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Wade, Amigo

SUMMARY

Virginia Register Act; guidance documents; duty to file with the Registrar. Consolidates provisions relating to the availability of guidance documents in a single section in the Virginia Register Act. The bill also requires every authority, instrumentality, officer, board, or other unit of the government of the Commonwealth to annually file with the Registrar for publication in the Virginia Register of Regulations a list of any guidance documents upon which the agency currently relies.

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SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-436, 2.2-4001, 2.2-4103, and 58.1-205 of the Code of Virginia, to
 2 amend the Code of Virginia by adding a section numbered 2.2-4103.1, and to repeal § 2.2-4008
 3 of the Code of Virginia, relating to the Virginia Register Act; guidance documents.

4 Be it enacted by the General Assembly of Virginia:

5 **1. That §§ 2.2-436, 2.2-4001, 2.2-4103, and 58.1-205 of the Code of Virginia are amended and**
 6 **reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-4103.1 as**
 7 **follows:**

8 § 2.2-436. Approval of electronic identity standards.

9 A. The Secretary of Technology, in consultation with the Secretary of Transportation, shall
 10 review and approve or disapprove, upon the recommendation of the Identity Management Standards
 11 Advisory Council pursuant to § 2.2-437, guidance documents that adopt (i) nationally recognized
 12 technical and data standards regarding the verification and authentication of identity in digital and online
 13 transactions; (ii) the minimum specifications and standards that should be included in an identity trust
 14 framework, as defined in § 59.1-550, so as to warrant liability protection pursuant to the Electronic
 15 Identity Management Act (§ 59.1-550 et seq.); and (iii) any other related data standards or specifications
 16 concerning reliance by third parties on identity credentials, as defined in § 59.1-550.

17 B. Final guidance documents approved pursuant to subsection A shall be posted on the Virginia
 18 Regulatory Town Hall and published in the Virginia Register of Regulations as a general notice. The
 19 Secretary of Technology shall send a copy of the final guidance documents to the Joint Commission on
 20 Administrative Rules established pursuant to § 30-73.1 at least 90 days prior to the effective date of such
 21 guidance documents. The Secretary of Technology shall also annually file a list of available guidance
 22 documents developed pursuant to this chapter pursuant to ~~§ 2.2-4008~~ § 2.2-4103.1 of the Virginia
 23 Administrative Process Act (§ 2.2-4000 et seq.) and shall send a copy of such list to the Joint
 24 Commission on Administrative Rules.

25 § 2.2-4001. Definitions.

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

27 "Agency" means any authority, instrumentality, officer, board or other unit of the state
28 government empowered by the basic laws to make regulations or decide cases.

29 "Agency action" means either an agency's regulation or case decision or both, any violation,
30 compliance, or noncompliance with which could be a basis for the imposition of injunctive orders, penal
31 or civil sanctions of any kind, or the grant or denial of relief or of a license, right, or benefit by any
32 agency or court.

33 "Basic law" or "basic laws" means provisions of the Constitution and statutes of the
34 Commonwealth authorizing an agency to make regulations or decide cases or containing procedural
35 requirements therefor.

36 "Case" or "case decision" means any agency proceeding or determination that, under laws or
37 regulations at the time, a named party as a matter of past or present fact, or of threatened or
38 contemplated private action, either is, is not, or may or may not be (i) in violation of such law or
39 regulation or (ii) in compliance with any existing requirement for obtaining or retaining a license or
40 other right or benefit.

41 ~~"Guidance document" means any document developed by a state agency or staff that provides~~
42 ~~information or guidance of general applicability to the staff or public to interpret or implement statutes~~
43 ~~or the agency's rules or regulations, excluding agency minutes or documents that pertain only to the~~
44 ~~internal management of agencies. Nothing in this definition shall be construed or interpreted to expand~~
45 ~~the identification or release of any document otherwise protected by law.~~

46 "Hearing" means agency processes other than those informational or factual inquiries of an
47 informal nature provided in §§ 2.2-4007.01 and 2.2-4019 and includes only (i) opportunity for private
48 parties to submit factual proofs in formal proceedings as provided in § 2.2-4009 in connection with the
49 making of regulations or (ii) a similar right of private parties or requirement of public agencies as
50 provided in § 2.2-4020 in connection with case decisions.

51 "Hearing officer" means an attorney selected from a list maintained by the Executive Secretary
52 of the Supreme Court in accordance with § 2.2-4024.

53 "Public assistance and social services programs" means those programs specified in § 63.2-100.

54 "Registrar" means the Registrar of Regulations appointed as provided in § 2.2-4102.

55 "Rule" or "regulation" means any statement of general application, having the force of law,
56 affecting the rights or conduct of any person, adopted by an agency in accordance with the authority
57 conferred on it by applicable basic laws.

58 "Subordinate" means (i) one or more but less than a quorum of the members of a board
59 constituting an agency, (ii) one or more of its staff members or employees, or (iii) any other person or
60 persons designated by the agency to act in its behalf.

61 "Virginia Register of Regulations" means the publication issued under the provisions of Article 6
62 (§ 2.2-4031 et seq.).

63 "Virginia Regulatory Town Hall" means the website operated by the Department of Planning and
64 Budget, which has online public comment forums and displays information about regulatory actions
65 under consideration in the Commonwealth and sends this information to registered public users.

66 **§ 2.2-4103. Agencies to file regulations with Registrar; other duties; failure to file.**

67 It shall be the duty of every agency to have on file with the Registrar the full text of all of its
68 currently operative regulations, together with the dates of adoption, revision, publication, or amendment
69 thereof and such additional information requested by the Commission or the Registrar for the purpose of
70 publishing the Virginia Register of Regulations and the Virginia Administrative Code. Thereafter,
71 coincidentally with the issuance thereof, each agency shall from day to day so file, date, and supplement
72 all new regulations and amendments, repeals, or additions to its previously filed regulations. The filed
73 regulations shall (i) indicate the laws they implement or carry out, (ii) designate any prior regulations
74 repealed, modified, or supplemented, (iii) state any special effective or terminal dates, and (iv) be
75 accompanied by a statement or certification, either in original or electronic form, that the regulations are
76 full, true, and correctly dated. No regulation or amendment or repeal thereof shall be effective until filed
77 with the Registrar.

78 Orders condemning or closing any shellfish, finfish or crustacea growing area and the shellfish,
79 finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8, of Title 28.2,

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80 which are exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.) as
81 provided in subsection B of § 2.2-4002, shall be effective on the date specified by the promulgating
82 agency. Such orders shall continue to be filed with the Registrar either before or after their effective
83 dates in order to satisfy the need for public availability of information respecting the regulations of state
84 agencies.

85 An order setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic
86 menhaden for reduction purposes pursuant to § 28.2-1000.2, which is exempt from the requirements of
87 the Administrative Process Act as provided by subsection A of § 2.2-4002, shall be effective on the date
88 specified. Such orders shall be filed with the Registrar for prompt publication.

89 In addition, each agency shall itself (i) maintain a complete list of all of its currently operative
90 regulations for public consultation, (ii) make available to public inspection a complete file of the full
91 texts of all such regulations, and (iii) allow public copying thereof or make copies available either
92 without charge, at cost, or on payment of a reasonable fee. Each agency shall also maintain as a public
93 record a complete file of its regulations that have been superseded on and after June 1, 1975.

94 ~~It shall be the duty of every agency to annually file with the Registrar for publication in the~~
95 ~~Virginia Register of Regulations a list of any guidance documents upon which the agency currently~~
96 ~~relies. The filing shall be made on or before January 1 of each year in a format to be developed by the~~
97 ~~Registrar. Each agency shall also (i) maintain a complete list of all of its currently operative guidance~~
98 ~~documents and make such list available for public inspection, (ii) make available for public inspection~~
99 ~~the full texts of all such guidance documents to the extent such inspection is permitted by law, and (iii)~~
100 ~~upon request, make copies of such lists or guidance documents available without charge, at cost, or on~~
101 ~~payment of a reasonable fee.~~

102 Where regulations adopt textual matter by reference to publications other than the Federal
103 Register or Code of Federal Regulations, the agency shall (i) file with the Registrar copies of the
104 referenced publications, (ii) state on the face of or as notations to regulations making such adoptions by
105 reference the places where copies of the referred publications may be procured, and (iii) make copies of
106 such referred publications available for public inspection and copying along with its other regulations.

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107 Unless he finds that there are special circumstances requiring otherwise, the Governor, in
108 addition to the exercise of his authority to see that the laws are faithfully executed, may, until
109 compliance with this chapter is achieved, withhold the payment of compensation or expenses of any
110 officer or employee of any agency in whole or part whenever the Commission certifies to him that the
111 agency has failed to comply with this section or this chapter in stated respects, to respond promptly to
112 the requests of the Registrar, or to comply with the regulations of the Commission.

113 **§ 2.2-4103.1. Guidance documents; duty to file with the Registrar.**

114 A. For the purposes of this section, "agency" means any authority, instrumentality, officer,
115 board, or other unit of the government of the Commonwealth.

116 B. It shall be the duty of every agency to annually file with the Registrar for publication in the
117 Virginia Register of Regulations a list of any guidance documents upon which the agency currently
118 relies. The filing shall be made on or before January 1 of each year in a format to be developed by the
119 Registrar. Each agency shall also (i) maintain a complete list of all of its currently operative guidance
120 documents and make the list available for public inspection, (ii) make available for public inspection the
121 full texts of all guidance documents to the extent inspection is permitted by law, and (iii) upon request,
122 make copies of such lists or guidance documents available without charge, at cost, or upon payment of a
123 reasonable fee.

124 C. Nothing in this section is intended to nor shall it confer or impose any regulatory authority
125 upon an agency, nor shall this section create any rights to appeal or challenge a guidance document
126 adopted by an agency.

127 **§ 58.1-205. Effect of regulations, rulings, etc., and administrative interpretations.**

128 In any proceeding relating to the interpretation or enforcement of the tax laws of this
129 Commonwealth, the following rules shall apply:

- 130 1. Any assessment of a tax by the Department shall be deemed prima facie correct.
- 131 2. Any regulation promulgated as provided by subsection B of § 58.1-203 shall be sustained
132 unless unreasonable or plainly inconsistent with applicable provisions of law.

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SUMMARY

Administrative Process Act; formal hearings; conduct of closed hearings and issuance of protective orders. Authorizes a presiding officer of a formal hearing to conduct a closed hearing, issue necessary protective orders, and seal all or part of the hearing record upon motion of the parties to the hearing.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-4020 of the Code of Virginia, relating to the Administrative Process
2 Act; formal hearings; conduct of closed hearings and issuance of protective orders.

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

4 **1. That § 2.2-4020 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-4020. Formal hearings; litigated issues.**

6 A. The agency shall afford opportunity for the formal taking of evidence upon relevant fact
7 issues in any case in which the basic laws provide expressly for decisions upon or after hearing and may
8 do so in any case to the extent that informal procedures under § 2.2-4019 have not been had or have
9 failed to dispose of a case by consent.

10 B. Parties to formal proceedings shall be given reasonable notice of the (i) time, place, and
11 nature thereof; (ii) basic law under which the agency contemplates its possible exercise of authority; (iii)
12 matters of fact and law asserted or questioned by the agency; and (iv) contact information consisting of
13 the name, telephone number, and government email address of the person designated by the agency to
14 respond to questions or otherwise assist a named party. Applicants for licenses, rights, benefits, or
15 renewals thereof have the burden of approaching the agency concerned without such prior notice but
16 they shall be similarly informed thereafter in the further course of the proceedings whether pursuant to
17 this section or to § 2.2-4019.

18 C. In all such formal proceedings the parties shall be entitled to be accompanied by and
19 represented by counsel, to submit oral and documentary evidence and rebuttal proofs, to conduct such
20 cross-examination as may elicit a full and fair disclosure of the facts, and to have the proceedings
21 completed and a decision made with dispatch. The burden of proof shall be upon the proponent or
22 applicant. The presiding officers at the proceedings may (i) administer oaths and affirmations, (ii)
23 receive probative evidence, exclude irrelevant, immaterial, insubstantial, privileged, or repetitive proofs,
24 rebuttal, or cross-examination, rule upon offers of proof, and oversee a verbatim recording of the
25 evidence, (iii) hold conferences for the settlement or simplification of issues by consent, (iv) dispose of

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26 procedural requests, and (v) regulate and expedite the course of the hearing. Where a hearing officer
27 presides, or where a subordinate designated for that purpose presides in hearings specified in subsection
28 F of § 2.2-4024, he shall recommend findings and a decision unless the agency shall by its procedural
29 regulations provide for the making of findings and an initial decision by the presiding officers subject to
30 review and reconsideration by the agency on appeal to it as of right or on its own motion. The agency
31 shall give deference to findings by the presiding officer explicitly based on the demeanor of witnesses.

32 D. Upon the motion of the agency or party, the presiding officer may conduct a closed hearing,
33 issue necessary protective orders, and seal all or part of the hearing record as may be necessary to allow
34 the agency upon issuance of its final case decision to implement the provisions of § 2.2-4023.

35 E. Prior to the recommendations or decisions of subordinates, the parties concerned shall be
36 given opportunity, on request, to submit in writing for the record (i) proposed findings and conclusions
37 and (ii) statements of reasons therefor. In all cases, on request, opportunity shall be afforded for oral
38 argument (a) to hearing officers or subordinate presiding officers, as the case may be, in all cases in
39 which they make such recommendations or decisions or (b) to the agency in cases in which it makes the
40 original decision without such prior recommendation and otherwise as it may permit in its discretion or
41 provide by general rule. Where hearing officers or subordinate presiding officers, as the case may be,
42 make recommendations, the agency shall receive and act on exceptions thereto.

43 ~~E.F.~~ All decisions or recommended decisions shall be served upon the parties, become a part of
44 the record, and briefly state or recommend the findings, conclusions, reasons, or basis therefor upon the
45 evidence presented by the record and relevant to the basic law under which the agency is operating
46 together with the appropriate order, license, grant of benefits, sanction, relief, or denial thereof.

47

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CODE OF VIRGINIA 1950

2016 Cumulative Supplement

ANNOTATED

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BY

The Editorial Staff of the Publishers



VOLUME 1

2014 REPLACEMENT

*Includes all acts adopted at the 2016 Regular Session
of the General Assembly*

**Place with Corresponding Volume of Main Set.
This Supersedes Previous Supplement, Which
May Be Retained for Reference Purposes.**



Virginia Code Commission Responsibilities in Publishing the Code of Virginia

- Under § 30-148, the Commission is charged with arranging for the codification and incorporation into the Code of Virginia all general and permanent statutes.
- Under § 30-149, the Commission may correct printer's errors and misspellings; may renumber, rename, and rearrange Code of Virginia titles, chapters, articles, and sections in statutes adopted; correct unmistakable errors in cross-references and change cross-references of the Code of Virginia; and may omit from the "statutes incorporated into the Code of Virginia provisions which, in the judgment of the Commission, are inappropriate in a code, such as emergency clauses, clauses providing for specific nonrecurring appropriations and general repealing clauses."
- Pursuant to §§ 30-148 and 30-149 the Executive Committee of the Commission each year:
 - ◇ Resolves Code of Virginia section numbering when the General Assembly passes two or more acts adding the same section number;
 - ◇ Updates cross-references;
 - ◇ Makes other technical changes to the Code of Virginia; and
 - ◇ Uses its authority to determine if certain enactment clauses and § 1 bills should be codified.
- The Executive Committee makes these determinations as there is not enough time for the full Commission to meet while ensuring the timely publication of the Code of Virginia.
- Questions raised at the last Commission meeting were (i) should the Executive Committee of the Commission or the Commission continue to use its authority to codify non-statutory items of bills enacted by the General Assembly such as enactment clauses or § 1 bills and (ii) if yes, how should these actions be communicated to the General Assembly and other interested persons.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 13.1-543, 13.1-1102, 23.1-107, 23.1-200, 23.1-201, 23.1-203, 23.1-
2 210, 23.1-227, 23.1-301, 23.1-308, 23.1-634, 23.1-712, 23.1-1004, 23.1-1014, 23.1-1026, 23.1-
3 1211, 23.1-1225, 23.1-1300, 23.1-1303, 23.1-1305, 23.1-2308, 23.1-2404, 23.1-2408, 23.1-2409,
4 23.1-2413, 23.1-2415, 23.1-2607, 23.1-2631, 23.1-2702, 23.1-2903, 23.1-3131, 23.1-3133, 23.1-
5 3208, 23.1-3216, 23.1-3217, and 25.1-100 of the Code of Virginia, relating to higher education.

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

7 **1. That §§ 13.1-543, 13.1-1102, 23.1-107, 23.1-200, 23.1-201, 23.1-203, 23.1-210, 23.1-227, 23.1-301,**
8 **23.1-308, 23.1-634, 23.1-712, 23.1-1004, 23.1-1014, 23.1-1026, 23.1-1211, 23.1-1225, 23.1-1300, 23.1-**
9 **1303, 23.1-1305, 23.1-2308, 23.1-2404, 23.1-2408, 23.1-2409, 23.1-2413, 23.1-2415, 23.1-2607, 23.1-**
10 **2631, 23.1-2702, 23.1-2903, 23.1-3131, 23.1-3133, 23.1-3208, 23.1-3216, 23.1-3217, and 25.1-100 of**
11 **the Code of Virginia are amended and reenacted as follows:**

12 **§ 13.1-543. Definitions.**

13 A. As used in this chapter:

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

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

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

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

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

38 (2) At least ~~51%~~ 51 percent of the total of allocated and unallocated equity interests in the
39 corporation sponsoring such employee stock ownership plan are held (i) by the trustees of such
40 employee stock ownership plan for the benefit of persons holding a valid CPA certificate as defined in §
41 54.1-4400, with unallocated shares allocated for these purposes pursuant to § 409(p) of the Internal
42 Revenue Code of 1986, as amended, or (ii) by individual employees holding a valid CPA certificate
43 separate from any interests held by such employee stock ownership plan; and

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

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52 such employee stock ownership plan for the benefit of individuals who are employees but not duly
53 licensed to render such services or legally authorized to use a title, shall not exceed one-third of the
54 shares of the corporation; and

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

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

66 "Professional corporation" means a corporation whose articles of incorporation set forth a sole
67 and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the
68 sole and specific purpose of rendering professional service other than that of architects, professional
69 engineers, land surveyors, or landscape architects, or using a title other than that of certified interior
70 designers and, except as expressly otherwise permitted by this chapter, that has as its shareholders or
71 members only individuals or professional business entities that are duly licensed or otherwise legally
72 authorized to render the same professional service as the corporation, including the trustees of an
73 eligible employee stock ownership plan or (ii) organized under this chapter for the sole and specific
74 purpose of rendering the professional services of architects, professional engineers, land surveyors, or
75 landscape architects, or using the title of certified interior designers, or any combination thereof, and at
76 least two-thirds of whose shares are held by persons duly licensed within the Commonwealth to perform
77 the services of an architect, professional engineer, land surveyor, or landscape architect, including the
78 trustees of an eligible employee stock ownership plan, or by persons legally authorized within the

79 Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter or
80 under Chapter 10 (§ 13.1-801 et seq.) ~~of this title~~ for the sole and specific purpose of rendering the
81 professional services of one or more practitioners of the healing arts, licensed under the provisions of
82 Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter
83 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of
84 Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist
85 assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or
86 more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§
87 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more
88 practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600
89 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed
90 under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any
91 combination of practitioners of the healing arts, optometry, physical therapy, the behavioral science
92 professions, and audiology or speech pathology, and all of whose shares are held by or all of whose
93 members are individuals or professional business entities duly licensed or otherwise legally authorized
94 to perform the services of a practitioner of the healing arts, nurse practitioners, optometry, physical
95 therapy, the behavioral science professions, audiology or speech pathology or of a clinical nurse
96 specialist who renders mental health services, including the trustees of an eligible employee stock
97 ownership plan; however, nothing herein shall be construed so as to allow any member of the healing
98 arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or a
99 nurse practitioner or clinical nurse specialist to conduct his practice in a manner contrary to the
100 standards of ethics of his branch of the healing arts, optometry, physical therapy, the behavioral science
101 professions, audiology or speech pathology, or nursing, as the case may be.

102 "Professional service" means any type of personal service to the public that requires as a
103 condition precedent to the rendering of such service or use of such title the obtaining of a license,
104 certification, or other legal authorization and shall be limited to the personal services rendered by
105 pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the

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106 healing arts, nurse practitioners, practitioners of the behavioral science professions, veterinarians,
 107 surgeons, dentists, architects, professional engineers, land surveyors, landscape architects, certified
 108 interior designers, public accountants, certified public accountants, attorneys-at-law, insurance
 109 consultants, audiologists or speech pathologists, and clinical nurse specialists. For the purposes of this
 110 chapter, the following shall be deemed to be rendering the same professional service:

- 111 1. Architects, professional engineers, and land surveyors; and
- 112 2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et
 113 seq.) of Title 54.1; nurse practitioners, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.)
 114 of Title 54.1; optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title
 115 54.1; physical therapists and physical therapist assistants, licensed under the provisions of Chapter 34.1
 116 (§ 54.1-3473 et seq.) of Title 54.1; practitioners of the behavioral science professions, licensed under the
 117 provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of
 118 Title 54.1; and one or more clinical nurse specialists who render mental health services, licensed under
 119 Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and are registered with the Board of Nursing.

120 B. Persons who practice the healing art of performing professional clinical laboratory services
 121 within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if
 122 such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical
 123 laboratory sciences and (ii) are tenured faculty members of an accredited medical ~~college or university~~
 124 school that is an "~~educational~~-institution" ~~within the meaning of as that term is defined in § 23.1-1101~~
 125 23.1-1100.

126 **§ 13.1-1102. Definitions.**

127 A. As used in this chapter:

128 "Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or
 129 otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under
 130 whose laws the entity is formed to render the same professional service as that for which a professional
 131 corporation or professional limited liability company may be organized, including, but not limited to, (i)
 132 a professional limited liability company as defined in this subsection, (ii) a professional corporation as

133 defined in subsection A of § 13.1-543, or (iii) a partnership that is registered as a registered limited
134 liability partnership under § 50-73.132, all of the partners of which are duly licensed or otherwise legally
135 authorized to render the same professional services as those for which the partnership was organized.

136 "Professional limited liability company" means a limited liability company whose articles of
137 organization set forth a sole and specific purpose permitted by this chapter and that is either (i)
138 organized under this chapter for the sole and specific purpose of rendering professional service other
139 than that of architects, professional engineers, land surveyors, or landscape architects, or using a title
140 other than that of certified interior designers and, except as expressly otherwise permitted by this
141 chapter, that has as its members only individuals or professional business entities that are duly licensed
142 or otherwise legally authorized to render the same professional service as the professional limited
143 liability company or (ii) organized under this chapter for the sole and specific purpose of rendering
144 professional service of architects, professional engineers, land surveyors, or landscape architects or
145 using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose
146 membership interests are held by persons duly licensed within the Commonwealth to perform the
147 services of an architect, professional engineer, land surveyor, or landscape architect, or by persons
148 legally authorized within the Commonwealth to use the title of certified interior designer; or (iii)
149 organized under this chapter for the sole and specific purpose of rendering the professional services of
150 one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et
151 seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of
152 Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.)
153 of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the
154 provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the
155 behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§
156 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or
157 speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one
158 or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-
159 3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners

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160 of the healing arts, of optometry, physical therapy, the behavioral science professions, and audiology or
161 speech pathology and all of whose members are individuals or professional business entities duly
162 licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts,
163 nurse practitioners, optometry, physical therapy, the behavioral science professions, audiology or speech
164 pathology or of a clinical nurse specialist who renders mental health services; however, nothing herein
165 shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the
166 behavioral science professions, audiology or speech pathology or a nurse practitioner or clinical nurse
167 specialist to conduct that person's practice in a manner contrary to the standards of ethics of that person's
168 branch of the healing arts, optometry, physical therapy, the behavioral science professions, or audiology
169 or speech pathology, or nursing as the case may be.

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

- 179 1. Architects, professional engineers, and land surveyors; and
- 180 2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et
181 seq.) of Title 54.1, nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1,
182 optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, physical
183 therapists, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, practitioners
184 of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.),
185 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1, and clinical nurse specialists who

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186 render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and
187 registered with the Board of Nursing.

188 B. Persons who practice the healing art of performing professional clinical laboratory services
189 within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if
190 such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical
191 laboratory sciences and (ii) are tenured faculty members of an accredited medical ~~college or university~~
192 ~~school~~ that is an "educational institution" ~~within the meaning of as that term is defined in § 23.1-1101~~
193 ~~23.1-1100.~~

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

196 **§ 23.1-107. Private institutions of higher education; human research review committees.**

197 The human research review committee at each ~~proprietary private institution of higher education~~
198 ~~and nonprofit~~ private institution of higher education that conducts human research, as that term is
199 defined in § 32.1-162.16, shall submit to the Governor, the General Assembly, and the president of the
200 institution or his designee at least annually a report on the human research projects reviewed and
201 approved by the committee and any significant deviations from approved proposals.

202 **§ 23.1-200. State Council of Higher Education for Virginia established; purpose;**
203 **membership; terms; officers.**

204 A. The State Council of Higher Education for Virginia is established to advocate for and promote
205 the development and operation of an educationally and economically sound, vigorous, progressive, and
206 coordinated system of higher education in the Commonwealth and lead state-level strategic planning and
207 policy development and implementation based on research and analysis and in accordance with § 23.1-
208 301 and subsection A of § 23.1-1002. The Council shall seek to facilitate collaboration among
209 institutions of higher education that will enhance quality and create operational efficiencies and work
210 with institutions of higher education and their governing boards on board development.

211 B. The Council shall be composed of individuals selected from the Commonwealth at large
212 without regard to political affiliation but with due consideration of geographical representation.

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213 Nonlegislative citizen members shall have demonstrated experience, knowledge, and understanding of
214 higher education and workforce needs. Nonlegislative citizen members shall be selected for their ability
215 and all appointments shall be of such nature as to aid the work of the Council and inspire the highest
216 degree of cooperation and confidence. No officer, employee, trustee, or member of the governing board
217 of any institution of higher education, employee of the Commonwealth, member of the General
218 Assembly, or member of the Board of Education is eligible for appointment to the Council except as
219 specified in this section. All members of the Council are members at large who shall serve the best
220 interests of the whole Commonwealth. No member shall act as the representative of any particular
221 region or of any particular institution of higher education.

222 C. The Council shall consist of 13 members: 12 nonlegislative citizen members appointed by the
223 Governor and one ex officio member. At least one nonlegislative citizen member shall have served as a
224 ~~president or~~ chief executive officer of a public institution of higher education. At least one nonlegislative
225 citizen member shall be a division superintendent or the Superintendent of Public Instruction. The
226 President of the Virginia Economic Development Partnership Authority shall serve ex officio with
227 voting privileges.

228 D. All terms shall begin July 1.

229 E. Nonlegislative citizen members shall serve for terms of four years. Vacancies occurring other
230 than by expiration of a term shall be filled for the unexpired term. No nonlegislative citizen member
231 shall serve for more than two consecutive terms; however, a nonlegislative citizen member appointed to
232 serve an unexpired term is eligible to serve two consecutive four-year terms. No nonlegislative citizen
233 member who has served two consecutive four-year terms is eligible to serve on the Council until at least
234 two years have passed since the end of his second consecutive four-year term. All appointments are
235 subject to confirmation by the General Assembly. Nonlegislative citizen members shall continue to hold
236 office until their successors have been appointed and confirmed. Ex officio members shall serve terms
237 coincident with their terms of office.

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238 F. The Council shall elect a chairman and a vice-chairman from its membership. The Council
239 shall appoint a secretary and such other officers as it deems necessary and prescribe their duties and
240 terms of office.

241 G. At each meeting, the Council shall involve the chief executive officer of each public
242 institution of higher education in its agenda. The chief executive officers shall present information and
243 comment on issues of common interest and choose presenters to the Council from among themselves
244 who reflect the diversity of the institutions.

245 H. At each meeting, the Council may involve other groups, including the presidents of private
246 institutions of higher education, in its agenda.

247 **§ 23.1-201. Student advisory committee.**

248 A. The Council shall appoint a student advisory committee consisting of students enrolled in
249 public [institutions of higher education](#) and accredited private institutions of higher education whose
250 primary purpose is to provide collegiate or graduate education and not to provide religious training.
251 Appointments shall be made in a manner to ensure broad student representation from among such
252 institutions.

253 B. Members shall serve for terms of one year. Vacancies occurring other than by expiration of a
254 term shall be filled for the unexpired term. Members may be reappointed to serve subsequent or
255 consecutive terms.

256 C. The Council shall ensure that at least one member of the student advisory committee is
257 reappointed each year. The student advisory committee shall elect a chairman from among its members.

258 D. The student advisory committee shall meet at least twice annually and advise the Council
259 regarding such matters as may come before it.

260 **§ 23.1-203. Duties of Council.**

261 The Council shall:

262 1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-
263 1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of §
264 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state and

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265 regional goals, and emphasizes the future needs for higher education in the Commonwealth at both the
266 undergraduate and the graduate levels and the mission, programs, facilities, and location of each of the
267 existing institutions of higher education, each public institution's six-year plan, and such other matters as
268 the Council deems appropriate. The Council shall revise such plan at least once every six years and shall
269 submit such recommendations as are necessary for the implementation of the plan to the Governor and
270 the General Assembly.

271 2. Review and approve or disapprove any proposed change in the statement of mission of any
272 public institution of higher education and define the mission of all newly created public institutions of
273 higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor
274 and the General Assembly at least once every six years. No such actions shall become effective until 30
275 days after adjournment of the session of the General Assembly next following the filing of such a report.
276 Nothing in this subdivision shall be construed to authorize the Council to modify any mission statement
277 adopted by the General Assembly or empower the Council to affect, either directly or indirectly, the
278 selection of faculty or the standards and criteria for admission of any public institution of higher
279 education, whether relating to academic standards, residence, or other criteria. Faculty selection and
280 student admission policies shall remain a function of the individual public institutions of higher
281 education.

282 3. Study any proposed escalation of any public institution of higher education to a degree-
283 granting level higher than that level to which it is presently restricted and submit a report and
284 recommendation to the Governor and the General Assembly relating to the proposal. The study shall
285 include the need for and benefits or detriments to be derived from the escalation. No such institution
286 shall implement any such proposed escalation until the Council's report and recommendation have been
287 submitted to the General Assembly and the General Assembly approves the institution's proposal.

288 4. Review and approve or disapprove all enrollment projections proposed by each public
289 institution of higher education. The Council's projections shall be organized numerically by level of
290 enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council
291 shall develop estimates of the number of degrees to be awarded by each public institution of higher

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292 education and include those estimates in its reports of enrollment projections. The student admissions
293 policies for such institutions and their specific programs shall remain the sole responsibility of the
294 individual governing boards but all baccalaureate public institutions of higher education shall adopt dual
295 admissions policies with comprehensive community colleges as required by § 23.1-907.

296 5. Review and approve or disapprove all new undergraduate or graduate academic programs that
297 any public institution of higher education proposes.

298 6. Review and require the discontinuance of any undergraduate or graduate academic program
299 that is presently offered by any public institution of higher education when the Council determines that
300 such academic program is (i) nonproductive in terms of the number of degrees granted, the number of
301 students served by the program, the program's effectiveness, and budgetary considerations or (ii)
302 supported by state funds and unnecessarily duplicative of academic programs offered at other public
303 institutions of higher education. The Council shall make a report to the Governor and the General
304 Assembly with respect to the discontinuance of any such academic program. No such discontinuance
305 shall become effective until 30 days after the adjournment of the session of the General Assembly next
306 following the filing of such report.

307 7. Review and approve or disapprove the establishment of any department, school, college,
308 branch, division, or extension of any public institution of higher education that such institution proposes
309 to establish, whether located on or off the main campus of such institution. If any organizational change
310 is determined by the Council to be proposed solely for the purpose of internal management and the
311 institution's curricular offerings remain constant, the Council shall approve the proposed change.
312 Nothing in this subdivision shall be construed to authorize the Council to disapprove the establishment
313 of any such department, school, college, branch, division, or extension established by the General
314 Assembly.

315 8. Review the proposed closure of any academic program in a high demand or critical shortage
316 area, as defined by the Council, by any public institution of higher education and assist in the
317 development of an orderly closure plan, when needed.

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318 9. Develop a uniform, comprehensive data information system designed to gather all information
319 necessary to the performance of the Council's duties. The system shall include information on
320 admissions, enrollment, self-identified students with documented disabilities, personnel, programs,
321 financing, space inventory, facilities, and such other areas as the Council deems appropriate. When
322 consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.),
323 the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the
324 Council, acting solely or in partnership with the Virginia Department of Education or the Virginia
325 Employment Commission, may contract with private entities to create de-identified student records in
326 which all personally identifiable information has been removed for the purpose of assessing the
327 performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

328 10. In cooperation with public institutions of higher education, develop guidelines for the
329 assessment of student achievement. Each such institution shall use an approved program that complies
330 with the guidelines of the Council and is consistent with the institution's mission and educational
331 objectives in the development of such assessment. The Council shall report each institution's assessment
332 of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher
333 education.

334 11. In cooperation with the appropriate state financial and accounting officials, develop and
335 establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for
336 public institutions of higher education.

337 12. Review biennially and approve or disapprove all changes in the inventory of educational and
338 general space that any public institution of higher education proposes and report such approvals and
339 disapprovals to the Governor and the General Assembly. No such change shall become effective until 30
340 days after the adjournment of the session of the General Assembly next following the filing of such
341 report.

342 13. Visit and study the operations of each public institution of higher education at such times as
343 the Council deems appropriate and conduct such other studies in the field of higher education as the
344 Council deems appropriate or as may be requested by the Governor or the General Assembly.

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345 14. Provide advisory services to each accredited nonprofit private institution of higher education
346 whose primary purpose is to provide collegiate or graduate education and not to provide religious
347 training or theological education on academic, administrative, financial, and space utilization matters.
348 The Council may review and advise on joint activities, including contracts for services between public
349 [institutions of higher education](#) and such private institutions of higher education or between such private
350 institutions of higher education and any agency or political subdivision of the Commonwealth.

351 15. Adopt such policies and regulations as the Council deems necessary to implement its duties
352 established by state law. Each public institution of higher education shall comply with such policies and
353 regulations.

354 16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and
355 Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's
356 academic and disciplinary record to a student's parent.

357 17. Require each institution of higher education formed, chartered, or established in the
358 Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of
359 institutional closure or revocation of approval to operate in the Commonwealth. An institution may
360 ensure the preservation of student transcripts by binding agreement with another institution of higher
361 education with which it is not corporately connected or in such other way as the Council may authorize
362 by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth
363 revoked, the Council, through its director, may take such action as is necessary to secure and preserve
364 the student transcripts until such time as an appropriate institution accepts all or some of the transcripts.
365 Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts
366 or authorize disclosure of student records except as may otherwise be authorized by law.

367 18. Require the development and submission of articulation, dual admissions, and guaranteed
368 admissions agreements between associate-degree-granting and baccalaureate public institutions of
369 higher education.

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370 19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint
371 Subcommittee Studying Higher Education Funding Policies for each public institution of higher
372 education.

373 20. In consultation with each public institution of higher education, develop a one-year uniform
374 certificate of general studies program to be offered at each comprehensive community college. Such
375 program shall ensure that a comprehensive community college student who completes the one-year
376 certificate program is eligible to transfer all credits earned in academic subject coursework to a
377 baccalaureate public institution of higher education upon acceptance to such baccalaureate institution.

378 21. Cooperate with the Board of Education in matters of interest to both public elementary and
379 secondary schools and public institutions of higher education, particularly in connection with
380 coordination of the college admission requirements, coordination of teacher training programs with the
381 public school programs, and the ~~Board's~~ [Board of Education's](#) Six-Year Educational Technology Plan
382 for Virginia. The Council shall encourage public institutions of higher education to design programs that
383 include the skills necessary for the successful implementation of such Plan.

384 22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship
385 Committee in the implementation and administration of the Brown v. Board of Education Scholarship
386 Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

387 23. Insofar as possible, seek the cooperation and utilize the facilities of existing state
388 departments, institutions, and agencies in carrying out its duties.

389 24. Serve as the coordinating council for public institutions of higher education.

390 25. Serve as the planning and coordinating agency for all postsecondary educational programs
391 for all health professions and occupations and make recommendations, including those relating to
392 financing, for providing adequate and coordinated educational programs to produce an appropriate
393 supply of properly trained personnel. The Council may conduct such studies as it deems appropriate in
394 furtherance of the requirements of this subdivision. All state departments and agencies shall cooperate
395 with the Council in the execution of its responsibilities under this subdivision.

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396 26. Carry out such duties as the Governor may assign to it in response to agency designations
397 requested by the federal government.

398 27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of
399 each public institution of higher education in carrying out its duties.

400 28. Insofar as practicable, seek the assistance and advice of each public institution of higher
401 education in fulfilling its duties and responsibilities.

402 29. Assist the Virginia Research Investment Committee with the administration of the Virginia
403 Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter
404 31.

405 **§ 23.1-210. Advisory services to accredited nonprofit private institutions of higher**
406 **education; Private College Advisory Board.**

407 A. The Council shall provide advisory services to accredited nonprofit private institutions of
408 higher education on academic and administrative matters. The Council may review and advise on joint
409 activities, including contracts for services, between nonprofit private [institutions of higher education](#) and
410 public institutions of higher education and between nonprofit private institutions of higher education and
411 any agency or political subdivision of the Commonwealth. The Council may collect and analyze such
412 data as may be pertinent to such activities.

413 B. The Council shall seek the advice of the Private College Advisory Board, and the Advisory
414 Board shall assist the Council in the performance of its duties as required by subsection A. The Private
415 College Advisory Board shall be composed of representatives of nonprofit private institutions of higher
416 education and such other members as the Council may select and shall be broadly representative of
417 nonprofit private institutions of higher education.

418 C. The Private College Advisory Board shall meet at least once each year.

419 **§ 23.1-227. Laws of the Commonwealth to apply to contracts.**

420 The laws of the Commonwealth shall govern any agreement, contract, or instrument of
421 indebtedness executed between a postsecondary school and any person ~~enrolling~~ [who enrolls](#) in any

422 | course or program offered or to be offered by such school in the Commonwealth or any person [who is](#)
423 employed or offered employment by such school in the Commonwealth.

424 **§ 23.1-301. Short title; objective; purposes.**

425 A. This chapter may be cited as the "Preparing for the Top Jobs of the 21st Century: The
426 Virginia Higher Education Opportunity Act of 2011," the "Top Jobs Act," or "TJ21."

427 B. The objective of this chapter is to fuel strong economic growth in the Commonwealth and
428 prepare Virginians for the top job opportunities in the knowledge-driven economy of the 21st century by
429 establishing a long-term commitment, policy, and framework for sustained investment and innovation
430 that will (i) enable the Commonwealth to build upon the strengths of its excellent higher education
431 system and achieve national and international leadership in college degree attainment and personal
432 income and (ii) ensure that these educational and economic opportunities are accessible and affordable
433 for all capable and committed Virginia students.

434 C. In furtherance of the objective set forth in subsection B, the following purposes shall inform
435 the development and implementation of funding policies, performance criteria, economic opportunity
436 metrics, and recommendations required by this chapter:

437 1. To ensure an educated workforce in the Commonwealth through a public-private higher
438 education system whose hallmarks are instructional excellence, affordable access, economic impact,
439 institutional diversity and managerial autonomy, cost-efficient operation, technological and pedagogical
440 innovation, and reform-based investment;

441 2. To take optimal advantage of the demonstrated correlation between higher education and
442 economic growth by investing in higher education in a manner that will generate economic growth, job
443 creation, personal income growth, and revenues generated for state and local government in the
444 Commonwealth;

445 3. To (i) place the Commonwealth among the most highly educated states and countries by
446 conferring approximately 100,000 cumulative additional undergraduate degrees on Virginians between
447 2011 and 2025, accompanied by a comparable percentage increase in privately conferred undergraduate
448 degrees in the Commonwealth over the same period and (ii) achieve this purpose by expanding

449 enrollment of Virginians at public institutions of higher education and private institutions of higher
450 education, improving undergraduate graduation and retention rates in the higher education system in the
451 Commonwealth, and increasing degree completion by Virginians with partial credit toward a college
452 degree, including students with ongoing job and family commitments who require access to
453 nontraditional college-level educational opportunities;

454 4. To enhance personal opportunity and earning power for individual Virginians by (i) increasing
455 college degree attainment in the Commonwealth, especially in high-demand, high-income fields such as
456 STEM and health care fields and (ii) providing information about the economic value and impact of
457 individual degree programs by institution;

458 5. To promote university-based research that produces outside investment in the Commonwealth,
459 fuels economic advances, triggers commercialization of new products and processes, fosters the
460 formation of new businesses, leads businesses to bring their facilities and jobs to the Commonwealth,
461 and in other ways helps place the Commonwealth on the cutting edge of the knowledge-driven
462 economy;

463 6. To support the national effort to enhance the security and economic competitiveness of the
464 United States and secure a leading economic position for the Commonwealth through increased research
465 and instruction in STEM and related fields that require qualified faculty, appropriate research facilities
466 and equipment, public-private and intergovernmental collaboration, and sustained state support;

467 7. To preserve and enhance the excellence and cost-efficiency of the Commonwealth's higher
468 education system through reform-based investment that promotes innovative instructional models and
469 pathways to degree attainment, including optimal use of physical facilities and instructional resources
470 throughout the year, technology-enhanced instruction, sharing of instructional resources between
471 colleges, universities, and other degree-granting entities in the Commonwealth, increased online
472 learning opportunities for nontraditional students, improved rate and pace of degree completion,
473 expanded availability of dual enrollment and advanced placement options and early college commitment
474 programs, expanded comprehensive community college transfer options leading to bachelor's degree
475 completion, and enhanced college readiness before matriculation;

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476 8. To realize the potential for enhanced benefits from the Restructured Higher Education
477 Financial and Administrative Operations Act (§ 23.1-1000 et seq.) through a sustained commitment to
478 the principles of autonomy, accountability, affordable access, and mutual trust and obligation underlying
479 the restructuring initiative;

480 9. To establish a higher education funding framework and policy that promotes stable,
481 predictable, equitable, and adequate funding, facilitates effective planning at the institutional and state
482 levels, provides incentives for increased enrollment of Virginia students at public ~~or~~ institutions of
483 higher education and nonprofit private institutions of higher education, provides need-based financial
484 aid for low-income and middle-income students and families, relieves the upward pressure on tuition
485 associated with loss of state support due to economic downturns or other causes, and provides financial
486 incentives to promote innovation and enhanced economic opportunity in furtherance of the objective of
487 this chapter set forth in subsection A; and

488 10. To recognize that the unique mission and contributions of each public institution of higher
489 education and private institution of higher education is consistent with the desire to build upon the
490 strengths of the Commonwealth's excellent system of higher education, afford these unique missions and
491 contributions appropriate safeguards, and allow these attributes to inform the development and
492 implementation of funding policies, performance criteria, economic opportunity metrics, and
493 recommendations in the furtherance of the objective of this chapter set forth in subsection B.

494 **§ 23.1-308. STEM public-private partnership established; duties.**

495 A. To (i) increase the number of students completing degrees in the high-demand, high-impact
496 STEM fields and other high-demand, anticipated-shortage fields such as the health care-related
497 professions and (ii) help develop and guide the implementation of a comprehensive plan for higher
498 degree attainment in these fields, the Secretaries of Education and Finance, in cooperation with the
499 House Committees on Appropriations and Education and the Senate Committees on Finance and on
500 Education and Health, shall form a public-private partnership comprised of private-sector leaders,
501 distinguished representatives from the scientific community, including retired military personnel,

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502 government scientists, and researchers, educational experts, relevant state and local government
503 officials, and such other individuals as they deem appropriate.

504 B. The partnership shall advise on, and may collaborate with public and private entities to
505 develop and implement strategies to address, such priority issues as (i) determining the need for
506 additional high-demand degree enrollment, capacity, and resources at public institutions of higher
507 education and private institutions of higher education; (ii) incentivizing greater coordination, innovation,
508 and private collaboration in kindergarten through secondary school STEM and other high-demand
509 degree initiatives; (iii) determining and refining best practices in STEM instruction and leveraging those
510 best practices to promote STEM education in both the Commonwealth's institutions of higher education
511 and its elementary and secondary schools; (iv) enhancing teacher education and professional
512 development in STEM disciplines; (v) strengthening mathematics readiness in secondary schools
513 through earlier diagnosis and remediation of deficiencies; (vi) providing financial incentives to increase
514 STEM enrollment and degree production at the Commonwealth's institutions of higher education; (vii)
515 providing assistance to public institutions of higher education and private institutions of higher
516 education in the acquisition and improvement of STEM-related facilities and equipment; (viii) providing
517 STEM incentives in early pathway programs at institutions of higher education and in the
518 ~~comprehensive community college transfer grant program~~ [Two-Year College Transfer Grant Program](#);
519 (ix) assessing degree programs using such economic opportunity metrics as marketplace demand,
520 earning potential, and employer satisfaction and other indicators of the historical and projected
521 economic value and impact of degrees to provide useful information on degrees to students as they make
522 career choices and to state policy makers and university decision makers as they decide how to allocate
523 scarce resources; (x) aligning state higher education efforts with marketplace demands; and (xi)
524 determining such other issues as the partnership deems relevant to increasing the number of students
525 completing degrees in STEM and other high-demand fields at institutions of higher education.

526 **§ 23.1-634. Prompt crediting and expeditious refunding of funds.**

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527 Each eligible institution acting as an agent for students receiving ~~awards~~ grants under the
528 Program shall promptly credit disbursed funds to student accounts following the institution's verification
529 of student eligibility and expeditiously distribute any refunds due recipients.

530 **§ 23.1-712. Payroll deductions.**

531 The Commonwealth, the agencies and localities of the Commonwealth and their subdivisions,
532 and any employer in the Commonwealth ~~are authorized to~~ may agree, by contract or otherwise, to remit
533 payments or contributions on behalf of an employee toward prepaid tuition contracts or savings trust
534 accounts through payroll deductions.

535 **§ 23.1-1004. Management agreement; eligibility and application.**

536 A. The governing board and administration of each public ~~institutions~~ institution of higher
537 education that meets the state goals set forth in subsection A of § 23.1-1002 and meets the requirements
538 of this article to demonstrate the ability to manage successfully the administrative and financial
539 operations of the institution without jeopardizing the financial integrity and stability of the institution
540 may negotiate with the Governor to develop a management agreement with the Commonwealth to
541 exercise restructured financial and administrative authority.

542 B. No public institution of higher education shall enter into a management agreement unless:

543 1. a. Its most current and unenhanced bond rating received from Moody's Investors Service, Inc.,
544 Standard & Poor's, Inc., or Fitch Investor's Services, Inc., is at least AA- (i.e., AA minus) or its
545 equivalent, provided that such bond rating has been received within the last three years of the date that
546 the initial management agreement is entered into; or

547 b. The institution has participated in decentralization pilot programs in the areas of finance and
548 capital outlay, demonstrated management competency in those two areas as evidenced by a written
549 certification from the Cabinet Secretary designated by the Governor, received restructured operational
550 authority under a memorandum of understanding pursuant to Article 3 (§ 23.1-1003 et seq.) in at least
551 one functional area, and demonstrated management competency in that area for a period of at least two
552 years;

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553 2. At least an absolute two-thirds of the institution's governing board has voted in the affirmative
554 for a resolution in support of a request for restructured operational authority under a management
555 agreement;

556 3. The institution submits to the Governor a written request for his approval of the management
557 agreement that contains evidence that (i) the institution possesses the necessary administrative
558 infrastructure, experience, and expertise to perform successfully its public educational mission as a
559 covered institution; (ii) the institution is financially able to operate as a covered institution without
560 jeopardizing the financial integrity and stability of the institution; (iii) the institution consistently meets
561 the financial and administrative management standards pursuant to § 23.1-1001; and (iv) the institution's
562 governing board has adopted performance and accountability standards, in addition to any institutional
563 performance benchmarks included in the general appropriation act and developed pursuant to § 23.1-
564 206, against which its implementation of the restructured operational authority under the management
565 agreement can be measured;

566 4. The institution provides a copy of the written request to the Chairmen of the House Committee
567 on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the
568 Senate Committee on Education and Health;

569 5. The institution agrees to reimburse the Commonwealth for any additional costs that the
570 Commonwealth incurs to provide health or other group insurance benefits to employees and undertake
571 any risk management program that are attributable to the institution's exercise of restructured operational
572 authority. The Secretary of Finance and the Secretary of Administration, in consultation with the
573 Virginia Retirement System and the affected institutions, shall establish procedures for determining any
574 amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly
575 and solely to the affected programs;

576 6. The institution considers potential future impacts of tuition increases on the Virginia College
577 Savings Plan and discusses such potential impacts with parties participating in the development of the
578 management agreement. The chief executive officer of the Virginia College Savings Plan shall provide

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579 to the institution and such parties the Plan's assumptions underlying the contract pricing of the program;
580 and

581 7. The Governor transmits a draft of any management agreement that affects insurance or benefit
582 programs administered by the Virginia Retirement System to the Board of Trustees of the Virginia
583 Retirement System, which shall review the relevant provisions of the management agreement to ensure
584 compliance with the applicable provisions of Title 51.1, administrative policies and procedures, and
585 federal regulations governing retirement plans and advise the Governor and appropriate Cabinet
586 Secretaries of any conflicts.

587 **§ 23.1-1014. Covered institutions; operational authority; financial operations; financing**
588 **and indebtedness.**

589 A. Each covered institution may:

590 1. Borrow money and issue bonds, notes, or other obligations as provided in this article and
591 purchase such bonds, notes, or other obligations;

592 2. Seek financing from, incur, or assume indebtedness to, and enter into contractual
593 commitments with, the Virginia Public Building Authority and the Virginia College Building Authority,
594 which authorities ~~are authorized to~~ may borrow money and make and issue negotiable notes, bonds,
595 notes, or other obligations to provide such financing relating to facilities or any project; and

596 3. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments
597 with, the Commonwealth as otherwise provided by law relating to the institution's facilities or any
598 project.

599 B. Notwithstanding the provisions of this chapter, no covered institution is exempt from any
600 requirement or covenant contained in any outstanding bonds, notes, or other obligations.

601 **§ 23.1-1026. Covered institutions; operational authority; human resources; severance**
602 **policies.**

603 A. Each covered institution shall adopt a severance policy for its eligible participating covered
604 employees that is applicable to voluntary and involuntary separations, including reductions in

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605 workforce. The provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) shall not apply to
606 participating covered employees.

607 B. The terms and conditions of a covered institution's severance policy for eligible participating
608 covered employees shall be determined by the institution's governing board. The covered institution and
609 the Board of the Virginia Retirement System shall negotiate a formula according to which cash
610 severance benefits may be converted to years of age or creditable service for participating covered
611 employees who participate in the Virginia Retirement System.

612 C. Covered employees who (i) were employees of a covered institution and were covered by the
613 provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 prior to the effective date of the initial
614 management agreement, (ii) would otherwise be eligible for severance benefits under the Workforce
615 Transition Act (§ 2.2-3200 et seq.), and (iii) are separated by a covered institution because of a reduction
616 in workforce have the same preferential hiring rights with state agencies and other executive branch
617 institutions as other state employees have under § 2.2-3201. A covered institution shall recognize the
618 hiring preference conferred by § 2.2-3201 on state employees who were (a) hired by a state agency or
619 executive branch institution before the covered institution's effective date of the initial management
620 agreement and (b) separated after that date by that state agency or executive branch institution because
621 of a reduction in workforce. If a covered institution has adopted a classification system pursuant to §
622 23.1-1021 that differs from the classification system administered by the Department of Human
623 Resource Management, the covered institution shall classify the separated employee according to its
624 classification system and shall place the separated employee appropriately. Any such separated
625 employee who is hired by a covered institution is a participating covered employee for purposes of this
626 article. Classification decisions that are made pursuant to this subsection and apply to employees
627 transferring between state agencies, between other executive branch institutions and covered institutions,
628 and between covered institutions as a result of a reduction in foree workforce and with the preferential
629 hiring rights provided in this subsection and in § 2.2-3201 are presumed appropriate, and a separated
630 employee who grieves the classification decision bears the burden of demonstrating that the
631 classification violates the separated employee's preferential hiring rights.

632 D. An employee's transition from being an employee of a public institution of higher education
633 to being a covered employee of a covered institution on the effective date of a covered institution's
634 initial management agreement shall not, in and of itself, constitute a severance of that employee or a
635 reduction in ~~foree~~ workforce that would make either the covered institution's severance policy adopted
636 pursuant to subsection A or the Workforce Transition Act (§ 2.2-3200 et seq.) applicable to that
637 employee.

638 **§ 23.1-1211. Default on payments.**

639 A. Whenever it appears to the Governor from an affidavit filed with him by the paying agent for
640 the bonds issued by the Authority that an eligible institution has defaulted on the payment of the
641 principal of or premium, if any, or interest on its bonds pursuant to this article, the Governor shall
642 immediately make a summary investigation into the facts set forth in the affidavit. If it is established to
643 the satisfaction of the Governor that the eligible institution is in default in the payment of the principal
644 of or premium, if any, or interest on its bonds, the Governor immediately shall make an order directing
645 the State Comptroller to make payment immediately to the owners or paying agent of the bonds in
646 default on behalf of the eligible institution from any appropriation available to the eligible institution in
647 the amount due and remaining unpaid by the eligible institution on its bonds.

648 B. Any payment so made by the State Comptroller to the owners or paying agent of the bonds in
649 default shall be credited as if made directly by the eligible institution and charged by the State
650 Comptroller against the appropriations of the eligible institution. The owners or paying agent of the
651 bonds in default at the time of payment shall deliver to the State Comptroller, in a form satisfactory to
652 the State Comptroller, a receipt for payment of the principal, premium, or interest satisfied by the
653 payment. The State Comptroller shall report each payment made to the governing ~~body~~ board of the
654 defaulting eligible institution under the provisions of this section.

655 C. The Governor shall direct the State Comptroller to (i) charge against the appropriations
656 available to any eligible institution that has defaulted on its bonds pursuant to this section all future
657 payments of principal of and interest on the eligible institution's bonds when due and payable and (ii)
658 make such payments to the owners or paying agent of the bonds on behalf of the eligible institution to

659 ensure that no future default will occur on such bonds. The charge and payment shall be made upon
660 receipt of documentation that the State Comptroller deems to be satisfactory evidence of the claim. The
661 owners or paying agent of the bonds at the time of each payment shall deliver to the State Comptroller,
662 in a form satisfactory to the State Comptroller, a receipt for payment of the principal or interest satisfied
663 by the payment.

664 D. Nothing in this section shall be construed to create any obligation on the part of the State
665 Comptroller or the Commonwealth to make any payment on behalf of the defaulting eligible institution
666 other than from funds appropriated to the defaulting eligible institution.

667 **§ 23.1-1225. Powers; acquisition of property.**

668 The Authority may, directly or through a participating institution as its agent, acquire by (i)
669 purchase solely from funds provided under the [authority provisions](#) of this article, (ii) gift, or (iii) devise,
670 such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises, easements,
671 and other interests in lands, including lands lying under water and riparian rights, that are located within
672 the Commonwealth as it may deem necessary or convenient for the acquisition, construction, or
673 operation of a project, upon such terms and at such prices as it deems reasonable and can be agreed upon
674 between it and the owner of the property and take title to the property in the name of the Authority or
675 any participating institution as its agent.

676 **§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory**
677 **representatives.**

678 A. Members appointed by the Governor to the governing boards of public institutions of higher
679 education shall serve for terms of four years. Vacancies occurring other than by expiration of a term
680 shall be filled for the unexpired term. No member appointed by the Governor to such a governing board
681 shall serve for more than two consecutive four-year terms; however, a member appointed by the
682 Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately
683 succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are
684 subject to confirmation by the General Assembly. Members appointed by the Governor to the governing
685 board of a public institution of higher education shall continue to hold office until their successors have

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686 | been appointed and ~~confirmed~~ qualified. Ex officio members shall serve a term coincident with their
687 term of office.

688 B. No member appointed by the Governor to the governing board of a public institution of higher
689 education who has served two consecutive four-year terms on such board is eligible to serve on the same
690 board until at least four years have passed since the end of his second consecutive four-year term.

691 C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor
692 may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any
693 member of the board of any public institution of higher education and fill the vacancy resulting from the
694 removal.

695 D. The Governor shall set forth in a written public statement his reasons for removing any
696 member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the
697 sufficiency of the cause for removal as set forth in subsection C.

698 E. If any member of the governing board of a public institution of higher education fails to attend
699 (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of
700 the board, or (ii) the educational programs required by § 23.1-1304 in his first two years of membership
701 without sufficient cause, as determined by a majority vote of the board, the remaining members of the
702 board shall record such failure in the minutes at its next meeting and notify the Governor, and the office
703 | of such member shall be vacated. No member of the board of visitors of a ~~four-year~~ baccalaureate public
704 institution of higher education or the State Board for Community Colleges who fails to attend the
705 educational programs required by § 23.1-1304 during his first four-year term is eligible for
706 reappointment to such board.

707 F. The governing board of each public institution of higher education shall adopt in its bylaws
708 policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to
709 remove members described in subsection C.

710 G. The governing board of each public institution of higher education and each local community
711 college board may appoint one or more nonvoting, advisory faculty representatives to its respective
712 board. In the case of local community college boards and boards of visitors, such representatives shall be

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713 chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the
714 case of the State Board, such representatives shall be chosen from individuals elected by the
715 Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (i) at least
716 one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (ii) for
717 such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory
718 Committee, or by the local community college board or the board of visitors, and the institution's faculty
719 senate or its equivalent.

720 H. The board of visitors of any baccalaureate public institution of higher education shall appoint
721 one or more students as nonvoting, advisory representatives. Such representatives shall be appointed
722 under such circumstances and serve for such terms as the board of visitors of the institution shall
723 prescribe.

724 I. Nothing in subsections G and H shall prohibit the governing board of any public institution of
725 higher education or any local community college board from excluding such nonvoting, advisory faculty
726 or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or
727 salaries, or any other matter.

728 **§ 23.1-1303. Governing boards; duties.**

729 A. For purposes of this section, "intellectual property" means (i) a potentially patentable
730 machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an
731 issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

732 B. The governing board of each public institution of higher education shall:

733 1. Adopt and post conspicuously on its website bylaws for its own governance, including
734 provisions that (i) establish the requirement of transparency, to the extent required by law, in all board
735 actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700
736 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board
737 record minutes of each open meeting and post the minutes on the board's website, in accordance with
738 subsection I of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically
739 exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in

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740 accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in
741 an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711;
742 and (iii) require that the board invite the Attorney General's appointee or representative to all meetings
743 of the board, executive committee, and board committees;

744 2. Establish regulations or institution policies for the acceptance and assistance of students that
745 include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the
746 federal requirement to register for the selective service are not eligible to receive any state direct student
747 assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth
748 shall not be considered in making admissions determinations for students who have earned a diploma
749 pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of
750 certain graduates of comprehensive community colleges as set forth in § 23.1-907;

751 3. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

752 4. Notwithstanding any other provision of state law, establish policies and procedures requiring
753 the notification of the parent of a dependent student when such student receives mental health treatment
754 at the institution's student health or counseling center and such treatment becomes part of the student's
755 educational record in accordance with the federal Health Insurance Portability and Accountability Act
756 (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal
757 Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part
758 99). Such notification shall only be required if it is determined that there exists a substantial likelihood
759 that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to
760 himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious
761 harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs.
762 However, notification may be withheld if any person licensed to diagnose and treat mental, emotional,
763 or behavioral disorders by a health regulatory board within the Department of Health Professions who is
764 treating the student has made a part of the student's record a written statement that, in the exercise of his
765 professional judgment, the notification would be reasonably likely to cause substantial harm to the
766 student or another person. No public institution of higher education or employee of a public institution

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767 of higher education making a disclosure pursuant to this subsection is civilly liable for any harm
768 resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct
769 by the institution or its employees;

770 5. Establish policies and procedures requiring the release of the educational record of a
771 dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. §
772 1232g), to a parent at his request;

773 6. Establish programs to seek to ensure that all graduates have the technology skills necessary to
774 compete in the twenty-first century and that all students matriculating in teacher-training programs
775 receive instruction in the effective use of educational technology;

776 7. Establish policies for the discipline of students who participate in varsity intercollegiate
777 athletics, including a provision requiring an annual report by the administration of the institution to the
778 governing board regarding enforcement actions taken pursuant to such policies;

779 8. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-
780 2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed
781 meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive
782 officer's performance. Any change to the chief executive officer's employment contract during any such
783 meeting or any other meeting of the board shall be made only by a vote of the majority of the board's
784 members;

785 9. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt
786 regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions
787 of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require
788 the human research committee to submit to the Governor, the General Assembly, and the chief executive
789 officer of the institution or his designee at least annually a report on the human research projects
790 reviewed and approved by the committee and require the committee to report any significant deviations
791 from approved proposals;

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792 10. Submit the annual financial statements for the fiscal year ending the preceding June 30 and
793 the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of
794 such statements pursuant to § 30-133;

795 11. Submit to the General Assembly and the Governor an annual executive summary of its
796 interim activity and work no later than the first day of each regular session of the General Assembly.
797 The executive summary shall be submitted as provided in the procedures of the Division of Legislative
798 Automated Systems for the processing of legislative documents and reports and shall be posted on the
799 General Assembly's website;

800 12. Make available to any interested party upon request a copy of the portion of the most recent
801 report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in
802 Virginia" pertaining to institutions of higher education;

803 13. Adopt policies or institution regulations regarding the ownership, protection, assignment, and
804 use of intellectual property and provide a copy of such policies [or institution regulations](#) to the Governor
805 and the Joint Commission on Technology and Science. All employees, including student employees, of
806 public institutions of higher education are bound by the intellectual property policies [or institution](#)
807 [regulations](#) of the institution employing them; and

808 14. Adopt policies that are supportive of the intellectual property rights of matriculated students
809 who are not employed by such institution.

810 **§ 23.1-1305. Governing boards; student accounts; collections.**

811 No governing board shall refer a student account to collections for nonpayment before [such](#)
812 [referral is](#) required by the provisions of § 2.2-4806. This section shall not apply to public institutions of
813 higher education that have entered into management agreements with the Commonwealth pursuant to
814 the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

815 **§ 23.1-2308. The Medical College of Virginia, Health Sciences Schools of the University.**

816 The colleges, schools, and divisions previously existing as The Medical College of Virginia are
817 designated the [Medical College of Virginia](#), Health Sciences Schools of the University.

818 **§ 23.1-2404. Powers of the Authority.**

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- 819 A. The Authority has all the powers necessary or convenient to carry out the purposes and
820 provisions of this chapter, including the power to:
- 821 1. Sue and be sued in its own name;
 - 822 2. Have and alter an official seal;
 - 823 3. Have perpetual duration and succession in its name;
 - 824 4. Locate and maintain offices at such places as it may designate;
 - 825 5. Make and execute contracts, guarantees, or any other instruments and agreements necessary or
826 convenient for the exercise of its powers and functions, including contracts with hospitals or health care
827 businesses to operate and manage any or all of the hospital facilities or operations, and incur liabilities
828 and secure the obligations of any entity or individual;
 - 829 6. Conduct or engage in any lawful business, activity, effort, or project consistent with the
830 Authority's purposes or necessary or convenient to exercise its powers;
 - 831 7. Exercise, in addition to its other powers, all powers that are (i) granted to corporations by the
832 provisions of Title 13.1 or similar provisions of any successor law, except in those cases in which the
833 power is confined to corporations created under such title, and (ii) not inconsistent with the purposes and
834 intent of this chapter or the limitations included in this chapter;
 - 835 8. Accept, hold, and enjoy any gift, devise, or bequest to the Authority or its predecessors to be
836 held for the uses and purposes designated by the donor, if any, or if not so designated, for the general
837 purposes of the Authority, whether given directly or indirectly, and accept, execute, and administer any
838 trust or endowment fund in which it has or may have an interest under the terms of the instrument
839 creating the trust or endowment fund;
 - 840 9. Borrow money and issue bonds as provided in this chapter and purchase such bonds;
 - 841 10. Seek financing from, incur or assume indebtedness to, and enter into contractual
842 commitments with the Virginia Public Building Authority and the Virginia College Building Authority,
843 which authorities ~~are authorized to~~ may borrow money and make and issue negotiable notes, bonds, and
844 other evidences of indebtedness to provide such financing relating to the hospital facilities or any
845 project;

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846 11. Seek financing from, incur or assume indebtedness to, and enter into contractual
847 commitments with the Commonwealth as otherwise provided by law relating to the hospital facilities or
848 any project;

849 12. Procure such insurance, participate in such insurance plans, or provide such self-insurance as
850 it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase
851 of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority is
852 not a waiver or relinquishment of any sovereign immunity to which the Authority or its officers,
853 directors, employees, or agents are otherwise entitled;

854 13. Develop policies and procedures generally applicable to the procurement of goods, services,
855 and construction based upon competitive principles;

856 14. Except as to those hospital facilities or any part of such facilities that are leased to the
857 Authority by the University, the control and disposition of which shall be determined by such lease
858 instruments:

859 a. Own, hold, improve, use, and otherwise deal with real or personal property, tangible or
860 intangible, or any right, easement, estate, or interest in such property, acquired by purchase, exchange,
861 gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law, or other means on such
862 terms and conditions and in such manner as it may deem proper;

863 b. Sell, assign, lease, encumber, mortgage, or otherwise dispose of any project, any other real or
864 personal property, tangible or intangible, any right, easement, estate, or interest in such property, or any
865 deed of trust or mortgage lien interest that it owns, that is under its control or custody or in its
866 possession;

867 c. Release or relinquish any right, title, claim, lien, interest, easement, or demand however
868 acquired, including any equity or right of redemption in property foreclosed by it; and

869 d. Take any action pursuant to subdivision 14 by public or private sale or with or without public
870 bidding, notwithstanding the provisions of any other law;

871 15. Accept loans, grants, contributions, or other assistance from the federal government, the
872 Commonwealth, any political subdivision of the Commonwealth, or any other public or private source to

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873 carry out any of the purposes of this chapter and enter into any agreement or contract regarding the
874 acceptance, use, or repayment of any such loan, grant, contribution, or assistance in furtherance of the
875 purposes of this chapter;

876 16. Exercise the power of eminent domain pursuant to the provisions of Chapter 2 (§ 25.1-200 et
877 seq.) of Title 25.1 to acquire by condemnation any real property, including fixtures and improvements,
878 that it may deem necessary to carry out the purposes of this chapter, upon (i) its adoption of a resolution
879 declaring that the acquisition of such property is in the public interest and necessary for public use and
880 (ii) the approval of the Governor. The Authority may acquire property already devoted to a public use,
881 provided that no property belonging to any locality, religious corporation, unincorporated church, or
882 charitable corporation may be acquired without its consent;

883 17. Fix, revise, charge, and collect rates, rentals, fees, and other charges for the services or
884 facilities furnished by or on behalf of the Authority and establish policies, procedures, and regulations
885 regarding any such service rendered or the use, occupancy or operation of any such facility. Such
886 charges and policies, procedures, and regulations are not subject to supervision or regulation by any
887 commission, board, bureau, or agency of the Commonwealth except as otherwise provided by law for
888 the providers of health care;

889 18. Consistent with § 23.1-2407, create, assist in the creation of, own in whole or in part, control,
890 participate in or with any public or private entity, purchase, receive, subscribe for, own, hold, vote, use,
891 employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of,
892 or other interests in, any entities organized for any purpose within or outside the Commonwealth and (ii)
893 obligations of any person or corporation;

894 19. Participate in joint ventures with individuals, corporations, governmental bodies or agencies,
895 partnerships, associations, insurers, or other entities to facilitate any activities or programs consistent
896 with the public purposes and intent of this chapter;

897 20. Create a nonprofit entity for the purpose of soliciting, accepting, and administering grants,
898 outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust. Such entity
899 shall not engage in trust business or duplicate such activities by the University or its related foundations;

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900 21. Provide appropriate assistance, including making loans and providing time of employees, to
901 corporations, partnerships, associations, joint ventures, or other entities whether such entities are owned
902 or controlled in whole or in part or directly or indirectly by the Authority;

903 22. Provide, promote, support, and sponsor education and scientific research in medicine, public
904 health, and related fields and promote public knowledge in medicine, public health, and related fields;

905 23. Administer programs to assist in the delivery of medical and related services to the citizens
906 of the Commonwealth and others;

907 24. Participate in and administer federal, state, and local programs affecting, supporting, or
908 carrying out any of its purposes; and

909 25. Exercise independently the powers conferred by this chapter in furtherance of its corporate
910 and public purposes.

911 B. The exercise of the powers permitted by this chapter shall be deemed the performance of
912 essential governmental functions and matters of public necessity for the entire Commonwealth in the
913 provision of health care, medical and health sciences education, and research for which public moneys
914 may be borrowed, loaned, spent, or otherwise utilized and private property may be utilized or acquired.

915 **§ 23.1-2408. Moneys of the Authority.**

916 A. All moneys of the Authority derived from any source shall be paid to the treasurer of the
917 Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or
918 trust companies, in one or more special accounts. All banks and trust companies ~~are authorized to~~ may
919 give security for such deposits, if required by the Authority. The moneys in such accounts shall be paid
920 out on the warrant or other orders of the treasurer of the Authority or such other person as the Authority
921 may authorize to execute such warrants or orders.

922 B. Notwithstanding any provision of law to the contrary, the Authority may invest its operating
923 funds in any obligations or securities that are considered legal investments for public funds in
924 accordance with the Investment of Public Funds Act (§ 2.2-4500 et seq.). The board shall adopt written
925 investment guidelines and retain an independent investment advisory firm or consultant to review at

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926 least every five years the suitability of the Authority's investments and the consistency of such
927 investments with the investment guidelines.

928 **§ 23.1-2409. Grants and loans from localities.**

929 Localities ~~are authorized to~~ may lend or donate money or other property to the Authority for any
930 of the Authority's purposes. The local governing body making the grant or loan may restrict the use of
931 such grants or loans to a specific project within or outside that locality.

932 **§ 23.1-2413. Capital projects.**

933 A. All capital projects of the Authority shall be approved by the board. Within 30 days after
934 approval of any capital project in excess of \$5 million, the board shall notify the House Appropriations
935 and Senate Finance Committees of the scope, cost, and construction schedule of the proposed capital
936 project. The board may undertake the project unless either Committee raises objections within 30 days
937 of the notification, in which case the Authority shall not undertake the project until such objections are
938 resolved.

939 B. Before the Authority materially increases the size or materially changes the scope of any
940 capital project for which construction has commenced, such project shall be approved again by the board
941 in accordance with subsection A and, in the case of any capital project in excess of \$5 million, presented
942 again to the House Appropriations and Senate Finance Committees in accordance with subsection A.

943 C. Notwithstanding any provision of law to the contrary, the Authority is not subject to any
944 further process or procedure that requires the submission, review, or approval of any capital project;
945 however, the Authority shall ensure that ~~BOCA~~ Building Officials and Code Administrators (BOCA)
946 Code and fire safety inspections are conducted for any capital project and that such projects are
947 inspected by the State Fire Marshal or his designee prior to certification for building occupancy.

948 **§ 23.1-2415. Employees of the Authority.**

949 A. Employees of the Authority shall be employed on such terms and conditions as established by
950 the Authority. The board shall develop and adopt policies and procedures that afford its employees
951 grievance rights, ensure that employment decisions are based upon the merit and fitness of applicants,
952 and prohibit discrimination on the basis of race, religion, color, sex, or national origin.

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953 B. The Authority shall issue a written notice to all individuals whose employment is transferred
954 to the Authority. The date upon which such written notice is issued is referred to in this section as the
955 "Option Date." Each individual whose employment is transferred to the Authority may, by written
956 request made within 180 days of the Option Date, elect not to become employed by the Authority. Any
957 employee of MCV Hospitals who (i) elects not to become employed by the Authority; (ii) is not
958 reemployed by any department, institution, board, commission, or agency of the Commonwealth; (iii) is
959 not offered alternative employment by the Authority; (iv) is not offered a position with the Authority for
960 which the employee is qualified; or (v) is offered a position by the Authority that requires relocation or a
961 reduction in salary is eligible for the severance benefits conferred by the provisions of the Workforce
962 Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority has
963 voluntarily separated from state employment and is not eligible for the severance benefits conferred by
964 the provisions of the Workforce Transition Act.

965 C. Without limiting its power generally with respect to employees, the Authority may employ
966 any University employee utilized in the operation of the hospital facilities and assume obligations under
967 any employment agreement for such employee, and the University may assign any such contract to the
968 Authority.

969 D. The Authority and the University may enter into agreements providing for the purchase of
970 services of University employees utilized in the operation of the hospital facilities by paying agreed-
971 upon amounts to cover all or part of the salaries and other costs of such employees.

972 E. Notwithstanding any other provision of law to the contrary, any employee whose employment
973 is transferred to the Authority as a result of this chapter and who is a member of any plan for providing
974 health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a
975 member of such health insurance plan under the same terms and conditions of such plan.

976 F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage
977 to employees who elect to continue to be members of the state employees' health insurance plan shall be
978 paid by the Authority.

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979 G. Any employee of the Authority may elect to become a member of any health insurance plan
980 established by the Authority. The Authority may (i) establish a health insurance plan for the benefit of
981 its employees, residents, and interns and (ii) enter into an agreement with the Department of Human
982 Resource Management providing for the coverage of its employees, interns, and residents under the state
983 employees' health insurance plan, provided that such agreement requires the Authority to pay the costs
984 of providing health insurance coverage under such plan.

985 H. Notwithstanding any other provision of law to the contrary, any employee whose employment
986 is transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement
987 System or another retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title
988 51.1 shall continue to be a member of the Virginia Retirement System or such other authorized
989 retirement plan under the same terms and conditions of such plan. Any such employee and any
990 employee employed by the Authority between July 1, 1997, and June 30, 1998, who elected to be
991 covered by the Virginia Retirement System may elect, during an open enrollment period from April 1,
992 2001, through April 30, 2001, to become a member of the retirement program plan established by the
993 Authority for the benefit of its employees pursuant to § 23.1-2416 by transferring assets equal to the
994 actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority
995 shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to
996 determine the present value of the accrued basic benefit of employees who elect to transfer to the
997 Authority's retirement plan. The following rules shall apply to such transfers:

998 1. With respect to any transferred employee who elects to remain a member of the Virginia
999 Retirement System or another authorized retirement plan, the Authority shall collect and pay all
1000 employee and employer contributions to the Virginia Retirement System or such other authorized
1001 retirement plan for retirement in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of
1002 Title 51.1 for such transferred employees.

1003 2. Transferred employees who elect to become members of the retirement program plan
1004 established by the Authority for the benefit of its employees shall be given full credit for their creditable
1005 service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement program plan

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1006 established by the Authority. For any such employee, employment with the Authority shall be treated as
 1007 employment with any nonparticipating employer for purposes of the Virginia Retirement System or
 1008 other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

1009 3. For transferred employees who elect to become members of the retirement ~~program~~ plan
 1010 established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer
 1011 to the retirement plan established by the Authority assets equal to the actuarially determined present
 1012 value of the accrued basic benefit as of the transfer date. For the purposes of such calculation, the basic
 1013 benefit is the benefit accrued under the Virginia Retirement System or another authorized retirement
 1014 plan based on creditable service and average final compensation as defined in § 51.1-124.3 and
 1015 determined as of the transfer date. The actuarial present value shall be determined on the same basis,
 1016 using the same actuarial factors and assumptions used in determining the funding needs of the Virginia
 1017 Retirement System or such other authorized retirement plan so that the transfer of assets to the
 1018 retirement plan established by the Authority has no effect on the funded status and financial stability of
 1019 the Virginia Retirement System or other such authorized retirement plan.

1020 **§ 23.1-2607. Purchase of electric power and energy.**

1021 A. For purposes of this section:

1022 "Other party" means any other entity, including any (i) municipality, public institution of higher
 1023 education, or political subdivision, public authority, agency, or instrumentality of the Commonwealth, ~~or~~
 1024 another state, or the United States or (ii) partnership, limited liability company, nonprofit corporation,
 1025 electric cooperative, or investor-owned utility, whether created, incorporated, or otherwise organized
 1026 and existing under the laws of the Commonwealth ~~or~~, another state, or the United States.

1027 "Project" means any (i) system or facilities for the generation, transmission, transformation, or
 1028 supply of electrical power and energy by any means whatsoever, including fuel, fuel transportation, and
 1029 fuel supply resources; (ii) electric generating unit situated at a particular site in the continental United
 1030 States; (iii) interest in such system, facilities, or unit, whether an undivided interest as a tenant in
 1031 common or otherwise; or (iv) right to the output, capacity, or services of such system, facilities, or unit.

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1032 B. The University may contract with any other party to buy power and energy to meet its present
1033 or future requirements. Any such contract may provide that (i) the source of such power and energy is
1034 limited to a specified project; (ii) replacement power and energy shall be provided; or (iii) the University
1035 shall be obligated to make payments required by the contract whether the project is completed, operable,
1036 or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of
1037 the output of a project or the amount of power and energy contracted for; (iv) payments required by the
1038 contract (a) are not subject to any reduction, whether by offset or otherwise, (b) are not conditioned
1039 upon the performance or nonperformance of any other party, (c) shall be made solely from the revenues
1040 derived by the University from the ownership and operation of the electric system of the University, (d)
1041 may be secured by a pledge of and lien upon the electric system of the University, and (e) shall
1042 constitute an operating expense of the electric system of the University; (v) in the event of default by the
1043 University or any other party to the contract in the performance of its obligations for any project, the
1044 University or any other party to the contract for such project shall succeed to the rights and interests and
1045 assume the obligations of the defaulting party, either pro rata or as may be otherwise agreed upon in the
1046 contract; or (vi) no other party shall be obligated to provide power and energy in the event that (a) the
1047 project is inoperable, (b) the output of the project is subject to suspension, interference, reduction, or
1048 curtailment, or (c) a force majeure occurs.

1049 C. Notwithstanding any other charter or provision of law to the contrary, no such contract, with
1050 respect to the sale or purchase of capacity, output, power, or energy from a project, shall exceed 50 years
1051 from the date that the project is estimated to be placed in normal continuous operation.

1052 D. The execution and effectiveness of any such contract are not subject to any authorizations and
1053 approvals by the Commonwealth or any agency, commission, instrumentality, or political subdivision of
1054 the Commonwealth except as specifically required by law.

1055 E. No obligation under any such contract shall constitute a legal or equitable pledge, charge, lien,
1056 or encumbrance upon any property of the University or upon any of its income, receipts, or revenues,
1057 except the revenues of its electric system, and the faith and credit of the University shall not be pledged
1058 for the payment of any obligation under any such contract.

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1059 F. The University shall fix, charge, and collect rents, rates, fees, and charges for electric power
1060 and energy and other services, facilities, and commodities sold, furnished, or supplied through its
1061 electric system sufficient to provide revenues adequate to meet its obligations under any such contract
1062 and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues,
1063 including amounts sufficient to pay the principal of and interest on bonds of the University issued for
1064 purposes relating to its electric system. Any pledge made by the University pursuant to this subsection is
1065 governed by the laws of the Commonwealth.

1066 **§ 23.1-2631. Executive director.**

1067 A. The principal administrative officer of the Water Center shall be an executive director who
1068 shall be appointed by the president of the University, subject to the approval of the board. The executive
1069 director shall be under the supervision of the president of the University.

1070 B. The executive director shall exercise all powers imposed upon him by law, carry out the
1071 specific duties imposed upon him by the president of the University, and develop appropriate policies
1072 and procedures, with the advice of the Virginia Water Resources Research Center Statewide Advisory
1073 Board, for (i) identifying priority research problems; (ii) collaborating with the General Assembly;
1074 federal, state, and local governmental agencies; and water user groups in the formulation of its research
1075 programs; (iii) selecting projects to be funded; and (iv) disseminating information and transferring
1076 technology designed to help resolve water and related land problems of the Commonwealth. ~~He~~ The
1077 executive director shall employ such personnel and secure such services as may be required to carry out
1078 the purposes of this article and expend appropriated funds and accept moneys for cost-sharing on
1079 projects funded with federal and private funds.

1080 **§ 23.1-2702. Powers and duties.**

1081 A. The board shall appoint all professors, teachers, and agents, ~~and~~ and fix their salaries, and
1082 generally direct the affairs of the University.

1083 B. The board may confer degrees.

1084 **§ 23.1-2903. State Board; officers, meetings, and regulations.**

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1085 A. The State Board shall elect a chairman from its membership and may provide for the election
1086 of one of its members as vice-chairman.

1087 B. The State Board shall meet at least four times annually and on the call of the chairman when
1088 in his opinion additional meetings are expedient or necessary.

1089 C. Eight members of the State Board shall constitute a quorum for all purposes.

1090 D. The main office of the State Board shall be in the Commonwealth.

1091 E. The State Board ~~is authorized to~~ may adopt necessary regulations for carrying out the
1092 purposes of this chapter.

1093 **§ 23.1-3131. Virginia Research Investment Fund.**

1094 A. There is hereby created in the state treasury a special nonreverting revolving fund to be
1095 known as the Virginia Research Investment Fund. The Fund shall be established on the books of the
1096 Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other
1097 sources public or private, shall be paid into the state treasury and credited to the Fund. Interest and other
1098 income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund, including
1099 interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but
1100 shall remain in the Fund.

1101 B. 1. Notwithstanding any other provision of law, the General Assembly may specifically
1102 designate that certain moneys appropriated to the Fund be invested, reinvested, and managed by the
1103 Board of the Virginia Retirement System as provided in § 51.1-124.38. The State Treasurer shall not be
1104 held liable for losses suffered by the Virginia Retirement System on investments made under the
1105 authority of this subsection.

1106 2. No more than \$4 million of moneys so invested, net of any administrative fee assessed
1107 pursuant to subsection E of § 51.1-124.38, may be awarded through grants or loans in a fiscal year for
1108 any purpose permitted by this article. At the direction of the Committee, the State Comptroller may
1109 annually request a disbursement of \$4 million from the moneys invested by the Board of the Virginia
1110 Retirement System, to be held with other moneys in the Fund not subject to such investment. At the end
1111 of each fiscal year, if less than \$4 million of such annual allocation is awarded as grants or loans in a

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1112 calendar year, the Comptroller shall return the remainder of the annual \$4 million allocation to the
1113 Board of the Virginia Retirement System for reinvestment pursuant to § 51.1-124.38.

1114 3. Any loans awarded pursuant to this article shall be paid by the Comptroller from the \$4
1115 million annual allocation set forth in subdivision 2. The recipient of a loan shall repay the loan pursuant
1116 to the terms set forth by the Committee. At the end of each fiscal year, the Comptroller shall return any
1117 repayments received from loan recipients to the Board of the Virginia Retirement System for
1118 reinvestment pursuant to § 51.1-124.38.

1119 C. Moneys in the Fund shall be used solely for grants and loans to (i) promote research and
1120 development excellence in the Commonwealth; (ii) foster innovative and collaborative research,
1121 development, and commercialization efforts in the Commonwealth in projects and programs with a high
1122 potential for economic development and job creation opportunities; (iii) position the Commonwealth as
1123 a national leader in science-based and technology-based research, development, and commercialization;
1124 (iv) attract and effectively recruit and retain eminent researchers to enhance research superiority at
1125 public institutions of higher education; and (v) encourage cooperation and collaboration among higher
1126 education research institutions, and with the private sector, in areas and with activities that foster
1127 economic development and job creation in the Commonwealth. Areas of focus for awards shall be those
1128 areas identified in the Commonwealth Research and Technology Strategic Roadmap, and shall include
1129 ~~but not be limited to~~ the biosciences, personalized medicine, cybersecurity, data analytics, and other
1130 areas designated in the general appropriation act.

1131 D. The disbursement of grants and loans from the Fund shall be made by the State Comptroller at
1132 the written request of the Committee.

1133 **§ 23.1-3133. Award from Virginia Research Investment Fund.**

1134 A. The Council, in consultation with the Committee, shall establish guidelines, procedures, and
1135 objective criteria for the application for and award of grants and loans from the Fund. Such guidelines,
1136 procedures, and criteria, and any updates thereto, shall be submitted to the House Committee on
1137 Appropriations and the Senate Committee on Finance. The criteria for the award of grants and loans
1138 shall consider other grants, awards, loans, or funds awarded to the proposed program or project by the

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1139 Commonwealth and shall require an applicant to indicate other applications for state grants, awards,
1140 loans, or funds currently pending at the time of the application for an award from the Fund. The criteria
1141 shall consider the potential of the program or project for which a grant or loan is sought to (i) culminate
1142 in the commercialization of research; (ii) culminate in the formation or spin-off of viable bioscience,
1143 biotechnology, cybersecurity, genomics, or similar companies; (iii) promote the build-out of scientific
1144 areas of expertise in science and technology; (iv) promote applied research and development; (v)
1145 provide modern facilities or infrastructure for research and development; (vi) result in significant capital
1146 investment and job creation; or (vii) promote collaboration among the public institutions of higher
1147 education ~~in the Commonwealth~~. Such criteria shall also require that the program or project for which a
1148 grant or loan is sought be related to an area identified in the Commonwealth Research Technology
1149 Strategic Roadmap.

1150 B. Grants and loans may be awarded to public institutions of higher education ~~in the~~
1151 ~~Commonwealth~~ or collaborations between public institutions of higher education ~~in the Commonwealth~~
1152 and private entities. Any award from the Fund shall require a match of funds at least equal to the amount
1153 of the award.

1154 C. Applications for grants and loans from the Fund shall be received by the Council in
1155 accordance with the procedures developed pursuant to subsection A. Upon confirmation that an
1156 application is complete, the Council shall forward the application to an entity with recognized science
1157 and technology expertise for a review and certification of the scientific merits of the proposal, including
1158 a scoring or prioritization of applicant programs and projects deemed viable by the reviewing entity.
1159 Such entities include, ~~but are not limited to,~~ the Virginia Biosciences Health Research Corporation, the
1160 Innovation and Entrepreneurship Investment Authority, the Virginia Academy of Science, Engineering
1161 and Medicine, or any other entity deemed appropriate by the Council, including a scientific advisory
1162 committee created by the Council for the sole purpose of reviewing one or more applications received
1163 pursuant to this article.

1164 D. Any proposal receiving a favorable evaluation pursuant to subsection C shall be forwarded,
1165 along with the scoring or prioritization, to the Committee for further review and a decision whether to

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1166 award the proposal a grant or loan from the Fund. The award of a grant or loan from the Fund shall be
1167 subject to any terms and conditions set forth by the Committee for the award. All decisions by the
1168 Committee shall be final and not subject to further review or appeal. The Governor may announce any
1169 award approved by the Committee.

1170 **§ 23.1-3208. Regulations.**

1171 A. The board or its executive committee may adopt regulations concerning the use and visitation
1172 of properties under the control of the Jamestown-Yorktown Foundation to protect and secure such
1173 properties and the public enjoyment of such properties.

1174 B. Any person who knowingly violates a regulation of the Foundation may be requested by an
1175 agent or employee of the Foundation to leave the property and upon the failure of such person~~so~~ to do
1176 so is guilty of trespass as provided in § 18.2-119.

1177 **§ 23.1-3216. Virginia Museum of Fine Arts established.**

1178 The Virginia Museum of Fine Arts (the Museum) is established as an educational institution in
1179 the Commonwealth and a public body and instrumentality for the dissemination of education.

1180 **§ 23.1-3217. Board of trustees.**

1181 A. The management and control of the Virginia Museum of Fine Arts ~~(the Museum)~~ and its
1182 building, contents, furnishings, grounds, and other properties is vested in a board of trustees (the board)
1183 composed of (i) the Governor, the Speaker of the House of Delegates, and the mayor of the City of
1184 Richmond, who shall serve ex officio, and (ii) at least 25 but not more than 35 nonlegislative citizen
1185 members. Nonlegislative citizen members shall be appointed by the Governor after consideration of a
1186 list of nominees from the Museum submitted at least 60 days before the expiration of the member's term
1187 for which the nominations are being made.

1188 B. Nonlegislative citizen members shall be appointed for terms of five years. No nonlegislative
1189 citizen member is eligible to serve more than two consecutive five-year terms; however, a member
1190 appointed to serve an unexpired term is eligible to serve two consecutive five-year terms immediately
1191 succeeding such unexpired term.

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1192 C. Nine members shall constitute a quorum at any meeting and a majority vote of those members
1193 present shall control in all matters.

1194 D. The board shall adopt bylaws governing its organization and procedure and may alter and
1195 amend the bylaws.

1196 E. The board shall elect one of its members president of the Museum.

1197 F. The board may provide for an executive committee composed of at least three members that
1198 may exercise the powers vested in it and perform the duties imposed upon it by the board.

1199 **§ 25.1-100. Definitions.**

1200 As used in this title, unless the context requires a different meaning:

1201 "Appraisal" means a written statement independently and impartially prepared by a qualified
1202 appraiser setting forth an opinion of defined value of an adequately described property as of a specific
1203 date, supported by the presentation and analysis of relevant market information.

1204 "Body determining just compensation" means a panel of commissioners empanelled pursuant to
1205 § 25.1-227.2, jury selected pursuant to § 25.1-229, or the court if neither a panel of commissioners nor a
1206 jury is appointed or empanelled.

1207 "Court" means the court having jurisdiction as provided in § 25.1-201.

1208 "Date of valuation" means the time of the lawful taking by the petitioner, or the date of the filing
1209 of the petition pursuant to § 25.1-205, whichever occurs first.

1210 "Freeholder" means any person owning an interest in land in fee, including a person owning a
1211 condominium unit.

1212 "Land" means real estate and all rights and appurtenances thereto, together with the structures
1213 and other improvements thereon, and any right, title, interest, estate or claim in or to real estate.

1214 "Locality" or "local government" means a county, city, or town, as the context may require.

1215 "Lost access" means a material impairment of direct access to property, a portion of which has
1216 been taken or damaged as set out in subsection B of § 25.1-230.1. This definition of the term "lost
1217 access" shall not diminish any existing right or remedy, and shall not create any new right or remedy

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1218 other than to allow the body determining just compensation to consider a change in access in awarding
1219 just compensation.

1220 "Lost profits" means a loss of business profits, as defined in § 25.1-230.1, subject to adjustment
1221 using generally accepted accounting principles consistently applied, from a business or farm operation
1222 for a period not to exceed (i) three years from the date of valuation if less than the entire parcel of
1223 property is taken or (ii) one year from the date of valuation if the entire parcel of property is taken that is
1224 suffered as a result of a taking of the property on which the business or farm operation is located,
1225 provided (a) the business is owned by the owner of the property taken, or by a tenant whose leasehold
1226 interest grants the tenant exclusive possession of substantially all the property taken, or (b) the farm
1227 operation is operated by the owner of the property taken, or by a tenant using for a farm operation the
1228 property taken, to the extent that the loss is determined and proven pursuant to subsection C of § 25.1-
1229 230.1. This definition of the term "lost profits" shall not create any new right or remedy or diminish any
1230 existing right or remedy other than to allow the body determining just compensation to consider lost
1231 profits in awarding just compensation if a person asserts a right to lost profits in a claim for
1232 compensation.

1233 "Owner" means any person who owns property, provided that the person's ownership of the
1234 property is of record in the land records of the clerk's office of the circuit court of the county or city
1235 where the property is located. The term "owner" shall not include trustees or beneficiaries under a deed
1236 of trust, any person with a security interest in the property, or any person with a judgment or lien against
1237 the property. This definition of the term "owner" shall not affect in any way the valuation of property.

1238 "Person" means any individual; firm; cooperative; association; corporation; limited liability
1239 company; trust; business trust; syndicate; partnership; limited liability partnership; joint venture;
1240 receiver; trustee in bankruptcy or any other person acting in a fiduciary or representative capacity,
1241 whether appointed by a court or otherwise; club, society or other group or combination acting as a unit;
1242 the Commonwealth or any department, agency or instrumentality thereof; any city, county, town, or
1243 other political subdivision or any department, agency or instrumentality thereof; or any interstate body
1244 to which the Commonwealth is a party.

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1245 "Petitioner" or "condemnor" means any person who possesses the power to exercise the right of
1246 eminent domain and who seeks to exercise such power. The term "petitioner" or "condemnor" includes a
1247 state agency.

1248 "Property" means land and personal property, and any right, title, interest, estate or claim in or to
1249 such property.

1250 "State agency" means any (i) department, agency or instrumentality of the Commonwealth; (ii)
1251 public authority, municipal corporation, local governmental unit or political subdivision of the
1252 Commonwealth or any department, agency or instrumentality thereof; (iii) person who has the authority
1253 to acquire property by eminent domain under state law; or (iv) two or more of the aforementioned that
1254 carry out projects that cause persons to be displaced.

1255 "State institution" means any (i) ~~educational~~ institution enumerated in § 23.1-1100 or (ii) state
1256 hospital or state training center operated by the Department of Behavioral Health and Developmental
1257 Services.

1258 **2. That the provisions of this act shall be effective retroactively to October 1, 2016.**

1259 #

To Whom It May Concern:

In accordance with its authority to make "consequential changes made necessary by the use in the statutes of titles, terminology and references, and other language no longer appropriate" pursuant to § 30-149 of the Code of Virginia, the Virginia Code Commission requests that the following terminology changes be made throughout the Code of Virginia:

Old reference	New reference	Rationale
The College of William and Mary	The College of William and Mary in Virginia	§ 23.1-2800; ancient royal charter of the institution.
College; college or university; college and university.	Institution of higher education	Style, consistency.
Community college	Comprehensive community college	Definition of "comprehensive community college" in § 23.1-100.
Four-year [public] institution of higher education	Baccalaureate [public] institution of higher education	Definitions of "baccalaureate" and "baccalaureate public institution of higher education" in § 23.1-100.
Governing body or board of visitors of a public institution of higher education	Governing board of a public institution of higher education	Definition of "governing board" in § 23.1-100.
Institution of collegiate education	Institution of higher education	Style; consistency.
Institution of higher education in Virginia	Institution of higher education in the Commonwealth	Style; consistency.
State or state-supported institution of higher learning and similar terms.	Public institution of higher education	Definition of "public institution of higher education" in § 23.1-100.
Two-year [public] institution of higher education	Associate-degree-granting [public] institution of higher education	Definitions of "associate-degree-granting" and "associate-degree-granting public institution of higher education" in § 23.1-100.
University	Baccalaureate institution of higher education	Definition of "baccalaureate" in § 23.1-100.

Sincerely,

Titles and sections affected by updates to higher education-related terminology throughout Code:

Title:	Number of sections affected:
2.2	38
54.1	21
22.1	15
18.2	14
10.1	11
30	10
15.2	8
46.2	7
8.01	6
58.1	6
51.1	5
38.2	4
59.1	4
63.2	4
9.1	3
17.1	3
24.2	3
42.1	3
45.1	3
67	3
51.5	2
62.1	2
16.1	1
19.2	1
29.1	1
32.1	1
33.2	1
35.1	1
36	1
37.2	1
53.1	1
56	1
57	1
60.2	1
65.2	1
Total: 35 titles (less than half of 76 total)	Total: 188 sections (99 - over half - are in 5 titles amended often)

Gender-Specific Terms Sections Reviewed

2.2-213	16.1-69.40	38.2-3323	59.1-443.1
2.2-419	16.1-69.48:1	38.2-3407.12	59.1-444.2
2.2-1147.1	16.1-243	38.2-3432.1	60.2-219
2.2-3101	16.1-252	38.2-4019	60.2-608
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2.2-3119	16.1-257	38.2-4132	60.2-618
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8.01-53	22.1-203	46.2-1096	64.2-1616
8.01-225	22.1-287	46.2-1500	64.2-1900
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8.01-341.1	22.1-294	51.5-53	67-1403
8.01-512.3	22.1-305	54.1-1101	
8.01-581.20:1	22.1-315	54.1-2800	
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8.2A-507	32.1-162.16	58.1-344.3	
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16.1-69.23	38.2-3105	59.1-365	

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 § 2.2-1147.1. Right to breast-feed.

2 Notwithstanding any other provision of law, a **woman** may breast-feed **her** child at any location
 3 where that **woman** would otherwise be allowed on property that is owned, leased or controlled by the
 4 Commonwealth as defined in § 2.2-1147.

5 **Drafting note: No change recommended.**

6 § 8.01-341.1. Exemptions from jury service upon request.

7 Any of the following persons may serve on juries in civil and criminal cases but shall be exempt
 8 from jury service upon his request:

9 1. through 3. [Repealed.]

10 4. A mariner actually employed in maritime service;

11 5. through 7. [Repealed.]

12 8. A person who has legal custody of and is necessarily and personally responsible for a child or
 13 children 16 years of age or younger requiring continuous care by him during normal court hours, or any
 14 **mother** who is breast-feeding a child;

15 9. A person who is necessarily and personally responsible for a person having a physical or
 16 mental impairment requiring continuous care by him during normal court hours;

17 10. Any person over 70 years of age;

18 11. Any person whose spouse is summoned to serve on the same jury panel;

19 12. Any person who is the only person performing services for a business, commercial or
 20 agricultural enterprise and whose services are so essential to the operations of the business, commercial
 21 or agricultural enterprise that such enterprise must close or cease to function if such person is required to
 22 perform jury duty;

23 13. Any person who is the only person performing services for a political subdivision as a
 24 firefighter, as defined in § 65.2-102, and whose services are so essential to the operations of the political
 25 subdivision that such political subdivision will suffer an undue hardship in carrying out such services if
 26 such person is required to perform jury duty;

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27 14. Any person employed by the Office of the Clerk of the House of Delegates, the Office of the
28 Clerk of the Senate, the Division of Legislative Services, and the Division of Legislative Automated
29 Systems; however, this exemption shall apply only to jury service starting (i) during the period
30 beginning 60 days prior to the day any regular session commences and ending 30 days after the day of
31 adjournment of such session and (ii) during the period beginning seven days prior to the day any
32 reconvened or special session commences and ending seven days after the day of adjournment of such
33 session;

34 15. Any general registrar, member of a local electoral board, or person appointed or employed by
35 either the general registrar or the local electoral board, except officers of election appointed pursuant to
36 Article 5 (§ 24.2-115 et seq.) of Chapter 1 of Title 24.2; however, this exemption shall apply only to jury
37 service starting (i) during the period beginning 90 days prior to any election and continuing through
38 election day, (ii) during the period to ascertain the results of the election and continuing for 10 days after
39 the local electoral board certifies the results of the election under § 24.2-671 or the State Board of
40 Elections certifies the results of the election under § 24.2-679, or (iii) during the period of an election
41 recount or contested election pursuant to Chapter 8 (§ 24.2-800 et seq.) of Title 24.2. Any officer of
42 election shall be exempt from jury service only on election day and during the periods set forth in
43 clauses (ii) and (iii); and

44 16. Any member of the armed services of the United States or the diplomatic service of the
45 United States appointed under the Foreign Service Act (22 U.S.C. § 3901 et seq.) who will be serving
46 outside of the United States at the time of such jury service.

47 **Drafting note: No change recommended.**

48

49 **§ 2.2-3130. Attendance requirements.**

50 Except as set forth in § 2.2-3131, each state filer shall attend the orientation course required in §
51 2.2-3128, as follows:

52 1. For a state filer who holds a position with the agency on January 1, 2004, not later than
53 December 31, 2004 and, thereafter, at least once during each consecutive period of two calendar years
54 commencing on January 1, 2006.

55 2. For a person who becomes a state filer with the agency after January 1, 2004, within two
56 months after he-~~or she~~ becomes a state filer and at least once during each consecutive period of two
57 calendar years commencing on the first odd-numbered year thereafter.

58 **Drafting note: Technical change consistent with Va. Code § 1-216.**

59 **§ 8.01-40. Unauthorized use of name or picture of any person; punitive damages; statute of**
60 **limitations.**

61 A. Any person whose name, portrait, or picture is used without having first obtained the written
62 consent of such person, or if dead, of the surviving consort and if none, of the next of kin, or if a minor,
63 the written consent of his-~~or her~~ parent or guardian, for advertising purposes or for the purposes of trade,
64 such persons may maintain a suit in equity against the person, firm, or corporation so using such
65 person's name, portrait, or picture to prevent and restrain the use thereof; and may also sue and recover
66 damages for any injuries sustained by reason of such use. And if the defendant shall have knowingly
67 used such person's name, portrait or picture in such manner as is forbidden or declared to be unlawful by
68 this chapter, the jury, in its discretion, may award punitive damages.

69 B. No action shall be commenced under this section more than 20 years after the death of such
70 person.

71 **Drafting note: Technical change consistent with Va. Code § 1-216.**

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73 **§ 2.2-4368. Definitions.**

74 As used in this article:

75 "Immediate family" means a spouse, children, parents, ~~brothers and sisters~~ siblings, and any
76 other person living in the same household as the employee.

77 "Official responsibility" means administrative or operating authority, whether intermediate or
78 final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim
79 resulting therefrom.

80 "Pecuniary interest arising from the procurement" means a personal interest in a contract as
81 defined in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

82 "Procurement transaction" means all functions that pertain to the obtaining of any goods,
83 services or construction, including description of requirements, selection and solicitation of sources,
84 preparation and award of contract, and all phases of contract administration.

85 "Public employee" means any person employed by a public body, including elected officials or
86 appointed members of governing bodies.

87 **Drafting note: Amendment replaces gender-specific terms with gender-neutral ones.**

88 **§ 8.01-52.1. Admissibility of expressions of sympathy.**

89 In any wrongful death action brought pursuant to § 8.01-50 against a health care provider, or in
90 any arbitration or medical malpractice review panel proceeding related to such wrongful death action,
91 the portion of statements, writings, affirmations, benevolent conduct, or benevolent gestures expressing
92 sympathy, commiseration, condolence, compassion, or a general sense of benevolence, together with
93 apologies that are made by a health care provider or an agent of a health care provider to a relative of the
94 patient, or a representative of the patient about the death of the patient as a result of the unanticipated
95 outcome of health care, shall be inadmissible as evidence of an admission of liability or as evidence of
96 an admission against interest. A statement of fault that is part of or in addition to any of the above shall
97 not be made inadmissible by this section.

98 For purposes of this section, unless the context otherwise requires:

99 "Health care" has the same definition as provided in § 8.01-581.1.

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100 "Health care provider" has the same definition as provided in § 8.01-581.1.

101 "Relative" means a decedent's spouse, parent, grandparent, ~~stepfather, stepmother~~ step-parent,
 102 child, grandchild, ~~brother, sister~~ sibling, ~~half-brother, half-sister~~ half-sibling, or spouse's parents. In
 103 addition, "relative" includes any person who had a family-type relationship with the decedent.

104 "Representative" means a legal guardian, attorney, person designated to make decisions on
 105 behalf of a patient under a medical power of attorney, or any person recognized in law or custom as a
 106 patient's agent.

107 "Unanticipated outcome" means the outcome of the delivery of health care that differs from an
 108 expected result.

109 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

110 **§ 15.2-2244. Provisions for subdivision of a lot for conveyance to a family member.**

111 A. In any county a subdivision ordinance shall provide for reasonable provisions permitting a
 112 single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of
 113 the property owner, including the family member's spouse, subject only to any express requirement
 114 contained in the Code of Virginia and to any requirement imposed by the local governing body that all
 115 lots of less than five acres have reasonable right-of-way of not less than 10 feet or more than 20 feet
 116 providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such
 117 division shall be allowed per family member, and shall not be for the purpose of circumventing this
 118 section. For the purpose of this subsection, a member of the immediate family is defined as any person
 119 who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or
 120 parent of the owner. In addition, any such locality may include ~~aunts, uncles, nieces~~ parental siblings
 121 and ~~nephews~~ children of parental siblings in its definition of immediate family.

122 B. Notwithstanding subsection A, in a county having the urban county executive form of
 123 government, a subdivision ordinance shall provide for reasonable provisions permitting a single division
 124 of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property
 125 owner, subject only to any express requirement contained in the Code of Virginia and to any
 126 requirement imposed by the local governing body that all lots of less than five acres have frontage of not

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127 less than 10 feet or more than 20 feet on a dedicated recorded public street or thoroughfare. Only one
 128 such division shall be allowed per family member, and the division shall not be for the purpose of
 129 circumventing a local subdivision ordinance. For the purpose of this subsection, a member of the
 130 immediate family is defined as any person who is a natural or legally defined offspring or parent of the
 131 owner.

132 C. Notwithstanding subsections A and B, a subdivision ordinance may include reasonable
 133 provisions permitting divisions of lots or parcels for the purpose of sale or gift to a member of the
 134 immediate family of the property owner in (i) any county or city which has had population growth of 10
 135 percent or more from the next-to-latest to latest decennial census year, based on population reported by
 136 the United States Bureau of the Census; (ii) any city or county adjoining such city or county; (iii) any
 137 towns located within such county; and (iv) any county contiguous with at least three such counties, and
 138 any town located in that county. Such divisions shall be subject to all requirements of the Code of
 139 Virginia and to any requirements imposed by the local governing body.

140 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

141 **§ 16.1-69.23. In what cases judge disqualified.**

142 If the judge or substitute judge of any district court:

143 (1) Be a party to an action;

144 (2) Be interested in the result of any action, otherwise than as resident or taxpayer of the city or
 145 county;

146 (3) Be related to any party to the action as spouse, grandparent, parent, ~~father-in-law, mother-in-~~
 147 ~~law, parent-in-law,~~ child, grandchild, ~~son-in-law, daughter-in-law, child-in-law, brother, sister, sibling,~~
 148 ~~brother-in-law, sister-in-law, sibling-in-law, nephew, niece, uncle, aunt, parental sibling, child of parental~~
 149 ~~sibling,~~ first cousin, guardian, or ward;

150 (4) Be a material witness for either party to the action;

151 (5) Be counsel for any party to the action;

152 he shall not take cognizance thereof.

153 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

154 **§ 37.2-718. Order to compel payment of expenses.**

155 A. When any individual receiving services or his guardian, conservator, trustee, or other person
156 liable for his expenses fails to pay those expenses and it appears from investigation that the individual,
157 his guardian, conservator, trustee, or other person liable for his support is able or has sufficient estate to
158 pay the expenses, the Department shall petition the appropriate court having jurisdiction over the estate
159 of the individual or the court for the county or city in which the individual resides or from which he was
160 admitted to a state facility for an order to compel payment of the expenses by the person liable therefor.
161 In any case in which a person liable for the support of the individual is being proceeded against, the
162 petition shall be directed to the appropriate court of the county or city in which the person liable for the
163 support of the individual resides.

164 B. The individual receiving services and his estate shall first be liable for the payment of his
165 expenses and thereafter, the person liable for the support of the individual. Such person shall be the
166 ~~father, mother, parent, husband, wife, spouse~~, or child of the individual who has attained the age of
167 majority. Multiple persons shall be jointly and severally liable. The Department shall collect part or all
168 of the expenses from the several sources as appears proper under the circumstances and may proceed
169 against all sources, except that the principal or income or both from a trust created for the benefit of the
170 individual shall be liable for payment only as provided in Article 5 (§ 64.2-742 et seq.) of the Uniform
171 Trust Code. In evaluating the circumstances, the Department may consider any events related to the
172 admission of the individual for treatment or training that have affected the person liable, such as the
173 infliction of serious injury by the individual on the person who is liable. The proceedings for the
174 collection of expenses shall conform to the procedure for collection of debts due the Commonwealth.

175 C. Notice of any hearing on the petition of the Department for an order to compel payment of
176 expenses shall be served at least 15 days prior to the hearing and in the manner provided for the service
177 of civil process on the individual receiving services and, if there is one, on his guardian, conservator, or
178 trustee, on the other person legally responsible for the individual's support, or on the person against
179 whom the proceedings are instituted.

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180 D. At the hearing, the court shall hear the allegations and proofs of the parties and shall by order
181 require full or partial payment of maintenance by the liable parties, if they have sufficient ability, having
182 due regard for the financial condition and estate of the individual receiving services or any other person
183 liable for his expenses, his present and future needs, and the present and future needs of his lawful
184 dependents, if the proceeding is to charge the individual or any other person liable with such expenses.

185 E. Upon application of any interested party and upon like notice and procedure, the court may at
186 any time modify an order to compel payment of expenses. If the application is made by any party other
187 than the Department, the notice shall be served on the Commissioner.

188 F. Any party aggrieved by an order or by the judgment of the court may appeal therefrom in the
189 manner provided by law.

190 G. Any order or judgment rendered by the court hereunder shall have the same force and effect
191 and shall be enforceable in the same manner and form as any judgment recovered in favor of the
192 Commonwealth.

193 § 58.1-324. ~~Husband and wife~~ Married individuals.

194 A. If the federal taxable income of ~~husband or wife~~ married individuals is determined on a
195 separate federal return, their Virginia taxable incomes shall be separately determined.

196 B. If the federal taxable income of ~~husband and wife~~ married individuals is determined on a joint
197 federal return, or if neither files a federal return:

198 1. Their tax shall be determined on their joint Virginia taxable income; or

199 2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect.

200 C. Where ~~husband and wife~~ married individuals have not separately reported and claimed items
201 of income, exemptions and deductions for federal income tax purposes, and have not elected to file a
202 joint Virginia income tax return, such items allowable for Virginia income tax purposes shall be
203 allocated and adjusted as follows:

204 1. Income shall be allocated to the spouse who earned the income or with respect to whose
205 property the income is attributable.

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206 2. Allowable deductions with respect to trade, business, production of income, or employment
207 shall be allocated to the spouse to whom attributable.

208 3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be
209 allowable for Virginia income tax purposes, but shall be allocable between ~~husband and wife~~ married
210 individuals as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable
211 deductions not described in subdivision 2 of this subsection.

212 4. Where the standard deduction or low income allowance is properly taken pursuant to
213 subdivision D 1 a of § 58.1-322 such deduction or allowance shall be allocable between ~~husband and~~
214 wife married individuals as they may mutually agree.

215 5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for
216 Virginia income tax purposes as ~~husband and wife~~ married individuals may mutually agree; however,
217 exemptions for taxpayer and spouse together with exemptions for old age and blindness must be
218 allocated respectively to the spouse to whom they relate.

219 D. Where allocations are permitted to be made under subsection C pursuant to agreement
220 between ~~husband and wife~~ married individuals, and ~~husband and wife~~ they have failed to agree as to
221 those allocations, such allocations shall be made between ~~husband and wife~~ them in a manner
222 corresponding to the treatment for federal income tax purposes of the items involved, under regulations
223 prescribed by the Department of Taxation.

224 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

225 **§ 64.2-900. Definitions.**

226 As used in this chapter:

227 "Adult" means an individual who is at least 18 years of age.

228 "Beneficiary" means an individual for whom property has been transferred to or held under a
229 declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

230 "Conservator" means a person appointed or qualified by a court to manage the estate of an
231 individual or a person legally authorized to perform substantially the same functions.

232 "Court" means a circuit court of the Commonwealth.

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233 "Custodial trust property" means an interest in property transferred to or held under a declaration
234 of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

235 "Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or
236 a substitute or successor to the person designated.

237 "Guardian" means a person appointed or qualified by a court as a guardian of a person, including
238 a limited guardian, but not a person who is only a guardian ad litem.

239 "Incapacitated" means lacking the ability to manage property and business affairs effectively by
240 reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic
241 intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling
242 cause.

243 "Legal representative" means a personal representative or conservator.

244 "Member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild,
245 parent, stepparent, grandparent, ~~brother, sister~~ sibling, ~~uncle~~, or ~~aunt~~ parental sibling, whether of the
246 whole or half blood or by adoption.

247 "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture,
248 association, or any other legal or commercial entity.

249 "Personal representative" means an executor, administrator, or special administrator of a
250 decedent's estate, a person legally authorized to perform substantially the same functions, or a successor
251 to any of them.

252 "State" means a state, territory, or possession of the United States, the District of Columbia, or
253 the Commonwealth of Puerto Rico.

254 "Transferor" means a person who creates a custodial trust by transfer or declaration.

255 "Trust company" means a financial institution, corporation, or other legal entity authorized to
256 exercise general trust powers.

257 **Drafting note: Amendments replace gender-specific terms with gender-neutral ones.**

Title 55.1 Proposed Subtitles

Subtitle I Real Estate Conveyances

- 1. Creation and Limitation of Estates; Their Qualities, §§ 55-1 through 55-25.1.**
- 3. Property Rights of Married Women, §§ 55-35 through 55-47.1.**
- 4. Form and Effect of Deeds and Covenants; Liens, §§ 55-48 through 55-79.06.**
- 5. Fraudulent and Voluntary Conveyances, Bulk and Conditional Sales, etc.; Writings Necessary to Be Recorded, §§ 55-80 through 55-105.**
- 8. Clouds on Title, §§ 55-153 through 55-155.**
- 15. Apportionment of Moneys; Management of Institutional Funds, §§ 55-253 through 55-277.**
- 20. Virginia Solar Easements Act, §§ 55-352 through 55-359.**

Subtitle II Real Estate Settlements and Recordation

- 6. Recordation of Documents, §§ 55-106 through 55-142.15.**
- 27. Virginia Residential Property Disclosure Act, §§ 55-517 through 55-525.**
 - 27.1. Exchange Facilitators Act, §§ 55-525.1 through 55-525.7.**
 - 27.2. Real Estate Settlements, §§ 55-525.8 through 55-525.15.**
 - 27.3. Real Estate Settlement Agents, §§ 55-525.16 through 55-525.32.**
- 28. Commercial Real Estate Broker's Lien Act, §§ 55-526, 55-527**

Subtitle III Rental Conveyances

- 13. Landlord and Tenant, §§ 55-217 through 55-248.**
 - 13.2. Virginia Residential Landlord and Tenant Act, §§ 55-248.2 through 55-248.40.**
 - 13.3. Manufactured Home Lot Rental Act, §§ 55-248.41 through 55-248.52.**
- 14. Emblements, §§ 55-249 through 55-252.**
- 25. Transfer of Deposits, § 55-507**

Title 55.1 Proposed Subtitles

Subtitle IV Common Interest Communities

- 4.1. Horizontal Property, §§ 55-79.1 through 55-79.38.**
- 4.2. Condominium Act, §§ 55-79.39 through 55-79.103.**
- 19. Subdivided Land Sales Act, §§ 55-336 through 55-351.**
- 21. The Virginia Real Estate Time-Share Act, §§ 55-360 through 55-400.**
- 24. Virginia Real Estate Cooperative Act, §§ 55-424 through 55-506.**
- 26. Property Owners' Association Act, §§ 55-508 through 55-516.2**

Subtitle V Miscellaneous

- 9. Assignments for Benefit of Creditors, §§ 55-156 through 55-167.**
- 10. Escheats Generally, §§ 55-168 through 55-201.1.**
- 11. Estrays and Drift Property, §§ 55-202 through 55-210.**
- 11.1. Disposition of Unclaimed Property, §§ 55-210.1 through 55-210.30.**
- 18. Trespasses; Fences, §§ 55-298 through 55-335.**
- 23. Virginia Self-Service Storage Act, §§ 55-416 through 55-423.**

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By Selected Sub-Work Group**

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Christie Marra (Virginia Poverty Law Center, Inc.)
Brian M. Gordon (Virginia Apartment and Office Building Association)
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Phil Abraham (Vectre Corporation)
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Phil Abraham (Vectre Corporation)
Ann K. Crenshaw (Kaufman & Canoles)
Neil Kessler (Troutman Sanders)
Laura Farley (Virginia Association of REALTORS)
Jeffrey Palmore (Reed Smith)
Professor Alex Johnson (University of Virginia)

Subtitle III. Rental Conveyances



For presentation 11/21/16

Part A. Residential Tenancies

Chapter XX (1) General Provisions *(Approved on 9/17/16)*

Chapter XX (2) Virginia Residential Landlord Tenant Act *(Approved on 10/17/16)*

Chapter XX (3) Other Residential Tenancies *(Approved on 10/17/16)*

Part B. Commercial and Other Tenancies

Chapter XX (4) Manufactured Home Lot Rental Act

Chapter XX (5) Residential Ground Rent Act *(Approved on 10/17/16)*

Chapter XX (6) Commercial Tenancies

Chapter XX (7) Deeds of Lease *(Approved on 10/17/16)*

Chapter XX (8) Emblements *(Approved on 10/17/16)*

PART B.COMMERCIAL AND OTHER TENANCIES.

Drafting note: Proposed Part B of Subtitle III consists of five chapters. Existing Chapter 13.3 is retained and relocated as proposed Chapter XX [4], the Manufactured Home Lot Rental Act. Existing Article 4 of Chapter 4 is retained and relocated as proposed Chapter XX [5], the Residential Ground Rent Act. All existing provisions applicable to commercial tenancies, including provisions from existing Chapter 13, are consolidated as proposed Chapter XX [6], Commercial Tenancies. Provisions of existing Articles 1 (Form and Effect of Deeds and Leases) and 3 (Effect of Certain Expressions in Deeds and Leases) of Chapter 4 relating to rental conveyance are consolidated as proposed Chapter XX [7], Deeds of Lease. Existing Chapter 14 is retained and relocated as proposed Chapter XX [8], Emblements.

CHAPTER ~~13.3~~ XX. [4]

MANUFACTURED HOME LOT RENTAL ACT.

Drafting note: Existing Chapter 13.3 is retained as Chapter XX [4].

§ ~~55-248.41~~ 55.1-xxx. Definitions.

~~For the purposes of~~ As used in this chapter, unless ~~expressly stated otherwise~~ the context requires a different meaning:

"Abandoned manufactured home" means a manufactured home occupying a manufactured home lot pursuant to a written agreement under which (i) the tenant has defaulted in rent or ~~if~~ (ii) the landlord has the right to terminate the ~~lease~~ written agreement pursuant to § ~~55-248.33;~~ 55.1-xxx.

"Authorized occupant" means a person entitled to occupy a manufactured home with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations of a tenant under the rental agreement.

"Guest or invitee" means a person, other than the tenant or authorized occupant, who has the permission of the tenant to visit but not to occupy the premises.

28 "Landlord" means the manufactured home park owner, or the lessor, or sublessor, ~~or a~~
29 manager of a manufactured home park. "Landlord" also means a manufactured home park
30 operator who fails to disclose the name of such owner, lessor, or sublessor as provided in ~~§ 55-~~
31 ~~248.12; § 55.1-xxx~~ [§ 55-248.12].

32 "Manufactured home" means a structure, transportable in one or more sections, ~~which~~
33 that in the traveling mode is ~~8~~ eight body feet or more in width or 40 body feet or more in
34 length, or, when erected on site, is 320 or more square feet, and which is built on a permanent
35 chassis and designed to be used as a dwelling with or without a permanent foundation when
36 connected to the required utilities, and includes the plumbing, heating, air-conditioning, and
37 electrical systems contained ~~therein; in the structure.~~

38 "Manufactured home lot" means a parcel of land within the boundaries of a
39 manufactured home park provided for the placement of a single manufactured home and the
40 exclusive use of its occupants;

41 "Manufactured home owner" means the owner of a manufactured home.

42 "Manufactured home park" means a parcel of land under single or common ownership
43 upon which ~~ten~~ 10 or more manufactured homes are located on a continual, nonrecreational
44 basis together with any structure, equipment, road, or facility intended for use incidental to the
45 occupancy of the manufactured homes, ~~but shall.~~ "Manufactured home park" does not include a
46 premises used solely for storage or display of uninhabited manufactured homes, or a premises
47 occupied solely by a landowner and members of his family;

48 "Manufactured home park operator" means a person employed or contracted by a
49 manufactured home park owner or landlord to manage a manufactured home park.

50 "Manufactured home park owner" means a person who owns land that accommodates a
51 manufactured home park.

52 "Owner" means one or more persons, jointly or severally, in whom is vested (i) all or
53 part of the legal title to the property; or (ii) all or part of the beneficial ownership and right to

54 present use and enjoyment of the premises, ~~and the term, "Owner"~~ includes a mortgagee in
55 possession.

56 "Reasonable charges in addition to rent" means any routine maintenance and utility
57 charges for which the tenant is liable under the rental agreement.

58 "Rent" means payments made by the tenant to the landlord for use of a manufactured
59 home lot and other facilities or services provided by the landlord.

60 "Rental agreement" means any agreement, written or oral, and valid rules and
61 regulations adopted in conformance with § ~~55-248.17~~ 55.1-xxx embodying the terms and
62 conditions concerning the use and occupancy of a manufactured home lot and premises and
63 other facilities or services provided by the landlord; ~~and~~.

64 "Secured party" means the same as that term is defined in § 8.9A-102.

65 "Security interest" means the same as that term is defined in § 8.1A-201.

66 "Tenant" means a person entitled ~~as~~ under a rental agreement to occupy a manufactured
67 home lot to the exclusion of others.

68 **Drafting note: The definitions of "authorized occupant" and "guest or invitee" are**
69 **duplicated from § 55.1-xxx [§ 55-248.4]. Proposed definitions of "manufactured home**
70 **owner," "manufactured home park operator," and "manufactured home park owner"**
71 **are added for clarity and consistency of usage. A reference to "manager" in the existing**
72 **definition of "landlord" is replaced with the newly defined term "manufactured home**
73 **park operator" to reflect the appropriate terminology for this chapter. The definitions of**
74 **"reasonable charges in addition to rent," "secured party," and "security interest" are**
75 **relocated from existing § 55-248.44:1 to this section of chapter-wide definitions. Technical**
76 **changes are made.**

77 § ~~55-248.42~~ 55.1-xxx. Written rental agreement required.

78 A. ~~All~~ Before the tenancy begins, all parties shall sign and date a written rental
79 agreement that includes all terms governing the rental and occupancy of a manufactured home
80 lot ~~shall be contained in a written agreement, which shall be dated and signed by all parties~~

81 ~~thereto prior to commencement of tenancy. A~~ The landlord shall give the tenant a copy of the
82 signed and dated written rental agreement and a copy of ~~the Manufactured Home Lot Rental Act~~
83 ~~(§ 55-248.41-55.1-xxx et seq.)~~ this chapter or a clear and simple description of the obligations of
84 landlords and tenants under ~~the Manufactured Home Lot Rental Act shall be given by the~~
85 ~~landlord to the tenant~~ this chapter within seven days after the tenant signs the written rental
86 agreement. ~~A copy of this chapter, including the full text of those sections of the Virginia~~
87 ~~Residential Landlord and Tenant Act (§ 55-248.2_ et seq.) referenced in § 55-248.48, shall be~~
88 ~~posted in the manufactured home park.~~ The written rental agreement shall not contain any
89 provisions contrary to the provisions of this chapter and shall not contain a provision prohibiting
90 the tenant from selling his manufactured home. A notice of any change by a landlord in any
91 terms or provisions of the written rental agreement shall constitute a notice to vacate the
92 premises, and such notice shall be given in accordance with the terms of the written rental
93 agreement or as otherwise required by law. The written rental agreement shall not provide that
94 the tenant pay any recurring charges except fixed rent, utility charges, or reasonable incidental
95 charges for services or facilities supplied by the landlord. The landlord shall post a copy of this
96 chapter, including the full text of the sections referenced in § 55.1-xxx [§ 55-248.48], in the
97 manufactured home park.

98 B. In the event that any party has a secured interest in the manufactured home, the
99 written rental agreement or rental application shall ~~contain~~ include the name and address of ~~any~~
100 such party ~~as well as~~ and the name and address of the dealer from whom the manufactured home
101 was purchased. In addition, the written rental agreement shall require the tenant to notify the
102 landlord within ~~ten~~ 10 days of any new security interest, change of existing security interest, or
103 settlement of security interest.

104 **Drafting note: Language is modernized and put into active voice. The term**
105 **"written agreement" or "agreement" is modified to "rental agreement" to use the defined**
106 **term, and modified with the word "written" as appropriate for this section. The provision**
107 **of subsection A stating that the landlord shall post a copy of this chapter in the**

108 **manufactured home park is relocated to the end of the subsection for clarity. Technical**
109 **changes are made.**

110 § ~~55-248.42:1~~ 55.1-xxx. Term of rental agreement; renewal; security deposits.

111 A. A ~~park owner~~ landlord shall offer all current and prospective year-round residents a
112 rental agreement with a rental period of not less than one year. Such offer shall contain the same
113 terms and conditions as are offered with shorter term leases, except that rental discounts may be
114 offered by a ~~park owner~~ landlord to residents who enter into a rental agreement for a period of
115 not less than one year.

116 B. Upon the expiration of a rental agreement, ~~such the~~ agreement shall be automatically
117 renewed for a term of one year with the same terms unless the ~~park operator~~ landlord provides
118 written notice to the tenant of any change in the terms of the agreement at least ~~sixty~~ 60 days
119 prior to the ~~termination~~ expiration date. In the ~~event~~ case of an automatic renewal of a rental
120 agreement ~~involving for~~ a year-round resident, the security deposit initially furnished by the
121 tenant shall not be increased by the ~~park owner~~ landlord, nor shall an additional security deposit
122 be required.

123 C. Except as limited by subsection B ~~of this section~~, the provisions of § ~~55-248.15:1~~
124 55.1-xxx shall govern the terms and conditions of security deposits for rental agreements under
125 this chapter.

126 **Drafting note: The existing term "termination" replaces "expiration" in subsection**
127 **B for consistency of usage within the section. Use of "landlord" is proposed instead of**
128 **"park owner" and "park operator," consistent with chapter-wide definitions in §**
129 **55.248.41 [§ 55.1-XX]. Technical changes are made.**

130 § ~~55-248.43~~ 55.1-xxx. Landlord's obligations.

131 The landlord shall:

132 1. Comply with applicable laws governing health, zoning, safety, and other matters
133 pertaining to manufactured home parks;

134 2. Make all repairs and do whatever is necessary to put and keep the manufactured home
 135 park in a fit and habitable condition, including, ~~but not limited to,~~ maintaining in a clean and
 136 safe condition all facilities and common areas provided by ~~him~~ the landlord for ~~the use of by the~~
 137 tenants of two or more manufactured home lots;

138 3. Maintain in good and working order and condition all electrical, plumbing, sanitary,
 139 heating, ventilating, air conditioning, and other facilities and appliances supplied or required to
 140 be supplied by ~~him~~ the landlord;

141 4. Provide and maintain appropriate receptacles as a manufactured home park facility,
 142 except when ~~door to door~~ door-to-door garbage and waste pickup is available within the
 143 manufactured home park for the collection and storage of garbage and other waste incidental to
 144 the occupancy of the manufactured home park, and arrange for the removal of ~~same~~ the garbage
 145 and other waste; and

146 5. Provide reasonable access to electric, water, and sewage disposal connections for each
 147 manufactured home lot. In the event of a planned disruption by the landlord in electric, water, or
 148 sewage disposal services, the landlord shall give written notice to tenants no less than ~~forty-~~
 149 ~~eight~~ 48 hours prior to the planned disruption in service.

150 **Drafting note: In subdivision 2, "but not limited to" is removed following the term**
 151 **"including" on the basis of § 1-218, which states, "'Includes' means includes, but not**
 152 **limited to," and technical changes are made.**

153 § ~~55-248.44~~ 55.1-xxx. Tenant's obligations.

154 In addition to the provisions of the rental agreement, the tenant shall:

155 1. Comply with applicable laws affecting manufactured home owners and ~~lessors~~
 156 tenants;

157 2. Keep and maintain the exterior of ~~his~~ the tenant's manufactured home and ~~his~~
 158 manufactured home lot as clean and safe as conditions permit;

159 3. Place all garbage and other waste in the appropriate receptacles, which shall be
 160 provided by the tenant when ~~door to door~~ door-to-door garbage and waste pickup is provided;

161 4. Use in a reasonable and orderly manner all facilities and appliances in the
 162 manufactured home park; and require ~~other persons on the premises with his consent~~ any
 163 authorized occupant or guest or invitee to do so;

164 5. Conduct himself and require ~~other persons on the premises with his consent~~ any
 165 authorized occupant or guest or invitee to conduct ~~themselves~~ himself in a manner that will not
 166 disturb ~~his~~ the tenant's neighbors' peaceful enjoyment of the premises;

167 6. Abide by all reasonable rules and regulations imposed by the landlord; and

168 7. In the absence of express written agreement to the contrary, occupy ~~his~~ the tenant's
 169 manufactured home only as a dwelling unit.

170 **Drafting note: In subdivisions 4 and 5, the phrase "other persons on the premises**
 171 **with his consent" is replaced with the defined terms "authorized occupant" and "guest or**
 172 **invitee." Technical changes are made.**

173 § ~~55-248.44:1~~ 55.1-xxx. Rent; liability of secured party taking possession of an
 174 abandoned manufactured home.

175 A. A secured party shall have no liability for rent or other charges to a landlord except as
 176 provided in this section.

177 B. In the event that a manufactured home subject to a security interest becomes an
 178 abandoned manufactured home, the landlord shall send notice of abandonment ~~shall be sent by~~
 179 ~~the landlord~~ to the manufactured home owner, the secured party, and the dealer as provided for
 180 in § ~~55-248.6~~ 55.1-xxx, at the addresses shown in the ~~lease~~ written rental agreement or rental
 181 application. The notice of abandonment shall state the amount of rent and the amount and nature
 182 of any reasonable charges in addition to rent that for which the secured party will ~~become~~ be
 183 ~~liable for payment to the landlord~~. The notice shall include any written rental agreement
 184 previously signed by the tenant and the landlord.

185 C. A secured party ~~who~~ that has a security interest in an abandoned manufactured home,
 186 and who has a right to possession of the manufactured home under § 8.9A-609 or under the
 187 applicable security agreement, ~~shall be~~ is liable to the landlord under the same payment terms as

188 the tenant ~~was paying~~ prior to the secured party's accrual of the right of possession, and for any
189 other reasonable charges in addition to rent incurred, ~~for~~. Such liability is for the period ~~which~~
190 that begins ~~fifteen~~ 15 days from receipt of the notice of abandonment by the secured party and
191 ends upon the earlier to occur of the removal of the abandoned manufactured home from the
192 manufactured home park or disposition of the abandoned manufactured home under §§ 8.9A-
193 610 ~~et seq.~~ through 8.9A-624 or under the applicable security agreement.

194 D. This section shall not affect the availability of the landlord's lien as provided in § ~~55-~~
195 ~~230 et seq. of Chapter 13 of Title 55~~ 55.1-xxx [55-248.50:2], nor shall this section impact the
196 priority of the secured party's lien as provided in § 46.2-640.

197 E. ~~As used in this section, "security interest" shall have the same meaning as the term is~~
198 ~~defined in § 8.1A-201, and "secured party" shall have the same meaning as the term is defined~~
199 ~~in § 8.9A-102.~~

200 F. ~~For purposes of this section, "reasonable charges in addition to rent" means any~~
201 ~~routine maintenance and utility charges for which the tenant is liable under the rental agreement.~~

202 G. ~~Any~~ rent or reasonable charges in addition to rent owed by the secured party to the
203 landlord pursuant to this section shall ~~also~~ be paid to the landlord prior to the removal of the
204 manufactured home from the manufactured home park.

205 H. ~~F.~~ If a secured party ~~who~~ that has a secured interest in an abandoned manufactured
206 home becomes liable to the landlord pursuant to this section, then the relationship between the
207 secured party and the landlord shall be governed by the rental agreement previously signed by
208 the tenant and the landlord unless otherwise agreed, except that the term of the rental agreement
209 shall convert to a month-to-month tenancy. No waiver is required to convert the rental
210 agreement to a month-to-month tenancy. Either the landlord or the secured party may terminate
211 the month-to-month tenancy upon giving written notice of ~~thirty~~ at least 30 days ~~or more~~. The
212 secured party and the landlord are not required to execute a new rental agreement. Nothing in
213 this section shall be construed to be a waiver of any rights by the tenant.

214 **Drafting note: In subsection B, the term "lease" is changed to use the defined tem**
 215 **"rental agreement." The definitions in existing subsections E and F for "reasonable**
 216 **charges in addition to rent," "secured party," and "security interest" are relocated to**
 217 **proposed § 55.1-xxx [55-248.41], the section of chapter-wide definitions. Incorrect citations**
 218 **are corrected in subsections D and E, and technical changes are made.**

219 § ~~55-248.45~~ 55.1-xxx. Demands and charges prohibited; access by authorized occupants
 220 and tenant's guests or invitees; purchases by manufactured home owner not restricted;
 221 exception; conditions of occupancy.

222 A. A landlord shall not demand or collect:

223 1. An entrance fee for the privilege of leasing or occupying a manufactured home lot;

224 2. A commission on the sale of a manufactured home located in the manufactured home
 225 park, unless the tenant expressly employs him to perform a service in connection with such sale,
 226 but no such employment of the landlord by the tenant shall be a condition or term of the initial
 227 sale or rental;

228 3. A fee for improvements or installations on the interior of a manufactured home, unless
 229 the tenant expressly employs him to perform a service in connection with such ~~entrance;~~
 230 ~~installation, improvement or sale~~ improvements or installations;

231 4. A fee, charge, or other thing of value from any provider of cable television service,
 232 cable modem service, satellite master antenna television service, direct broadcast satellite
 233 television service, subscription television service, or service of any other television
 234 programming system in exchange for granting a television service provider mere access to the
 235 landlord's tenants or giving the tenants of such landlord mere access to such service. A landlord
 236 may enter into a service agreement with a television service provider to provide marketing and
 237 other services to the television service provider, designed to facilitate the television service
 238 provider's delivery of its services. Under such a service agreement, the television service
 239 provider may compensate the landlord for the reasonable value of the services provided, and for
 240 the reasonable value of the landlord's property used by the television service provider.

241 No landlord shall demand or accept any such payment from any tenants in exchange
242 ~~therefor for such services~~, unless the landlord is itself the provider of the service. ~~Not, nor~~ shall
243 any landlord discriminate in rental charges between tenants who receive any such service and
244 those who do not. Nothing ~~contained herein in this subdivision~~ shall prohibit a landlord from
245 requiring that the provider of such service and the tenant bear the entire cost of the installation,
246 operation, or removal of the facilities incident ~~thereto to such installation, operation, or removal~~,
247 or prohibit a landlord from demanding or accepting reasonable indemnity or security for any
248 damages caused by such installation, operation, or removal; or

249 5. An exit fee for moving a manufactured home from a manufactured home park.

250 B. An authorized occupant or guest or invitee of the tenant shall have free access to the
251 tenant's manufactured home site without charge or registration.

252 C. A manufactured home owner shall not be restricted in his choice of vendors from
253 whom he may purchase his (i) manufactured home, except in connection with the initial leasing
254 or renting of a newly constructed lot not previously leased or rented to any other person, or (ii)
255 goods and services. However, nothing in this chapter shall prohibit a landlord from prescribing
256 reasonable requirements governing, as a condition of occupancy, the style, size, or quality of the
257 manufactured home, or other structures placed on the manufactured home lot.

258 **Drafting note: The term "authorized occupant" is added and "guest or invitee" is**
259 **used instead of "invitee" in the catchline and in subsection B for conformity throughout**
260 **the subtitle. The terms "entrance" and "sale" are deleted from subdivision A 3 because**
261 **fees related to sales are discussed in subdivision A 2 and reference to an entrance fee was**
262 **incorrect. The terms "improvements or installations" are reordered for internal**
263 **consistency. Technical changes are made.**

264 § ~~55-248.45-1~~ 55.1-xxx. Charge for utility service.

265 Notwithstanding the provisions of § ~~56-245.3~~ 55.1-xxx, a park owner-landlord who
266 purchases from a publicly regulated utility any electricity, gas, or other utility service, including
267 water and sewer services, for resale or pass-through to a resident-tenant may not charge for the

268 resale or pass-through of such service an amount that exceeds the amount permitted under the
 269 provisions of § ~~55-226.2~~ 55.1-xxx.

270 **Drafting note:- The term "resident," which is not a defined term, is changed to the**
 271 **defined term "tenant." The term "landlord" is used instead of "park owner" for**
 272 **consistency with the chapter-wide definition.**

273 § ~~55-248.46~~ 55.1-xxx. Termination of tenancy.

274 A. Either party may terminate a rental agreement ~~which is for~~ with a term of 60 days or
 275 more by giving written notice to the other at least 60 days prior to the termination date;
 276 however, the rental agreement may require a longer period of notice. Notwithstanding the
 277 provisions of this section, where a landlord and seller of a manufactured home have in common
 278 (i) one or more owners, (ii) immediate family members, or (iii) officers or directors, the rental
 279 agreement shall be renewed except for reasons that would justify a termination of the rental
 280 agreement or eviction by the landlord as authorized by this chapter. A landlord may not cause
 281 the eviction of a tenant by willfully interrupting gas, electricity, water, or any other essential
 282 service, or by removal of the manufactured home from the manufactured home lot, or by any
 283 other willful self-help measure.

284 B. If the termination is due to rehabilitation or a change in the use of all or any part of a
 285 manufactured home park by the landlord, a 180-day written notice is required to terminate a
 286 rental agreement. ~~Changes shall include, but not be limited to,~~ As used in this subsection,
 287 "change" includes conversion to hotel, motel, or other commercial use; planned unit
 288 development; rehabilitation; demolition; or sale to a contract purchaser. This 180-day notice
 289 requirement shall not be waived; however, a period of less than 180 days may be agreed upon
 290 by both the landlord and tenant in a written agreement separate from the rental agreement ~~or~~
 291 ~~lease~~ executed after such notice is given and applicable only to the 180-day notice period.

292 **Drafting note: In subsection B, "but not limited to" is removed following the term**
 293 **"include" on the basis of § 1-218, which states, "'Includes' means includes, but not limited**
 294 **to," and technical changes are made.**

295 § ~~55-248.46-1~~ 55.1-xxx. Waiver of landlord's right to terminate.

296 Unless the landlord accepts the rent with reservation, and gives a written notice to the
297 tenant of such acceptance within five business days of receipt of the rent, acceptance of periodic
298 rent payments with knowledge in fact of a material noncompliance by the tenant shall constitute
299 a waiver of the landlord's right to terminate the rental agreement. Except as provided in § ~~55-~~
300 ~~243~~ 55.1-xxx, if the landlord has given the tenant written notice that the rent payments have
301 been accepted with reservation, the landlord may accept full payment of all rent payments and
302 still be entitled to receive an order of possession terminating the rental agreement.

303 **Drafting note: No change.**

304 § ~~55-248.47~~ 55.1-xxx. Sale or lease of manufactured home by manufactured home
305 owner.

306 ~~The No~~ landlord shall ~~not~~ unreasonably refuse or restrict the sale or rental of a
307 manufactured home located in his manufactured home park by a tenant. ~~The No~~ landlord shall
308 ~~not~~ prohibit the manufactured home owner from placing a "for sale" sign on or in ~~his~~ the
309 owner's home except that the size, placement, and character of all signs are subject to the rules
310 and regulations of the manufactured home park. Prior to selling or leasing the manufactured
311 home, the tenant shall give notice to the landlord, including, ~~but not limited to,~~ the name of the
312 prospective vendee or lessee if the prospective vendee or lessee intends to occupy the
313 manufactured home in that manufactured home park. The landlord shall have the burden of
314 proving that his refusal or restriction regarding the sale or rental of a manufactured home was
315 reasonable. The refusal or restriction of the sale or rental of a manufactured home ~~based~~
316 exclusively or predominantly on the basis of the age of the home shall be considered
317 unreasonable. Any refusal or restriction ~~because on the basis~~ of race, color, religion, national
318 origin, familial status, elderliness, handicap, or sex shall be conclusively presumed to be
319 unreasonable.

320 **Drafting note: The first sentence of the section is recast in affirmative form**
321 **consistent with current drafting practice. The term "manufactured home park" is used**

322 **instead of "park" for consistency with chapter-wide definitions. The term "but not limited**
 323 **to" is removed following "including" on the basis of § 1-218, which states, "'Includes'**
 324 **means includes, but not limited to." Technical changes are made.**

325 § ~~55-248.48~~ 55.1-xxx. Other provisions of law applicable.

326 Sections ~~55-248.6~~ 55.1-xxx, ~~55-248.8~~ 55.1-xxx, ~~55-248.9~~ 55.1-xxx, ~~55-248.12~~ 55.1-xxx,
 327 ~~55-248.14~~ 55.1-xxx, ~~55-248.15:1~~ 55.1-xxx, ~~55-248.17~~ 55.1-xxx, ~~55-248.21~~ 55.1-xxx through
 328 ~~55-248.33~~ 55.1-xxx, ~~55-248.35~~ 55.1-xxx, ~~55-248.36~~ 55.1-xxx, and ~~55-248.40~~ 55.1-xxx ~~of the~~
 329 ~~Virginia Residential Landlord and Tenant Act~~ shall, insofar as they are not inconsistent with this
 330 chapter, apply, mutatis mutandis, to the rental and occupancy of a manufactured home lot.

331 **Drafting note: Technical changes.**

332 § ~~55-248.49~~ 55.1-xxx. ~~Power Authority~~ of local governments over manufactured home
 333 parks.

334 The governing body of ~~every county, city, and town~~ any locality may adopt ordinances
 335 to enforce the obligations imposed on landlords by § ~~55-248.43~~ 55.1-xxx.

336 **Drafting note: The phrase "county, city, and town" is replaced by "locality" on the**
 337 **basis of § 1-221, which states that "'locality' means a county, city, or town as the context**
 338 **may require."**

339 § ~~55-248.50~~ 55.1-xxx. Retaliatory conduct prohibited.

340 A. Except as provided in this section, or as otherwise provided by law, a landlord shall
 341 not retaliate by selectively increasing rent or decreasing services or by bringing or threatening to
 342 bring an action for possession after ~~he~~ the landlord has knowledge that: (i) the tenant has
 343 complained to a governmental agency charged with responsibility for enforcement of a building
 344 or housing code of a violation applicable to the premises materially affecting health or safety;
 345 (ii) the tenant has made a complaint to or filed a suit against the landlord for a violation of any
 346 provision of this chapter; (iii) the tenant has organized or become a member of a tenants'
 347 organization; or (iv) the tenant has testified in a court proceeding against the landlord.

348 B. The landlord shall be deemed to have knowledge of a fact if he has actual knowledge
 349 of it; he has received a notice or notification of it; or, from all the facts and circumstances
 350 known to him at the time in question, he has reason to know that it exists.

351 C. Notwithstanding the provisions of subsections A and B ~~of this section~~, a landlord may
 352 terminate the rental agreement pursuant to subsection A of § ~~55-248.46~~ 55.1-xxx and bring an
 353 action for possession if:

354 1. Violation of the applicable building and housing code was caused by lack of
 355 reasonable care by the tenant ~~or a member of his household, an authorized occupant, or a guest~~
 356 ~~or a person on the premises with his consent~~ invitee of the tenant;

357 2. The tenant is in default in rent; or

358 3. The tenant is in default of a provision of the rental agreement materially affecting the
 359 health and safety of ~~himself~~ the tenant or others.

360 **Drafting note: The defined term "guest or invitee" is added for clarity and**
 361 **consistency in place of "a person on the premises with his consent. Technical changes are**
 362 **made.**

363 § ~~55-248.50-1~~ 55.1-xxx. Eviction of ~~resident~~ tenant.

364 A ~~manufactured home park owner or operator~~ landlord may ~~only~~ evict a ~~resident~~ tenant
 365 only for:

366 1. Nonpayment of rent;

367 2. Violation of the applicable building and housing code caused by a lack of reasonable
 368 care by the tenant ~~or~~ a member of ~~his~~ the tenant's household, or a ~~person on the premises with~~
 369 ~~his consent~~ guest or invitee of the tenant;

370 3. Violation of a federal, state, or local law or ordinance that is detrimental to the health,
 371 safety, and welfare of other ~~residents~~ tenants in the manufactured home park;

372 4. Violation of any rule or provisions of the rental agreement materially affecting the
 373 health, safety, and welfare of ~~himself~~ the tenant or others; or

374 5. Two or more violations of any rule or provision of the rental agreement occurring
375 within a six-month period.

376 **Drafting note: In the first paragraph, the phrase "manufactured home park owner**
377 **or operator" is replaced with the defined term "landlord" and the word "resident" is**
378 **replaced with the defined term "tenant." In subdivision 2, the phrase "person on the**
379 **premises with this consent" is replaced with the defined term "guest or invitee." In**
380 **subdivision 3, the word "park" is replaced with the defined term "manufactured home**
381 **park." Technical changes are made.**

382 § ~~55-248.50:2~~ 55.1-xxx. Right to sell manufactured home upon eviction.

383 A ~~resident-tenant~~ who has been evicted from a manufactured home park shall have
384 ~~ninety~~ 90 days after judgment has been entered in which to sell the manufactured home or
385 remove the manufactured home from the manufactured home park. Such ~~resident-tenant~~ shall be
386 responsible for paying the rental amount and for regular maintenance of the manufactured home
387 lot during the period between the date of eviction and the sale of the manufactured home or the
388 removal of the manufactured home from the manufactured home park. Such right to keep the
389 manufactured home in the manufactured home park shall be conditioned upon the payment of
390 all rent accrued prior to the date of judgment and prospective monthly rent as it becomes due.
391 During such term, a secured party shall be liable for such charges as provided in § ~~55-248.44:1~~
392 55.1-xxx. The manufactured home park owner shall have a lien on the manufactured home to
393 the extent that such rental payments are not made. Any sale of the manufactured home shall be
394 subject to the rights of any secured party having a security interest in the home, and the lien
395 granted to the manufactured home park owner under this section shall be subject to any such
396 security interest.

397 **Drafting note: The word "park" is clarified by the defined term "manufactured**
398 **home park," the word "home" is clarified by the defined term "manufactured home," and**
399 **the word "resident" is clarified by the defined term "tenant." A technical change is made.**

400 § 55.1-xxx. Transfer of deposits upon purchase.

401 The manufactured home owner shall transfer any security deposits and any accrued
 402 interest on the deposits in his possession to the new owner at the time of the transfer of the
 403 rental property.

404 **Drafting note: This proposed section is based on existing § 55-507, which is**
 405 **relocated to Chapter XX [1] as § 55.1-xxx because it also applies to the rental of**
 406 **manufactured homes.**

407 § ~~55-248.51~~ 55.1-xxx. Penalties for violation of chapter.

408 If the landlord acts in willful violation of ~~§§ 55-248.43~~ § 55.1-xxx, ~~55-248.45~~ 55.1-xxx,
 409 ~~55-248.47~~ 55.1-xxx, or ~~§ 55-248.50~~ 55.1-xxx or if the landlord fails to provide a written, dated
 410 lease rental agreement, the tenant is entitled to recover from the landlord an amount equal to the
 411 greater of either the tenant's monthly rental payment at the time of the violation, or actual
 412 damages and reasonable ~~attorney's~~ attorney fees.

413 **Drafting note: Technical changes.**

414 § ~~55-248.52~~ 55.1-xxx. Injunctive relief.

415 The attorney for any ~~county, city, or town~~ locality may file an action for injunctive relief
 416 for violations of this chapter.

417 **Drafting note: The existing phrase "county, city, and town" is replaced with**
 418 **"locality" on the basis of § 1-221, which states, "'Locality' means a county, city, or town as**
 419 **the context may require."**

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CHAPTER XX. [6]

COMMERCIAL TENANCIES.

Drafting note: Existing Chapter 13 of Title 55 governs both commercial and residential tenancies. Subtitle III of Title 55.1 proposes to segregate or duplicate, as appropriate, the provisions of existing Chapter 13 as follows: Proposed Chapters XX [1] and XX [3] set out all provisions of existing Chapter 13 applicable to residential tenancies and remove references to commercial tenancies from duplicated provisions. This proposed Chapter XX [6] sets out all provisions of existing Chapter 13 applicable to commercial tenancies and removes references to residential tenancies from duplicated provisions. The Title 55 source of each section shown as new language, and the location of its duplicate residential-tenancy counterpart in proposed Title 55.1, is described in individual section drafting notes.

Article 1.

In General.

Drafting note: Proposed Article 1 consolidates definitions and sections from existing Chapter 13 that are generally applicable to all commercial tenancies.

§ 55.1-xxx. Applicability.

A. As used in this chapter, unless the context requires a different meaning, "commercial tenancy" means the rental of any real estate for purposes other than residential use, including business, industrial, or agricultural purposes.

B. The provisions of this chapter apply to all commercial tenancies unless a provision of the rental agreement provides otherwise.

Drafting note: There is no existing definition of "commercial tenancy"; therefore, the proposed definition of "commercial tenancy" is adapted from existing § 55-248.5, which states what types of tenancies are not residential tenancies.

§ 55.1-xxx. Appointment of resident agent by nonresident property owner; service of process, etc., on such agent or on Secretary of the Commonwealth.

28 Any nonresident person as the term "person" is defined in § 55.1-xxx [definitions] of the
29 Commonwealth who owns and leases commercial real property within the Commonwealth shall
30 have and continuously maintain an agent who is a resident and maintains a business office
31 within the Commonwealth. Every lease executed by or on behalf of nonresident property
32 owners regarding any such real property shall specifically designate such agent and the agent's
33 office address for the purpose of service of any process, notice, order, or demand required or
34 permitted by law to be served upon such nonresident property owner.

35 Whenever any nonresident property owner fails to appoint or maintain an agent, as
36 required in this section, or whenever his agent cannot with reasonable diligence be found, then
37 the Secretary of the Commonwealth shall be an agent of the nonresident property owner upon
38 whom may be served any process, notice, order, or demand. Service may be made on the
39 Secretary or any of his staff at his office, who shall forthwith cause it to be sent by registered or
40 certified mail addressed to the nonresident property owner at his address as shown on the
41 official tax records maintained by the locality where the property is located.

42 The name and office address of the agent appointed as provided in this section shall be
43 filed in the office of the clerk of the court in which deeds are recorded in the county or city in
44 which the property lies. Recordation shall be in the same book as certificates of fictitious names
45 are recorded as provided by § 59.1-74, for which the clerk shall be entitled to a fee of \$10.

46 No nonresident property owner shall maintain an action in the courts of the
47 Commonwealth concerning property for which a designation is required by this section until
48 such designation has been filed.

49 **Drafting note: Existing § 55-218.1 is duplicated here and in Chapter XX [1] as §**
50 **55.1-xxx because it applies to both residential and commercial tenancies. Language is**
51 **updated to reflect that this section is only applicable to commercial tenancies. Technical**
52 **changes are made.**

53 § 55.1-xxx. Apportionment on purchase of part of land by holder of rent.

54 When the holder of a rent purchases part of the land out of which the same issues, the
55 rent shall be apportioned in like manner as if the land had come to him by descent, and when the
56 holder of land, being part of land out of which a rent shall be issuing, purchases such rent or part
57 of it, the rent so purchased shall be apportioned as provided in this section.

58 **Drafting note: Existing § 55-219 is duplicated here and in Chapter XX [1] as § 55.1-**
59 **xxx because it applies to both residential and commercial tenancies. A technical change is**
60 **made.**

61 § 55.1-xxx. Energy submetering equipment; energy allocation equipment; water and
62 sewer submetering equipment; ratio utility billings systems; local government fees.

63 A. As used in this section:

64 "Building" means all of the individual units served through the same utility-owned meter
65 within a commercial building.

66 "Energy allocation equipment" has the same meaning ascribed to such term in subsection
67 A of § 56-245.2.

68 "Energy submetering equipment" has the same meaning ascribed to "submetering
69 equipment" in subsection A of § 56-245.2.

70 "Local government fees" means any local government charges or fees assessed against a
71 commercial building, including stormwater, recycling, trash collection, elevator testing, or fire
72 or life safety testing.

73 "Ratio utility billing system" means a program that utilizes a mathematical formula for
74 allocating, among the tenants in a building, the actual or anticipated water, sewer, electrical, or
75 natural gas billings billed to the building owner from a third-party provider of the utility service.
76 Permitted allocation methods may include formulas based upon square footage, occupancy,
77 number of bedrooms, or some other specific method agreed to by the building owner and the
78 tenant in the rental agreement or lease.

79 "Water and sewer submetering equipment" means equipment used to measure actual
80 water or sewer usage in any nonresidential rental unit, as defined in subsection A of § 56-245.2,

81 when such equipment is not owned or controlled by the utility or other provider of water or
82 sewer service that provides service to the building in which the nonresidential rental unit is
83 located.

84 B. Energy submetering equipment, energy allocation equipment, water and sewer
85 submetering equipment, or a ratio utility billing system may be used in a commercial building if
86 clearly stated in the rental agreement or lease for the leased premises. All energy submetering
87 equipment and energy allocation equipment shall meet the requirements and standards
88 established and enforced by the State Corporation Commission pursuant to § 56-245.3.

89 C. If energy submetering equipment, energy allocation equipment, or water and sewer
90 submetering equipment is used in any building, the owner, manager, or operator of the building
91 shall bill the tenant for electricity, natural gas, or water and sewer for the same billing period as
92 the utility serving the building, unless the rental agreement or lease expressly provides
93 otherwise. The owner, manager, or operator of the building may charge and collect from the
94 tenant additional service charges, including monthly billing fees, account set-up fees, or account
95 move-out fees, to cover the actual costs of administrative expenses and billing charged to the
96 building owner, manager, or operator by a third-party provider of such services, provided that
97 such charges are agreed to by the building owner and the tenant in the rental agreement or lease.
98 The building owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to
99 make payment when due, which shall not be less than 15 days following the date of mailing or
100 delivery of the bill sent pursuant to this section.

101 D. If a ratio utility billing system is used in any building, in lieu of increasing the rent
102 the owner, manager, or operator of the building may employ such a program that utilizes a
103 mathematical formula for allocating, among the tenants in a building, the actual or anticipated
104 water, sewer, electrical, or natural gas billings billed to the building owner from a third-party
105 provider of the utility service. The owner, manager, or operator of the building may charge and
106 collect from the tenant additional service charges, including monthly billing fees, account set-up
107 fees, or account move-out fees, to cover the actual costs of administrative expenses and billings

108 charged to the building owner, manager, or operator by a third-party provider of such services,
109 provided that such charges are agreed to by the building owner and the tenant in the rental
110 agreement or lease. The building owner may require the tenant to pay a late charge of up to \$5 if
111 the tenant fails to make payment when due, which shall not be less than 15 days following the
112 date of mailing or delivery of the bill sent pursuant to this section.

113 E. Energy allocation equipment shall be tested periodically by the owner, operator, or
114 manager of the building. Upon request by a tenant, the owner shall test the energy allocation
115 equipment without charge. The test conducted without charge to the tenant shall not be
116 conducted more frequently than once in a 24-month period for the same tenant. The tenant or his
117 designated representative may be present during the testing of the energy allocation equipment.
118 A written report of the results of the test shall be made to the tenant within 10 working days
119 after the completion of the test.

120 F. The owner of any building shall maintain adequate records regarding energy
121 submetering equipment, energy allocation equipment, water and sewer submetering equipment,
122 or a ratio utility billing system. A tenant may inspect and copy the records for the leased
123 premises during reasonable business hours at a convenient location within the building. The
124 owner of the building may impose and collect a reasonable charge for copying documents,
125 reflecting the actual costs of materials and labor for copying, prior to providing copies of the
126 records to the tenant.

127 G. Notwithstanding any enforcement action undertaken by the State Corporation
128 Commission pursuant to its authority under § 56-245.3, tenants and owners shall retain any
129 private right of action resulting from any breach of the rental agreement or lease terms required
130 by this section or § 56-245.3, if applicable, to the same extent as such actions may be
131 maintained for breach of other terms of the rental agreement or lease under this chapter, if
132 applicable. The use of energy submetering equipment, energy allocation equipment, water and
133 sewer submetering equipment, or a ratio utility billing system is not within the jurisdiction of

134 the Department of Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of
135 Title 3.2.

136 H. In lieu of increasing the rent, the owner, manager, or operator of a commercial
137 building may employ a program that utilizes a mathematical formula for allocating the actual or
138 anticipated local government fees billed to the building owner among the tenants in such
139 building if clearly stated in the rental agreement or lease for the leased premises. Permitted
140 allocation methods may include formulas based upon square footage, occupancy, number of
141 bedrooms, or some other specific method agreed to by the building owner and the tenant in the
142 rental agreement or lease. Such owner, manager, or operator of a commercial building may also
143 charge and collect from each tenant additional service charges, including monthly billing fees,
144 account set-up fees, or account move-out fees, to cover the actual costs of administrative
145 expenses for administration of such a program.

146 I. Nothing in this section shall be construed to prohibit an owner, manager, or operator
147 of a commercial building from including water, sewer, electrical, natural gas, or other utilities in
148 the amount of rent as specified in the rental agreement or lease.

149 **Drafting note: Existing § 55-226.2 is duplicated here and in Chapter XX [1] as §**
150 **55.1-xxx because it applies to both residential and commercial tenancies. Language was**
151 **updated to delete references to residential tenancies, including references to campgrounds,**
152 **manufactured housing units, and dwelling units, all of which are covered by § 55.1-xxx.**
153 **Technical changes are made.**

154 § 55.1-xxx. Transfer of deposits upon purchase.

155 The owner of rental property shall transfer any security deposits and any accrued interest
156 on the deposits in his possession to the new owner at the time of the transfer of the rental
157 property.

158 **Drafting note: Existing § 55-507 is duplicated here and in Chapter XX [1] as § 55.1-**
159 **xxx because it applies to both residential and commercial tenancies.**

160 Article 2.

161 Assignments.

162 **Drafting note: Proposed Article 2 duplicates sections from existing Chapter 13**
163 **concerning assignments of leases that are applicable to commercial tenancies. These**
164 **sections also appear in Chapter XX [1], as they are also applicable to residential tenancies.**

165 § 55.1-xxx. Grantees and assignees have same rights against lessees as lessors.

166 A grantee or assignee of any land rented, or of the reversion thereof, and his heirs,
167 personal representative, or assigns shall enjoy against the lessee, or his personal representative
168 or assigns, the like advantage, by action or entry for any forfeiture or by action upon any
169 covenant or promise in the lease, that the grantor, assignor, or lessor, or his heirs, might have
170 enjoyed.

171 **Drafting note: Existing § 55-217 is duplicated here and in Chapter XX [1] as § 55.1-**
172 **xxx because it applies to both residential and commercial tenancies. Technical changes are**
173 **made.**

174 § 55.1-xxx. Lessees, etc., to have same rights against grantees, etc., as against lessors.

175 A lessee or his personal representative or assigns may have against a grantee or alienee
176 of the reversion, or of any part of such reversion, or his heirs or assigns, the like benefit of any
177 condition, covenant, or promise in the lease as he could have had against the lessor himself and
178 his heirs and assigns, except the benefit of any warranty, in deed or law.

179 **Drafting note: Existing § 55-218 is duplicated here and in Chapter XX [1] as § 55.1-**
180 **xxx because it applies to both residential and commercial tenancies. Technical changes are**
181 **made.**

182 § 55.1-xxx. What powers to pass to grantee or devisee; when attornment unnecessary.

183 In conveyances or devises of rents in fee, with powers of distress and reentry, or either
184 of them, such powers shall pass to the grantee or devisee without express words. A grant or
185 devise of a rent, or of a reversion or remainder, is good and effectual without attornment of the
186 tenant, but no tenant who, before notice of the grant, paid the rent to the grantor shall suffer any
187 damage thereby.

214 No covenant or promise by a lessee to pay the rent, or that he will keep or leave the
 215 premises in good repair, shall have the effect, if the buildings on such premises are destroyed by
 216 fire or otherwise, in whole or in part, without fault or negligence on his part, or if he is deprived
 217 of the possession of the premises by the public enemy, of binding him to make such payment or
 218 repair or erect such buildings again, unless there are other words showing it to be the intent of
 219 the parties that he should be so bound. But in case of such destruction there shall be a reasonable
 220 reduction of the rent for such time as may elapse until there are again upon the premises
 221 buildings of as much value to the tenant for his purposes as what may have been so destroyed,
 222 and, in case of such deprivation of possession, a like reduction until possession of the premises
 223 is restored to him.

224 **Drafting note: Existing § 55-226 is duplicated here and in Chapter XX [3] as § 55.1-**
 225 **xxx because it applies to both residential tenancies not governed by the VRLTA and**
 226 **commercial tenancies. The archaic subjunctive verb form "be" is updated to "is" or "are"**
 227 **to agree with singular or plural nouns, respectively. Technical changes are made.**

228 § 55.1-xxx. Security systems for commercial rental property.

229 No landlord of a premises ~~demised~~ used for commercial or business purposes shall
 230 unreasonably withhold or delay consent for the tenant to install ~~anticrime warning devices or~~
 231 security systems within ~~the demised~~ such premises.

232 **Drafting note: The term "anticrime warning devices" is deleted as redundant to**
 233 **"security systems." Language updated for modern usage.**

234 Article 4.

235 Landlord Remedies.

236 **Drafting note: Proposed Article 4 duplicates sections from existing Chapter 13**
 237 **relating to remedies available to landlords in commercial tenancy agreements.**

238 § 55.1-xxx. Effect of failure of tenant to vacate premises at expiration of term.

239 A tenant from year to year, month to month, or other definite term shall not, by his mere
 240 failure to vacate the premises upon the expiration of the lease, be held as tenant for another term

241 when such failure is not due to his willfulness, negligence, or other avoidable cause, but such
242 tenant shall be liable to the lessor for use and occupation of the premises and also for any loss or
243 damage sustained by the lessor because of such failure to surrender possession at the time
244 stipulated.

245 **Drafting note: Existing § 55-223 is duplicated here and in Chapter XX [3] as § 55.1-**
246 **xxx because it applies to both residential tenancies not governed by the VRLTA and**
247 **commercial tenancies. Technical changes are made.**

248 § 55.1-xxx. When tenant deserts premises, how landlord may enter, etc.

249 If any tenant from whom rent is in arrear and unpaid deserts the rented premises and
250 leaves the same uncultivated or unoccupied, without goods thereon subject to distress sufficient
251 to satisfy the rent, the lessor or his agent may post a notice, in writing, upon a conspicuous part
252 of the premises requiring the tenant to pay the rent, in the case of a monthly tenant within 10
253 days, and in the case of a yearly tenant within one month from the date of such notice. If the
254 same is not paid within the time specified in the notice, the lessor shall be entitled to possession
255 of the premises and may enter thereon, and the right of such tenant thereto shall thenceforth be
256 at an end, but the landlord may recover the rent up to that time.

257 **Drafting note: Existing § 55-224 is duplicated here and in Chapter XX [3] as § 55.1-**
258 **xxx because it applies to both residential tenancies not governed by the VRLTA and**
259 **commercial tenancies. The archaic subjunctive verb form "be" is updated to "is" or "are"**
260 **to agree with singular or plural nouns, respectively. Technical changes are made.**

261 § 55.1-xxx. Failure to pay certain rents after five days' notice forfeits right of possession.

262 If any tenant or lessee of premises, being in default in the payment of rent, shall so
263 continue for five days after notice, in writing, requiring possession of the premises or the
264 payment of rent, such tenant or lessee shall thereby forfeit his right to the possession. In such
265 case the possession of the defendant may, at the option of the landlord or lessor, be deemed
266 unlawful.

267 **Drafting note: This proposed section is based on the first paragraph of existing §**
268 **55-225, which is relocated to Chapter XX [3] as § 55.1-xxx. The concept applies to both**
269 **residential tenancies not governed by the VRLTA and commercial tenancies.**

270 § 55.1-xxx. Authority of sheriffs to store and sell personal property removed from
271 premises; recovery of possession by owner; disposition or sale.

272 Notwithstanding the provisions of § 8.01-156, when personal property is removed from
273 any leased or rented commercial pursuant to an action of unlawful detainer, or pursuant to any
274 other action in which personal property is removed from the premises in order to restore such
275 premises to the person entitled thereto, the sheriff shall oversee the removal of such personal
276 property to be placed into the public way. The tenant shall have the right to remove his personal
277 property from the public way during the 24-hour period after eviction. Upon the expiration of
278 the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal
279 property remaining in the public way.

280 At the landlord's request, any personal property removed pursuant to this section shall be
281 placed into a storage area designated by the landlord, which may be the leased or rented
282 premises. The tenant shall have the right to remove his personal property from the landlord's
283 designated storage area at reasonable times during the 24 hours after eviction from the premises
284 or at such other reasonable times until the landlord has disposed of the property as provided in
285 this section. During that 24-hour period and until the landlord disposes of the remaining
286 personal property of the tenant, the landlord and the sheriff shall not have any liability for the
287 loss of such personal property. If the landlord fails to allow reasonable access to the tenant to
288 remove his personal property as provided in this section, the tenant shall have a right to
289 injunctive relief and such other relief as may be provided by law.

290 Any property remaining in the landlord's storage area upon the expiration of the 24-hour
291 period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If
292 the landlord receives any funds from any sale of such remaining property, the landlord shall pay
293 such funds to the account of the tenant and apply same to any amounts due the landlord by the

294 tenant, including the reasonable costs incurred by the landlord in the eviction process described
295 in this section or the reasonable costs incurred by the landlord in selling or storing such
296 property. If any funds are remaining after application, the remaining funds shall be treated as
297 security deposit under applicable law.

298 The notice posted by the sheriff setting the date and time of the eviction, pursuant to §
299 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and
300 shall include in the notice a copy of this statute attached to, or made a part of, this notice.

301 Nothing in this section shall affect the right of a landlord to enforce an inchoate or
302 perfected lien of the landlord on the personal property of a tenant of any leased or rented
303 commercial or residential premises, or of a landlord to distress, levy, and seize such personal
304 property as otherwise provided by law.

305 **Drafting note: Existing § 55-237.1 is duplicated here and in Chapter XX [3] as §**
306 **55.1-xxx because it applies to both residential tenancies not governed by the VRLTA and**
307 **commercial tenancies.**

308 § 55.1-xxx. Who may recover rent or possession.

309 Notwithstanding any rule of court to the contrary, (i) any person licensed under the
310 provisions of § 54.1-2106.1, (ii) any property manager, or a managing agent of a landlord as
311 defined in § 55.1-xxx, or (iii) any employee, who is authorized in writing by a corporate officer
312 with the approval of the board of directors, or by a manager, a general partner, or a trustee, of a
313 partnership, association, corporation, limited liability company, limited partnership, professional
314 corporation, professional limited liability company, registered limited liability partnership,
315 registered limited liability limited partnership, business trust, or family trust to sign pleadings as
316 the agent of the business entity may obtain a judgment (a) for possession in the general district
317 court for the county or city wherein in which the premises, or part thereof, is situated or (b) for
318 rent or damages, including actual damages for breach of the rental agreement, in any general
319 district court where venue is proper under § 8.01-259, against any defendant if the person
320 seeking such judgment had a contractual agreement with the landlord to manage the premises

321 for which rent or possession is due and may prepare, execute, file, and have served on other
322 parties in any general district court a warrant in debt, suggestion for summons in garnishment,
323 garnishment summons, writ of possession, or writ of fieri facias arising out of a landlord tenant
324 relationship. However, the activities of any such person in court shall be limited by the
325 provisions of § 16.1-88.03.

326 **Drafting note: Existing § 55-246.1 is duplicated here and in Chapter XX [1] as §**
327 **55.1-xxx because it applies to both residential and commercial tenancies.**

328 #

TITLE: 48- Nuisances**Chapter 1. Abating Nuisances Generally**

SECTION	CATCHLINE	LAST AMENDED	CROSS-REFS	RECOMMENDATION
§ 48-1	Investigation of complaint by special grand jury.			No changes recommended
§ 48-2	Presentment against person causing nuisance.			No changes recommended
§ 48-3	Permitting continuation of nuisance; presentment against premises.			No changes recommended
§ 48-4	Service of copy of presentment; defense by person interested.			No changes recommended
§ 48-5	Fines and costs; judgment of abatement.	1996, 2009	§ 15.2-900	No changes recommended
§ 48-6	Enforcement of judgment in rem.		None	No changes recommended

Chapter 2. Houses of Prostitution, etc.

SECTION	CATCHLINE	LAST AMENDED	CROSS-REFS	RECOMMENDATION
§ 48.7	Houses and contents are nuisances subject to abatement.	2005	§ 18.2-46.1	No changes recommended
§ 48.8	How nuisances enjoined.	2005	§ 18.2-46.1	No changes recommended
§ 48-9	When case to be tried; dismissal; substitution of complainant; costs.	2005	§ 18.2-46.1	No changes recommended
§ 48-10	Contempt proceedings.			No changes recommended
§ 48-11	Punishment for contempt.	1996		No changes recommended
§ 48-12	Order of abatement of nuisance; sale of furniture, etc.; closing of building.			No changes recommended
§ 48-13	Disposition of proceeds of sale.			No changes recommended
§ 48-14	When property to be delivered to owner on giving bond.			No changes recommended
§ 48-15	Immunity to witnesses			No changes recommended

SECTION	CATCHLINE	LAST AMENDED	CROSS-REFS	RECOMMENDATION
§ 48-16	Closure of nuisance involving illegal drug transactions	Added in 2004; not amended since then	§ 18.2-258 Chapter 22.1 (§19.2-386.1 et seq.) § 55-248.31	No changes recommended
§ 48-17	Enjoining nuisances involving illegal drug transactions.	Added in 2004; not amended since then		No changes recommended
§ 48-17.1	Temporary injunctions against alcoholic beverage sales	Added in 2007; amended 2015		No changes recommended (Note: section set out twice)

Chart of Title 62.1 Obsolete Statutes Recommended for Repeal

Section	Catchline	Last Amended	Cross-References	Recommendation	Reasoning & Notes	Stakeholders
§ 62.1-79.1	Participation by Commonwealth authorized.	Enacted 1972, never amended	None	Repeal	The Ohio River Basin Commission was created by federal Executive Order in 1971 and terminated by order in 1981. It was not an interstate compact commission. Virginia is not a member of the successor nonprofit Ohio River Basin Water Resources Association (ORBWRA). No General Assembly authority would be required if Virginia were to join ORBWRA.	Department of Environmental Quality
§ 62.1-79.2	Appointment, terms and expenses of member and alternate.	Enacted 1972, never amended	None	Repeal		Department of Environmental Quality

Chapter 6.1. Ohio River Basin Commission.**§ 62.1-79.1. Participation by Commonwealth authorized.**

The General Assembly of Virginia hereby recognizes the establishment of the Ohio River Basin Commission, declares that its purpose is within the best interests of the Commonwealth of Virginia and authorizes participation by the Commonwealth in its activities. (1972, c. 294.)

§ 62.1-79.2. Appointment, terms and expenses of member and alternate.

The Governor of Virginia shall appoint from the Commonwealth at large one citizen who shall serve as a member of the Ohio River Basin Commission and one citizen who shall serve as an alternate member of such Commission. The terms of both appointments shall be for four years and, upon expiration, their successors shall be appointed in the same manner. Members and alternate members of this Commission representing the Commonwealth of Virginia shall receive no compensation for their services, but shall be reimbursed for their actual expenses incurred in the performance of their duties. (1972, c. 294.)

Chart of Title 5.1-Related Obsolete Statutes Recommended for Repeal

11/21/16

Section	Catchline	Last Amended	Cross-References	Recommendation	Reasoning & Notes	Stakeholders
§5.1-9.5	Contract carriers; bonds, insurance or certificate of insurance required prior to issuance of license or permit; securities deposited in lieu thereof.	1980	§ 38.2-4800	Strike "38.2-4800" and add "38.2-4805.1"	Outdated cross-reference. Section 38.2-4800 was repealed in 2002.	Dept. of Aviation
§ 5.1-88.2	What constitutes proof of financial responsibility.	2007	§ 38.2-4800	Strike "38.2-4800" and add "38.2-4805.1" in two places	Outdated cross-reference. Section 38.2-4800 was repealed in 2002.	Dept. of Aviation
§ 5.1-88.8	What constitutes proof of financial responsibility.	1995	§ 38.2-4800	Strike "38.2-4800" and add "38.2-4805.1"	Outdated cross-reference. Section 38.2-4800 was repealed in 2002.	Dept. of Aviation
§ 5.1-90.1	Incidental transportation of certain passengers and property by motor vehicle.	1972	§ 56-273	Strike "or in Chapter 12 (§ 56-273 et seq.) of Title 56"	Outdated cross-reference. Chapter 12 of Title 56 was repealed and moved to Chapter 21 of Title 46.2, which includes an exemption for air carriers.	Dept. of Aviation
§ 5.1-117	Bonds or insurance to be kept in force.	1970	§ 38.2-4800	Strike "38.2-4800" and add "38.2-4805.1"	Outdated cross-reference. Section 38.2-4800 was repealed in 2002.	Dept. of Aviation

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 5.1-9.5, 5.1-88.2, 5.1-88.8, 5.1-90.1, and 5.1-117 of the Code of
 2 Virginia, relating to Title 5.1-related obsolete statutes.

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

4 **1. That §§ 5.1-9.5, 5.1-88.2, 5.1-88.8, 5.1-90.1, and 5.1-117 of the Code of Virginia are amended and**
 5 **reenacted as follows:**

6 **§ 5.1-9.5. Contract carriers; bonds, insurance or certificate of insurance required prior to**
 7 **issuance of license or permit; securities deposited in lieu thereof.**

8 A. No license or permit shall be issued by the Department to any contract carrier by aircraft until
 9 and after such contract carrier has filed with the Department an insurance policy, a bond underwritten by
 10 an insurer, or certificate of insurance in lieu thereof, which certificate shall certify that such policy or
 11 bond covers the liability of such contract carrier in accordance with the provisions of this statute.

12 B. Such policy, bond or certificate of insurance shall be issued or underwritten only by an insurer
 13 approved or authorized to do business in Virginia, or by one who is eligible as a surplus lines insurer
 14 pursuant to Chapter 48 (§ ~~38.2-4800~~ 38.2-4805.1 et seq.) of Title 38.2, and shall be in amounts not less
 15 than the following minimum limits: liability for bodily injury to or death of any one person, passenger or
 16 other, aboard the aircraft; \$75,000, liability for each occurrence in any one aircraft of at least an amount
 17 equal to the sum produced by multiplying \$75,000 by seventy-five percent of the total number of
 18 passenger seats installed in the aircraft; and liability for loss or damage to cargo owned by others than
 19 the insured of at least \$10,000 for each occurrence. However, the holder of a license or permit issued by
 20 the Department shall not be required to file any cargo insurance, bond, or bonds for cargo liability for
 21 the hauling of property transported under contract.

22 C. In no event shall the limits required herein for contract carriers be less than those prescribed
 23 for like carriers by the Civil Aeronautics Board or the Federal Aviation Administration or their
 24 successors.

25 D. In lieu of such policy, underwritten bond or certificate of insurance, a contract carrier may,
26 with the consent of the Department, submit bonds, in an amount approved by the Department, of the
27 United States of America, the Commonwealth of Virginia, or of any municipality of this Commonwealth
28 as security for its bond. Such federal, state, or municipal bonds shall be deposited with the State
29 Treasurer, and shall not be reduced in amount, pledged as security, or otherwise encumbered for any
30 other purpose during the life of such license or permit, except with the prior written approval of the
31 Department.

32 **§ 5.1-88.2. What constitutes proof of financial responsibility.**

33 A. The following shall constitute proof of financial responsibility as required by § 5.1-88.1:

34 1. The issuance, by an insurance company licensed to write such insurance in this
35 Commonwealth, of a policy or policies of bodily injury and property damage liability insurance, or a
36 policy or policies written pursuant to Chapter 48 (§ ~~38.2-4800~~ 38.2-4805.1 et seq.) of Title 38.2 that
37 provide coverage with respect to each such aircraft in the amount of \$50,000 because of bodily injury to
38 or death of one person in any one accident, including passenger liability, and \$100,000 because of
39 bodily injury to or death of two or more persons in any one accident, including passenger liability, and
40 to a limit of \$25,000 because of injury to or destruction of property of others in any one accident; or a
41 single limit policy in the sum of \$250,000, covering bodily injury and property damage liability in any
42 one accident, including passenger liability of \$50,000 per passenger seat; or

43 2. The execution of a bond by the licensee and by a surety company authorized to transact
44 business in this Commonwealth conditioned for payment in amounts and under the same circumstances
45 as would be required in a policy of bodily injury liability and property damage liability insurance, as
46 required by the provisions of subdivision A 1 of this section; or

47 3. The delivery to the Department of \$250,000 in cash or an irrevocable letter of credit in the
48 amount of \$250,000 from a depository institution as defined in § 2.2-4701. Such money or securities so
49 delivered to the Department shall be placed by it in the custody of the State Treasurer and shall be
50 subject to execution to satisfy any judgment within the limits on amounts required by this chapter for
51 personal injury and property damage liability insurance.

52 B. Notwithstanding the provisions of subsection A of this section, for an aircraft commonly
53 known as an "ultralight," as the same is now and may hereafter be defined by the Federal Aviation
54 Administration, the proof of financial responsibility required by § 5.1-88.1 may be satisfied by the
55 issuance as to that aircraft of a single limit insurance policy in the sum of \$100,000 covering bodily
56 injury and property damage liability in any one accident, that is issued by an insurance company
57 licensed to write such insurance in this Commonwealth or written pursuant to Chapter 48 (§ ~~38.2-4800~~
58 3.82-4805.1-et seq.) of Title 38.2.

59 **§ 5.1-88.8. What constitutes proof of financial responsibility.**

60 The following shall constitute proof of financial responsibility as required by § 5.1-88.7:

61 1. The issuance, by an insurance company licensed to write such insurance in the
62 Commonwealth, of a policy of bodily injury and property damage liability insurance or a policy or
63 policies written pursuant to Chapter 48 (§ ~~38.2-4800~~ 38.2-4805.1 et seq.) of Title 38.2, which provide
64 coverage with respect to each airport or landing area in the amount of one million dollars covering
65 bodily injury and property damage liability in any one accident; or

66 2. The delivery to the Department of one million dollars cash or in securities such as fiduciaries
67 may invest in as provided by §§ 64.2-1502 through 64.2-1505. Such money or securities so delivered to
68 the Department shall be placed by it in the custody of the State Treasurer and shall be subject to
69 execution to satisfy any judgment within the limits on amounts required by this chapter for personal
70 injury and property damage liability insurance.

71 **§ 5.1-90.1. Incidental transportation of certain passengers and property by motor vehicle.**

72 Nothing in this chapter ~~or in Chapter 12 (§ 56-273 et seq.) of Title 56~~ shall be construed to
73 prohibit the transportation of property or guards or other attendants of such property by motor vehicle
74 when such transportation is incidental to transportation by aircraft, provided that such transportation
75 shall not exceed twenty-five miles from airport to destination of such guards or other attendants or
76 property.

77 **§ 5.1-117. Bonds or insurance to be kept in force.**

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78 Each holder of a certificate or permit issued by the Commission shall also keep in force at all
79 times insurance or a bond underwritten by an insurer approved or authorized to do business in Virginia,
80 or by one who is eligible as a surplus lines insurer in accordance with the provisions of Chapter 48 (§
81 ~~38.2-4800~~ 38.2-4805.1 et seq.) of Title 38.2 in amounts of not less than the following minimum limits:
82 (a) liability for bodily injury to or death to any one person, passenger or other, aboard the aircraft,
83 \$75,000; and a limit for each occurrence in any one aircraft of at least an amount equal to the sum
84 produced by multiplying \$75,000 by seventy-five percent of the total number of passenger seats
85 installed in the aircraft; and for the loss or damage to cargo owned by other than the insured, at least
86 \$10,000 for each occurrence; provided, however, that a holder of a permit issued by the Commission
87 shall not be required to file any cargo insurance, bond or bonds for cargo liability for the hauling of
88 property transported under contract. However, in no event shall the limits required herein for air
89 common carriers be less than those prescribed for like carriers by the Civil Aeronautics Board or the
90 Federal Aviation Administration.

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Virginia Code Commission Legislation - 2017 Session of the General Assembly

SUBJECT	DESCRIPTION	STATUS	PATRON
Title 23.1 Cleanup bill	Corrects typographical errors and makes other technical amendments relating to the recodification of Title 23.	Approved 10/17/2016	
Nonresident Violator Compact; codification.	Codifies the text of the Nonresident Violator Compact of 1977. The bill removes duplicative provisions of the Code of Virginia.	Approved 10/17/2016	
Virginia taxable income of residents; reorganization of additions, subtractions, and deductions.	Reorganizes the provisions of the Code of Virginia related to the calculation of Virginia taxable income of residents. Current law sets out the additions, subtractions, deductions, and other modifications in one lengthy section. The reorganization creates four new, smaller sections for additions, subtractions, deductions, and other modifications, respectively, but does not make any substantive changes to the calculation of Virginia taxable income. The bill contains numerous technical amendments.	Approved 10/17/2016	
Virginia Register Act; guidance documents; duty to file with the Registrar	Consolidates provisions relating to the availability of guidance documents in a single section in the Virginia Register Act. The bill also requires every authority, instrumentality, officer, board, or other unit of the government of the Commonwealth to annually file with the Registrar for publication in the Virginia Register of Regulations a list of any guidance documents upon which the agency currently relies.	Pending approval on 11/21/2016	
Administrative Process Act; formal hearings; conduct of closed hearings and issuance of protective orders	Authorizes a presiding officer of a formal hearing to conduct a closed hearing, issue necessary protective orders, and seal all or part of the hearing record upon motion of the parties to the hearing.	Pending approval on 11/21/2016	
Obsolete laws: Title 62.1	Repeals Chapter 6.1 (§ 62.1-79.1 et seq.) of Title 62.1 (Ohio River Basin Commission).	Pending approval on 11/21/2016	
Obsolete laws: Title 5.1	Updates outdated cross references.	Pending approval on 11/21/2016	<i>Changes may be made under § 30-149 (authorizes Commission to correct outdated/incorrect cross references "due to subsequent amendment to, revision, or repeal of the sections to which reference is made.")</i>