refuse to grant a license or may suspend, revoke, or refuse to renew a license*
2899 *issued pursuant to this article to a partnership or corporation, if he determines that any general or*
2900 *limited partner, or officer or director of such partnership or corporation has been (i) convicted of a*
2901 *crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii)*
2902 *found guilty of any fraud or misrepresentation in any connection, (iv) convicted of a felony, or (v) found*
2903 *to have engaged in conduct prejudicial to public confidence in electronic gaming devices.*
2904 *E. The Director may also refuse to grant a license pursuant to this article if:*
2905 *1. The Director reasonably believes that the applicant or any general or limited partner, or officer*
2906 *or director of such applicant lacks good character, honesty, or integrity;*
2907 *2. The Director reasonably believes that the applicant's prior activities, criminal record, reputation,*
2908 *or associations are likely to either (i) pose a threat to the public interest, (ii) impede the regulation of*
2909 *electronic gaming devices, or (iii) promote unfair or illegal activities in the conduct of electronic*
2910 *gaming devices;*
2911 *3. The applicant or any general or limited partner or any officer or director of such applicant*
2912 *knowingly makes a false statement of material fact or deliberately fails to disclose information requested*
2913 *by the Director;*
2914 *4. The applicant or any general or limited partner or any officer or director of such applicant*
2915 *knowingly fails to comply with the provisions of this article or any requirements of the Director;*
2916 *5. The applicant's license to manufacture, distribute, operate, or offer to the public for play an*
2917 *electronic gaming device issued by any other jurisdiction has been suspended or revoked;*
2918 *6. The applicant defaults in payment of any obligation or debt due to the Commonwealth; or*
2919 *7. The applicant's application is incomplete.*
2920 *F. Any person who knowingly and willfully falsifies, conceals, or misrepresents a material fact or*
2921 *knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in any*
2922 *application pursuant to this article is guilty of a Class 1 misdemeanor. The Director shall revoke the*
2923 *license of a licensee if, subsequent to the issuance of the license, the Director determines that the*
2924 *licensee knowingly or recklessly made a false statement of material fact to the Director in applying for*
2925 *the license.*
2926 ***§ 58.1-4035. License posting; expiration.***
2927 *A. Each license granted by the Director shall designate the place where the business of the licensee*
2928 *will be carried out.*
2929 *B. Each license shall be posted in a location conspicuous to the public at the place where the*
2930 *licensee carries out the business for which the license is granted.*
2931 *C. The privileges conferred by any license granted by the Director shall continue until the last day*
2932 *of the twelfth month next ensuing or the last day of the designated month and year of expiration, except*
2933 *the license may be sooner terminated for any cause for which the Director would be entitled to refuse to*
2934 *grant a license or by operation of law, voluntary surrender, or order of the Director.*
2935 *D. The Director may grant licenses for one year or for multiple years, not to exceed three years.*
2936 *Qualifications for a multiyear license shall be determined on the basis of criteria established by the*
2937 *Director. Fees for multiyear licenses shall not be refundable.*
2938 *E. At least 60 days before the expiration of a license, the license holder may submit a renewal*
2939 *application, on forms prescribed by the Director. The Director may deny a license renewal if he finds*
2940 *grounds for denial as described in § 58.1-4034.*
2941 ***§ 58.1-4036. Prohibition against the issuance of multiple licenses to one person.***
2942 *A. For purposes of this section, "interest" means an equity ownership interest or a partial equity*
2943 *ownership interest or any other type of financial interest, including but not limited to being an investor*
2944 *or serving in a management position.*
2945 *B. No licensee that has been issued a manufacturer license shall be issued a distributor license,*
2946 *operator license, or host location license, or have any interest in a distributor licensee, operator*
2947 *licensee, or host location licensee.*
2948 *C. No licensee that has been issued a distributor license shall be issued a manufacturer license,*
2949 *operator license, or host location license, or have any interest in a manufacturer licensee, operator*
2950 *licensee, or host location licensee.*

2951 *D. No licensee that has been issued an operator license shall be issued a manufacturer license,*
2952 *distributor license, or host location license, or have any interest in a manufacturer licensee, distributor*
2953 *licensee, or host location licensee.*
2954 *E. No licensee that has been issued a host location license shall be issued a manufacturer license,*
2955 *distributor license, or operator license, or have any interest in a manufacturer licensee, distributor*
2956 *licensee, or operator licensee.*
2957 ***§ 58.1-4037. Prohibition against transferring licenses without approval by Director.***
2958 *A licensee may not transfer its license, or assign responsibility for compliance with the conditions of*
2959 *its license, to any party, including a transfer of effective control of the licensee, without approval by the*
2960 *Director.*
2961 ***§ 58.1-4038. Suspension and revocation of licenses; civil penalties; hearing and appeal.***
2962 *A. If the Director determines that any provision of this article, or any regulation or condition of the*
2963 *Board, has not been complied with or has been violated by a licensee, he may, with at least 15 days'*
2964 *notice and a hearing, (i) assess a civil penalty against the holder thereof in a sum not to exceed*
2965 *$100,000 and (ii) suspend or revoke the license holder's license. If any license is suspended or revoked,*
2966 *the Director shall state its reasons for doing so, which shall be entered of record.*
2967 *B. Any person aggrieved by a refusal of the Director to issue any license, the suspension or*
2968 *revocation of a license, the imposition of a fine, or any other action of the Director may seek review of*
2969 *such action in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act in the*
2970 *Circuit Court of the City of Richmond. Further appeals shall also be in accordance with Article 5 of the*
2971 *Administrative Process Act.*
2972 *C. Suspension or revocation of a license by the Director for any violation shall not preclude criminal*
2973 *liability for such violation.*
2974 ***§ 58.1-4039. Requirement for written agreement between operator licensee and host location***
2975 ***licensee; division of revenue.***
2976 *A. No operator licensee may place or maintain an electronic gaming device on the premises of a*
2977 *host location licensee unless the operator licensee and the host location licensee have entered into a*
2978 *written agreement that sets forth the terms and conditions for the placement and maintenance of such*
2979 *devices.*
2980 *B. A copy of the written agreement shall be maintained in the business office of both the operator*
2981 *licensee and the host location licensee and shall be available at all times for inspection by the Director.*
2982 *C. The written agreement shall be exclusive between one operator licensee and one host location*
2983 *licensee.*
2984 *D. The written agreement shall be valid for a term of at least four years.*
2985 *E. The operator licensee and host location licensee shall agree within the written agreement to split*
2986 *equally the allocation of all gross profits from the play of electronic gaming devices between the two*
2987 *licensees. No person shall receive a portion of any proceeds from the play of electronic gaming devices*
2988 *except for distributor licensees and host location licensees.*
2989 *F. An operator and a host location may not enter into a written agreement until both the operator*
2990 *and the host location are duly licensed pursuant to this article. Any agreements between a prospective*
2991 *operator and a prospective host location regarding the placement of an electronic gaming device,*
2992 *including an agreement granting the right to enter into a written agreement or match any offer to enter*
2993 *into a written agreement, prior to the Board's granting licenses to both parties shall be unenforceable.*
2994 ***§ 58.1-4040. Approval of electronic gaming devices by the Director.***
2995 *A. No electronic gaming device shall be offered for play by the public in the Commonwealth unless*
2996 *such electronic gaming device has first been approved by the Director.*
2997 *B. Before selling, leasing, or otherwise providing an electronic gaming device to an operator, a*
2998 *manufacturer shall provide a prototype or production sample of such electronic gaming device to an*
2999 *independent testing laboratory that has been approved by the Director, which shall evaluate and certify*
3000 *whether such electronic gaming device meets the definition of electronic gaming device under*
3001 *§ 58.1-4030, the requirements of § 58.1-4041, and any other requirements established in Board*
3002 *regulations.*
3003 *Along with the prototype or production sample of the electronic gaming device, the manufacturer*
3004 *shall provide the following information concerning the electronic gaming device to the independent*
3005 *testing laboratory:*
3006 *1. The method of determining the game outcome;*
3007 *2. The available wagering denominations;*
3008 *3. The minimum wager amount;*
3009 *4. The maximum wager amount;*
3010 *5. The amount of takeout for each wager;*
3011 *6. The method of calculating winning payouts;*

3012 *7. Payout calculations set forth in sufficient detail to audit a payout through manual calculation;*
3013 *8. The minimum payouts and the method of guaranteeing minimum payouts; and*
3014 *9. Any other information requested by the independent testing laboratory or required by the Board*
3015 *for use in the testing of the electronic gaming device.*
3016 *The report of the independent testing laboratory shall be submitted by the manufacturer to the*
3017 *Director. The Director shall use the report in evaluating whether the electronic gaming device shall be*
3018 *approved under this article.*
3019 *If at any time a manufacturer makes a substantive change to any electronic gaming device that has*
3020 *previously been approved by the Director, such manufacturer shall resubmit the electronic gaming*
3021 *device to the Director in a manner prescribed by Board regulation.*
3022 ***§ 58.1-4041. Requirements of electronic gaming devices.***
3023 *In addition to meeting the definition of electronic gaming device established in § 58.1-4030,*
3024 *electronic gaming devices shall:*
3025 *1. Show the rules of play for each game in a way that adequately describes or displays such*
3026 *information so that a reasonable person could understand the game prior to placing a wager;*
3027 *2. Accept only cash wagers;*
3028 *3. Make all possible game outcomes available upon the initiation of each game;*
3029 *4. Prohibit the modification of the rules of play for a game, including the probability and award of a*
3030 *game outcome, once a game is initiated;*
3031 *5. Prohibit the remote modification or manipulation of games;*
3032 *6. Pay out no more than $1,199 in winnings for a single play of a game;*
3033 *7. Have a payout percentage of at least 85 percent;*
3034 *8. Have a power switch that is located inside of the device to prevent power from being switched off*
3035 *from outside of the device;*
3036 *9. Be designed such that power and data cables into and out of the device are routed so that they*
3037 *are not accessible by the general public;*
3038 *10. Have an identification badge affixed to the exterior of the device by the manufacturer that is not*
3039 *removable without leaving evidence of tampering. Such badge shall include the following information:*
3040 *a. The name of the manufacturer;*
3041 *b. A unique serial number;*
3042 *c. The device model number; and*
3043 *d. The date of manufacture;*
3044 *11. Be constructed of materials that are designed to allow only authorized access to the interior of*
3045 *the device. Such materials shall be designed to show evidence of tampering if unauthorized access does*
3046 *occur;*
3047 *12. Have seals between the device and the doors of a locked area that are designed to resist the use*
3048 *of tools or other objects used to breach the locked area by physical force;*
3049 *13. Have external doors that shall be locked and monitored by door access sensors;*
3050 *14. Have a currency storage area that is secured by two locks before the currency can be removed*
3051 *and that is only accessible by the operator licensee;*
3052 *15. Make payments to successful players by issuing a voucher that can be redeemed for cash at the*
3053 *host location's ticket redemption terminal; and*
3054 *16. Have the ability to allow for an independent integrity check by an independent testing laboratory*
3055 *approved by the Director of all software that may affect the integrity of the game.*
3056 ***§ 58.1-4042. Independent integrity checks of electronic gambling devices.***
3057 *A prototype or production sample of each type, version, or model of electronic gaming device being*
3058 *operated in the Commonwealth shall be tested by an independent testing laboratory approved by the*
3059 *Director to ensure its integrity and proper working order. This evaluation shall include a review of*
3060 *installed software periodically within a timeframe established by the Director.*
3061 *The independent testing laboratory's software may be embedded within the game software, utilize an*
3062 *interface port to communicate with the device, or require the removal of device media for external*
3063 *verification.*
3064 *The manufacturer licensee shall pay the cost of the independent testing laboratory's review and*
3065 *testing, and the reports of the same shall be delivered to the licensee and the Director.*
3066 ***§ 58.1-4043. Requirement for central monitoring system.***
3067 *Each electronic gaming device and ticket redemption terminal being operated in the Commonwealth*
3068 *shall be connected to a central monitoring system established and operated by the Department.*
3069 *The central monitoring system shall collect the following information from each device: (i) cash in,*
3070 *(ii) payouts, (iii) points played, (iv) points won, (v) gross terminal income, (vi) net terminal income, (vii)*
3071 *the number of plays of the game, (viii) the amounts paid to play the game, (ix) all taxes accrued and*
3072 *paid, and (x) any other information required by Board regulations.*
3073 ***§ 58.1-4044. Requirements of operator licensees.***

3074 *A. No operator licensee shall own or lease an electronic gaming device unless such device has been*
3075 *manufactured by and purchased or leased from a manufacturer licensee or distributor licensee. No*
3076 *contract between a distributor licensee and a manufacturer licensee or an operator licensee shall grant*
3077 *the distributor licensee or operator licensee exclusive rights to own, maintain, or place a type, model, or*
3078 *brand of electronic gaming device in the Commonwealth.*
3079 *B. No operator licensee shall place or maintain an electronic gaming device at any establishment*
3080 *where it is offered to the public for play for a charge, directly or indirectly, unless such establishment is*
3081 *a host location licensee.*
3082 *C. Each operator licensee that places or maintains an electronic gaming device at any establishment*
3083 *where it is offered to the public for play for a charge, directly or indirectly, shall submit or confirm a*
3084 *report to the Department, on a frequency established by the Board, detailing:*
3085 *1. The gross revenue of each electronic gaming device that the operator licensee owns and*
3086 *maintains; and*
3087 *2. The gross profits of each electronic gaming device that the operator licensee owns and maintains.*
3088 ***§ 58.1-4045. Requirements of host location licensees.***
3089 *A. The following locations are eligible to receive a host location license:*
3090 *1. Establishments licensed to sell alcoholic beverages pursuant to Chapter 2 (§ 4.1-200 et seq.) of*
3091 *Title 4.1;*
3092 *2. Qualified organizations permitted to conduct charitable gaming pursuant to Article 1.1:1*
3093 *(§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2; and*
3094 *3. Truck stops.*
3095 *As used in this subsection, "truck stop" means an establishment that (i) is equipped with diesel*
3096 *islands used for fueling commercial motor vehicles; (ii) has sold, or reasonably anticipates selling, at*
3097 *least 10,000 gallons of diesel fuel per month; (iii) has parking spaces dedicated to commercial motor*
3098 *vehicles; (iv) has a convenience store; and (v) is situated on not less than two acres of land that the*
3099 *establishment owns or leases.*
3100 *B. No host location licensee shall allow an electronic gaming device to be placed upon the premises*
3101 *of such licensee's establishment unless such device is owned or leased and maintained by an operator*
3102 *licensee.*
3103 *C. Except for qualified organizations permitted to conduct charitable gaming pursuant to Article*
3104 *1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, the primary business of a host location licensee*
3105 *shall not be the offering for play of electronic gaming devices.*
3106 *D. Except for qualified organizations permitted to conduct charitable gaming pursuant to Article*
3107 *1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2, no host location licensee shall derive more than*
3108 *50 percent of such location's annual gross receipts from its share of the gross profits derived from the*
3109 *play of electronic gaming devices at such location.*
3110 *E. No host location licensee shall offer more than five electronic gaming devices to the public for*
3111 *play at such host location licensee's establishment.*
3112 *F. Each host location licensee shall submit or confirm a report to the Department, on a frequency*
3113 *established by the Board, detailing:*
3114 *1. The gross receipts of the location;*
3115 *2. The gross revenue of each electronic gaming device; and*
3116 *3. The gross profits of each electronic gaming device.*
3117 ***§ 58.1-4046. Responsible gaming.***
3118 *A. In an effort to promote responsible gaming by players, host location licensees shall:*
3119 *1. Post in a conspicuous place a sign that bears a toll-free number for problem gambling assistance*
3120 *that has been approved by the Virginia Council on Problem Gambling or other organizations that*
3121 *provide assistance to problem gamblers;*
3122 *2. Provide informational leaflets or other similar materials at the licensee's facilities on the dangers*
3123 *associated with problem gambling;*
3124 *3. If the licensee holds a license from the Virginia Alcoholic Beverage Control Authority to serve*
3125 *alcoholic beverages, train its employees to identify patrons who have consumed excessive amounts of*
3126 *alcohol to prevent such patrons from continuing to engage in wagering activity while impaired; and*
3127 *4. Make all reasonable efforts to ensure that any request by a patron who wishes to self-exclude*
3128 *from the licensee's facilities is honored by the licensee.*
3129 *B. Nothing contained in this section shall be construed to create any cause of action against the*
3130 *Board or Department for the failure of a host location licensee to comply with the requirements of this*
3131 *section.*
3132 ***§ 58.1-4047. Local regulation of electronic gaming devices.***
3133 *A locality may adopt and enforce a local ordinance prohibiting the manufacturing, distributing,*
3134 *operating, hosting, or play of electronic gaming devices within such locality, provided that such*

3135 *ordinance is passed no later than six months following the enactment of this article. If the locality*
3136 *passes such an ordinance and later chooses to allow the manufacturing, distributing, operating, hosting,*
3137 *or play of electronic gaming devices within such locality, the locality may pass an ordinance to that*
3138 *effect; however, such locality shall be prohibited from once again passing an ordinance to prohibit any*
3139 *such activities.*
3140 ***§ 58.1-4048. Tax on gross profits.***
3141 *A. There shall be imposed a tax of 33 percent on all gross profits from the play of electronic gaming*
3142 *devices.*
3143 *B. There shall be imposed an additional tax of three percent on all gross profits from the play of*
3144 *electronic gaming devices to benefit the locality in which the host location licensee operates.*
3145 *C. The taxes imposed pursuant to this section shall be remitted by the operator licensee to the*
3146 *Department at a frequency established by Board regulations. If the operator licensee's accounting*
3147 *necessitates corrections to a previously remitted tax, such licensee shall document such corrections when*
3148 *remitting the next tax installment.*
3149 *D. The taxes collected by the Department pursuant to this section shall be placed in the Virginia*
3150 *Lottery Fund, established pursuant to § 58.1-4022, pending distribution pursuant to § 58.1-4049.*
3151 ***§ 58.1-4049. Distribution of tax revenue.***
3152 *A. The Department shall allocate two percent of the tax revenue collected pursuant to § 58.1-4048 to*
3153 *the Problem Gambling Treatment and Support Fund established pursuant to § 37.2-314.1.*
3154 *B. The Department shall allocate 94 percent of the tax revenue collected pursuant to subsection A of*
3155 *§ 58.1-4048 to the Virginia Electronic Gaming Device Education Support Fund established pursuant to*
3156 *subsection A of § 58.1-4050.*
3157 *C. The Department shall allocate the remaining four percent of the tax revenue collected pursuant to*
3158 *subsection A of § 58.1-4048 to the Virginia Lottery Fund established pursuant to § 58.1-4022. From this*
3159 *amount a sum sufficient shall be appropriated to fund the operations of the Board related to the*
3160 *administration and regulation of electronic gaming devices pursuant to this article.*
3161 *D. The Department shall allocate the entirety of the tax revenue collected pursuant to subsection B*
3162 *of § 58.1-4048 to the locality in which the host location licensee operates.*
3163 *E. Allocation of funds by the Department pursuant to this section shall occur no later than 60 days*
3164 *after such funds are collected, and only after the Department has verified the accuracy of the collected*
3165 *balances.*
3166 ***§ 58.1-4050. Virginia Electronic Gaming Device Education Support Fund.***
3167 *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia*
3168 *Electronic Gaming Device Education Support Fund, referred to in this section as "the Fund." The Fund*
3169 *shall be established on the books of the Comptroller. All revenues allocated by the Department under*
3170 *§ 58.1-4049 for deposit into the Fund shall be paid into the state treasury and credited to the Fund.*
3171 *Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys*
3172 *remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the*
3173 *general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of*
3174 *public education.*
3175 ***§ 58.1-4051. Illegal manufacturing, distributing, or hosting; penalty.***
3176 *A. No person shall:*
3177 *1. Manufacture or sell or lease to distributors or operators major components or parts, including*
3178 *software and hardware, for electronic gaming devices without a license issued by the Director.*
3179 *2. Buy electronic gaming devices from a manufacturer, distribute such devices to or place such*
3180 *devices at host locations, or maintain and service such devices without a license issued by the Director.*
3181 *3. Operate an establishment where one or more bona fide electronic gaming devices are made*
3182 *available for play by the public without a license issued by the Director.*
3183 *4. Enter into an agreement for the placement of an electronic gaming device until the operator, host*
3184 *location, and procurement agent, if applicable, are all issued a license by the Director pursuant to this*
3185 *Article.*
3186 *B. A violation of this section is a Class 6 felony.*
3187 ***§ 58.1-4052. Underage play prohibited; penalty.***
3188 *A. No person shall play any electronic gaming device unless such person is 21 years of age or older.*
3189 *B. No person shall redeem any evidence of winnings from any person who is not 21 years of age or*
3190 *older.*
3191 *C. A violation of this section is a Class 1 misdemeanor.*
3192 ***§ 58.1-4053. Prohibited acts by host location licensees; penalty.***
3193 *A. No host location licensee shall:*
3194 *1. Permit any person who is not 21 years of age or older to play any electronic gaming device;*
3195 *2. Give any reward for the play of an electronic gaming device that is not authorized by this article;*
3196 *or*

3197 *3. Give any reward for the play of an electronic gaming device that is redeemable at a location*
3198 *other than the host location's ticket redemption terminal.*
3199 *B. A violation of this section is a Class 1 misdemeanor.*
3200 ***§ 58.1-4054. Illegal tampering with electronic gaming devices; penalty.***
3201 *No person other than a operator licensee shall possess or use any key or device designed for the*
3202 *purpose of opening, entering, or affecting the operation of an electronic gaming device or otherwise*
3203 *tamper with an electronic gaming device. A violation of this section is a Class 6 felony.*
3204 ***§ 58.1-4055. Conspiracies and attempts to commit violations; penalty.***
3205 *A. Any person who conspires, confederates, or combines with another, either within or outside the*
3206 *Commonwealth, to commit a felony prohibited by this article is guilty of a Class 6 felony.*
3207 *B. Any person who attempts to commit any act prohibited by this article is guilty of a criminal*
3208 *offense and shall be punished as provided in § 18.2-26, 18.2-27, or 18.2-28, as appropriate.*
3209 ***§ 58.1-4056. Certain provisions in Article 1 (§ 58.1-4000 et seq.) to apply, mutatis mutandis.***
3210 *Except as provided in this article, the provisions of Article 1 (§ 58.1-4000 et seq.) shall apply to*
3211 *electronic gaming devices under this article. The Board shall promulgate regulations to interpret and*
3212 *clarify the applicability of Article 1 to this article.*
3213 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**
3214 A. The Department of State Police, the Department of Game and Inland Fisheries, the Virginia
3215 Alcoholic Beverage Control Authority, the Virginia Lottery *and Gaming Department*, the Marine
3216 Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the
3217 Department of Forestry, any sheriff, any regional jail board or authority, and any local police department
3218 may allow any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire
3219 department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow
3220 any law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any
3221 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1,
3222 retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with
3223 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11
3224 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a
3225 result of a service-incurred disability or who is receiving long-term disability payments for a
3226 service-incurred disability with no expectation of returning to the employment where he incurred the
3227 disability to purchase the service handgun issued or previously issued to him by the agency or institution
3228 at a price of $1. If the previously issued weapon is no longer available, a weapon of like kind may be
3229 substituted for that weapon. This privilege shall also extend to any former Superintendent of the
3230 Department of State Police who leaves service after a minimum of five years. This privilege shall also
3231 extend to any person listed in this subsection who is eligible for retirement with at least 10 years of
3232 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this
3233 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the
3234 agencies listed in this subsection for personal duty use of an officer may, with approval of the agency
3235 head, be sold to the officer subject to the qualifications of this section at a fair market price determined
3236 as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular
3237 hardware or sporting goods store by a private citizen without restrictions other than the instant
3238 background check.
3239 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who
3240 retires with five or more years of service, but less than 10, to purchase the service handgun issued to
3241 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's
3242 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in
3243 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the
3244 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on
3245 the date of the officer's retirement. Determinations of fair market value may be made by reference to a
3246 recognized pricing guide.
3247 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn
3248 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least
3249 10 years of service to purchase the service handgun issued to the officer by the agency at a price of $1.
3250 D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any
3251 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1
3252 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent
3253 to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market
3254 value may be made by reference to a recognized pricing guide.
3255 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a
3256 state agency listed in subsection A, when the agency allows purchases of service handguns, and who
3257 retires after 10 years of state service, even if a portion of his service was with another state agency, may

3258 purchase the service handgun issued to him by the agency from which he retires at a price of $1.
3259 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a
3260 minimum of 10 years of service, upon leaving office, to purchase for $1 the service handgun issued to
3261 him.
3262 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more
3263 than 10 years of service to purchase the service handgun issued to him by the agency at a price that is
3264 equivalent to or less than the weapon's fair market value on the date of purchase by the officer.
3265 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer
3266 currently employed by the agency to purchase his service handgun, with the approval of the chief
3267 law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the
3268 agency has purchased new service handguns for its officers, and the handgun subject to the sale is no
3269 longer used by the agency or officer in the course of duty.
3270 **2. That § 58.1-4007.2 of the Code of Virginia is repealed.**
3271 **3. That the initial adoption by the Virginia Lottery and Gaming Oversight Board (the Board), as**
3272 **renamed by this act, of regulations necessary to implement the provisions of this act shall be**
3273 **exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except**
3274 **that the Board shall provide an opportunity for public comment on the regulations prior to**
3275 **adoption.**
3276 **4. That the initial procurement by the Virginia Lottery and Gaming Department, as renamed by**
3277 **this act, of the central monitoring system required by § 58.1-4043 of the Code of Virginia, as**
3278 **created by this act, shall be exempt from the departmental procurement regulations promulgated**
3279 **by the Virginia Lottery and Gaming Oversight Board, as renamed by this act, pursuant to**
3280 **§ 58.1-4007 of the Code of Virginia, as amended by this act.**
3281 **5. That, notwithstanding the provisions of the first enactment of this act to the contrary, (i) until**
3282 **the Virginia Lottery and Gaming Oversight Board (the Board), as renamed by this act, adopts the**
3283 **regulations necessary to implement the provisions of this act pursuant to the third enactment of**
3284 **this act and (ii) the central monitoring system required by § 58.1-4043 of the Code of Virginia, as**
3285 **created by this act, is operational, the Director of the Virginia Lottery may issue a provisional**
3286 **license under the first enactment of this act to any entity that is duly licensed to engage in the**
3287 **manufacturing, distributing, operating, or hosting of any electronic gaming device in another state**
3288 **on July 1, 2020. The Board shall establish procedures for the issuance of provisional licenses. The**
3289 **granting of a provisional license pursuant to this enactment shall not entitle such license holder to**
3290 **the automatic granting of a license pursuant to the first enactment of this act. Holders of**
3291 **provisional licenses pursuant to this enactment shall self-report the information required by**
3292 **§ 58.1-4043 of the Code of Virginia, as created by this act, to the Virginia Lottery and Gaming**
3293 **Department, as renamed by this act, pursuant to procedures established by the Board.**
3294 **Manufacturing, distributing, operating, or hosting any electronic gaming device at any time**
3295 **between July 1, 2020, and the date upon which (a) the regulations necessary to implement the**
3296 **provisions of this act are adopted and (b) the central monitoring system is operational without**
3297 **obtaining a provisional license pursuant to this enactment or failure to self-report the information**
3298 **required by this enactment may permanently disqualify a person from obtaining a license**
3299 **pursuant to the first enactment of this act. Any such disqualifications shall be within the sole**
3300 **discretion of the Director.**
3301 **6. That the provisions of this act may result in a net increase in periods of imprisonment or**
3302 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
3303 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
3304 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
3305 **Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to**
3306 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**
3307 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**