

**Code Sections with Gender-Specific Terms**  
**Va. Code § 1-216 Conforming Amendments**

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1           **§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern**  
2 **Virginia Medical School.**

3           A. No officer or employee of any governmental agency of state government or Eastern Virginia  
4 Medical School shall have a personal interest in a contract with the governmental agency of which he is  
5 an officer or employee, other than his own contract of employment.

6           B. No officer or employee of any governmental agency of state government or Eastern Virginia  
7 Medical School shall have a personal interest in a contract with any other governmental agency of state  
8 government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive  
9 negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the  
10 administrative head of the governmental agency that competitive bidding or negotiation is contrary to the  
11 best interest of the public.

12           C. The provisions of this section shall not apply to:

13           1. An employee's personal interest in additional contracts of employment with his own  
14 governmental agency that accrue to him because of a member of his immediate family, provided the  
15 employee does not exercise any control over the employment or the employment activities of the member  
16 of his immediate family and the employee is not in a position to influence those activities;

17           2. The personal interest of an officer or employee of a public institution of higher education or the  
18 Eastern Virginia Medical School in additional contracts of employment with his own governmental  
19 agency that accrue to him because of a member of his immediate family, provided (i) the officer or  
20 employee and the immediate family member are engaged in teaching, research or administrative support  
21 positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of  
22 the educational institution finds that it is in the best interests of the institution or the Eastern Virginia  
23 Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding,  
24 the governing board of the educational institution or the Eastern Virginia Medical School ensures that the  
25 officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate  
26 or make personnel decisions regarding the other;

- 27           3. An officer's or employee's personal interest in a contract of employment with any other  
28 governmental agency of state government;
- 29           4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of  
30 services or goods at uniform prices available to the general public;
- 31           5. An employee's personal interest in a contract between a public institution of higher education in  
32 the Commonwealth or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or  
33 other educational materials for students, which accrues to him solely because he has authored or otherwise  
34 created such textbooks or materials;
- 35           6. An employee's personal interest in a contract with his ~~or her~~ employing public institution of  
36 higher education to acquire the collections or scholarly works owned by the employee, including  
37 manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an  
38 academic, research, or cultural value to the institution, provided the president of the institution approves  
39 the acquisition of such collections or scholarly works as being in the best interests of the institution's  
40 public mission of service, research, or education;
- 41           7. Subject to approval by the board of visitors, an employee's personal interest in a contract  
42 between the Eastern Virginia Medical School or a public institution of higher education in the  
43 Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation  
44 that operates a clinical practice within such public institution of higher education or the Eastern Virginia  
45 Medical School and of which such employee is a member or employee;
- 46           8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract  
47 for research and development or commercialization of intellectual property between a public institution  
48 of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which  
49 the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and  
50 approved by such public institution of higher education or the Eastern Virginia Medical School prior to  
51 the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement  
52 pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the  
53 institution has established a formal policy regarding such contracts, approved by the State Council of



54 Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such  
55 contracts in conformity with any applicable federal regulations that has been approved by its board of  
56 visitors; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical  
57 School files an annual report with the Secretary of the Commonwealth disclosing each open contract  
58 entered into subject to this provision, the names of the parties to each contract, the date each contract was  
59 executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest,  
60 the institution's or the Eastern Virginia Medical School's employee responsible for administering each  
61 contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment  
62 of resources or finances for each contract, and any other information requested by the Secretary of the  
63 Commonwealth; or

64 9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract  
65 between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical  
66 School and a business in which the employee has a personal interest, if (i) the personal interest has been  
67 disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is entered  
68 into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or  
69 before January 15; (iii) the employee does not participate in the institution's or the Eastern Virginia  
70 Medical School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical  
71 School finds and certifies in writing that the contract is for goods and services needed for quality patient  
72 care, including related medical education or research, by the institution's medical center or the Eastern  
73 Virginia Medical School, its affiliated teaching hospitals and other organizations necessary for the  
74 fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v)  
75 no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an  
76 annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to  
77 this provision, the names of the parties to each contract, the date each contract was executed and its term,  
78 the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the  
79 Eastern Virginia Medical School's employee responsible for administering each contract, the details of the

80 institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances  
81 for each contract, and any other information requested by the Secretary of the Commonwealth.

82 D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development  
83 or commercialization of intellectual property or the employee's personal interest in a contract with a  
84 business is subject to policies and regulations governing conflicts of interest promulgated by any agency  
85 of the United States government, including the adoption of policies requiring the disclosure and  
86 management of such conflicts of interests, the policies established by the Eastern Virginia Medical School  
87 pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon  
88 notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by January 31  
89 of each year of evidence of their compliance with such federal policies and regulations.

90 E. The board of visitors may delegate the authority granted under subdivision C 8 to the president  
91 of the institution. If the board elects to delegate such authority, the board shall include this delegation of  
92 authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the  
93 board has delegated such authority, on or before December 1 of each year, the president of the relevant  
94 institution shall file a report with the relevant board of visitors disclosing each open contract entered into  
95 subject to this provision, the names of the parties to each contract, the date each contract was executed  
96 and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the  
97 institution's or the Eastern Virginia Medical School's employee responsible for administering each  
98 contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment  
99 of resources or finances for each contract, the details of how revenues are to be dispersed, and any other  
100 information requested by the board of visitors.

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

102 **§ 2.2-3130. Attendance requirements.**

103 Except as set forth in § 2.2-3131, each state filer shall attend the orientation course required in §  
104 2.2-3128, as follows:

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

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

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

112 **§ 3.2-3300. Southern Dairy Compact; form of compact.**

113 The Southern Dairy Compact is enacted into law and entered into with all other jurisdictions  
114 legally joining therein in the form substantially as follows:

115 ARTICLE I. Statement of Purpose, Findings, and Declaration of Policy.

116 § 1. Statement of purpose, findings, and declaration of policy.

117 The purpose of this compact is to recognize the interstate character of the southern dairy industry  
118 and the prerogative of the states under the United States Constitution to form an interstate commission for  
119 the southern region. The mission of the Commission is to take such steps as are necessary to assure the  
120 continued viability of dairy farming in the South, and to assure consumers of an adequate, local supply of  
121 pure and wholesome milk.

122 The participating states find and declare that the dairy industry is an essential agricultural activity  
123 of the South. Dairy farms, and associated suppliers, marketers, processors, and retailers, are an integral  
124 component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome  
125 milk is a matter of great importance to the health and welfare of the region.

126 The participating states further find that dairy farms are essential, and they are an integral part of  
127 the region's rural communities. The farms preserve land for agricultural purposes and provide needed  
128 economic stimuli for rural communities.

129 By entering into this compact, the participating states affirm that their ability to regulate the price  
130 that southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair

131 and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of  
132 the southern dairy industry, with all the associated benefits.

133         Recent dramatic price fluctuations, with a pronounced downward trend, threaten the viability and  
134 stability of the southern dairy region. Historically, individual state regulatory action had been an effective  
135 emergency remedy available to farmers confronting a distressed market. The system of federal orders,  
136 implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices  
137 paid to producers for raw milk, without preempting the power of states to regulate milk prices above the  
138 minimum levels so established.

139         In today's regional dairy marketplace, cooperative, rather than individual state action is needed to  
140 more effectively address the market disarray. Under our constitutional system, properly authorized states  
141 acting cooperatively may exercise more power to regulate interstate commerce than they may assert  
142 individually without such authority. For this reason, the participating states invoke their authority to act  
143 in common agreement, with the consent of Congress, under the compact clause of the Constitution.

144         In establishing their constitutional regulatory authority over the region's fluid milk market by this  
145 compact, the participating states declare their purpose that this compact neither displace the system of  
146 federal orders nor encourage the merging of federal orders. Specific provisions of the compact itself set  
147 forth this basic principle.

148         Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact  
149 also contains a contingency provision should the system of federal orders be discontinued. In that event,  
150 the interstate commission may regulate the marketplace in lieu of the system of federal orders. This  
151 contingent authority does not anticipate such a change, however, and should not be so construed. It is only  
152 provided should developments in the market other than establishment of this compact result in  
153 discontinuance of the system of federal orders.

154         ARTICLE II. Definitions and Rules of Construction.

155         § 2. Definitions.

156         For the purposes of this compact, and of any supplemental or concurring legislation enacted  
157 pursuant thereto, except as may be otherwise required by the context:

158 "Class I milk" means milk disposed of in fluid form or as a fluid milk product, subject to further  
159 definition in accordance with the principles expressed in subsection (b) of § 3.

160 "Commission" means the Southern Dairy Compact Commission established by this compact.

161 "Commission marketing order" means regulations adopted by the Commission pursuant to §§ 9  
162 and 10 of this compact in place of a terminated federal marketing order or state dairy regulation. Such  
163 order may apply throughout the region or in any part or parts thereof as defined in the regulations of the  
164 Commission. Such order may establish minimum prices for any or all classes of milk.

165 "Compact" means this interstate compact.

166 "Compact over-order price" means a minimum price required to be paid to producers for Class I  
167 milk established by the Commission in regulations adopted pursuant to §§ 9 and 10 of this compact, which  
168 is above the price established in federal marketing orders or by state farm price regulation in the regulated  
169 area. Such price may apply throughout the region or in any part or parts thereof as defined in the  
170 regulations of the Commission.

171 "Milk" means the lacteal secretion of cows and includes all skim, butterfat, or other constituents  
172 obtained from separation or any other process. The term is used in its broadest sense and may be further  
173 defined by the Commission for regulatory purposes.

174 "Partially regulated plant" means a milk plant not located in a regulated area but having Class I  
175 distribution within such area. Commission regulations may exempt plants having such distribution or  
176 receipts in amounts less than the limits defined therein.

177 "Participating state" means a state which has become a party to this compact by the enactment of  
178 concurring legislation.

179 "Pool plant" means any milk plant located in a regulated area.

180 "Region" means the territorial limits of the states which are parties to this compact.

181 "Regulated area" means any area within the region governed by and defined in regulations  
182 establishing a compact over-order price or commission marketing order.

183 "State dairy regulation" means any state regulation of dairy prices and associated assessments,  
184 whether by statute, marketing order, or otherwise.

185 § 3. Rules of construction.

186 (a) This compact shall not be construed to displace existing federal milk marketing orders or state  
187 dairy regulation in the region but to supplement them. In the event some or all federal orders in the region  
188 are discontinued, the compact shall be construed to provide the Commission the option to replace them  
189 with one or more commission marketing orders pursuant to this compact.

190 (b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated  
191 in § 1. It is the intent of this compact to establish a basic structure by which the Commission may achieve  
192 those purposes through the application, adaptation, and development of the regulatory techniques  
193 historically associated with milk marketing and to afford the Commission broad flexibility to devise  
194 regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the  
195 technical terms which are associated with market order regulation and which have acquired commonly  
196 understood general meanings are not defined herein but the Commission may further define the terms  
197 used in this compact and develop additional concepts and define additional terms as it may find appropriate  
198 to achieve its purposes.

199 ARTICLE III. Commission Established.

200 § 4. Commission established.

201 There is hereby created a commission to administer the compact, composed of delegations from  
202 each state in the region. The Commission shall be known as the Southern Dairy Compact Commission. A  
203 delegation shall include not less than three nor more than five persons. Each delegation shall include at  
204 least one dairy farmer who is engaged in the production of milk at the time of appointment or  
205 reappointment, and one consumer representative. Delegation members shall be residents and voters of,  
206 and subject to such confirmation process as is provided for in, the appointing state. Delegation members  
207 shall serve no more than three consecutive terms with no single term of more than four years, and be  
208 subject to removal for cause. In all other respects, delegation members shall serve in accordance with the  
209 laws of the state represented. The compensation, if any, of the members of a state delegation shall be  
210 determined and paid by each state, but their expenses shall be paid by the Commission.

211 § 5. Voting requirements.

212 All actions taken by the Commission, except for the establishment or termination of an over-order  
213 price or commission marketing order, and the adoption, amendment, or rescission of the Commission's  
214 bylaws, shall be by majority vote of the delegations present. Each state delegation shall be entitled to one  
215 vote in the conduct of the Commission's affairs. Establishment or termination of an over-order price or  
216 commission marketing order shall require at least a two-thirds vote of the delegations present. The  
217 establishment of a regulated area that covers all or part of a participating state shall require also the  
218 affirmative vote of that state's delegation. A majority of the delegations from the participating states shall  
219 constitute a quorum for the conduct of the Commission's business.

220 § 6. Administration and management.

221 (a) The Commission shall elect annually from among the members of the participating state  
222 delegations a chairperson, a vice-chairperson, and a treasurer. The Commission shall appoint an executive  
223 director and fix his ~~or her~~ duties and compensation. The executive director shall serve at the pleasure of  
224 the Commission, and, together with the treasurer, shall be bonded in an amount determined by the  
225 Commission. The Commission may establish through its bylaws an executive committee composed of  
226 one member elected by each delegation.

227 (b) The Commission shall adopt bylaws for the conduct of its business by a two-thirds vote and  
228 shall have the power by the same vote to amend and rescind these bylaws. The Commission shall publish  
229 its bylaws in convenient form with the appropriate agency or officer in each of the participating states.  
230 The bylaws shall provide for appropriate notice to the delegations of all Commission meetings and  
231 hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to  
232 other agencies or officers of participating states as provided by the laws of those states.

233 (c) The Commission shall file an annual report with the Secretary of Agriculture of the United  
234 States, and with each of the participating states by submitting copies to the Governor, both houses of the  
235 legislature, and the head of the state department having responsibilities for agriculture.

236 (d) In addition to the powers and duties elsewhere prescribed in this compact, the Commission  
237 may engage in all of the following:

238 (1) Sue and be sued in any state or federal court.

239 (2) Have a seal and alter the same at pleasure.

240 (3) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or  
241 other similar manner, for its corporate purposes.

242 (4) Borrow money and to issue notes, to provide for the rights of the holders thereof, and to pledge  
243 the revenue of the Commission as security therefor, subject to the provisions of § 18 of this compact.

244 (5) Appoint such officers, agents, and employees as it may deem necessary, prescribe their powers,  
245 duties, and qualifications.

246 (6) Create and abolish such offices, employments, and positions as it deems necessary for the  
247 purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension,  
248 and retirement rights of its officers and employees.

249 (7) Retain personal services on a contract basis.

250 § 7. Rule-making power.

251 In addition to the power to promulgate a compact over-order price or commission marketing orders  
252 as provided by this compact, the Commission is further empowered to make and enforce such additional  
253 rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate  
254 in any other respect the purposes of this compact.

255 ARTICLE IV. Powers of the Commission.

256 § 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

257 The Commission may:

258 (1) Investigate or provide for investigations or research projects designed to review the existing  
259 laws and regulations of the participating states, to consider their administration and costs, and to measure  
260 their impact on the production and marketing of milk and their effects on the shipment of milk and milk  
261 products within the region.

262 (2) Study and recommend to the participating states joint or cooperative programs for the  
263 administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and  
264 benefits of such programs.



265 (3) Encourage the harmonious relationships between the various elements in the industry for the  
266 solution of their material problems. Conduct symposia or conferences designed to improve industry  
267 relations, or a better understanding of problems.

268 (4) Prepare and release periodic reports on activities and results of the Commission's efforts to the  
269 participating states.

270 (5) Review the existing marketing system for milk and milk products and recommend changes in  
271 the existing structure for assembly and distribution of milk which may assist, improve, or promote more  
272 efficient assembly and distribution of milk.

273 (6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling,  
274 and for all other services, performed with respect to milk.

275 (7) Examine current economic forces affecting producers, probable trends in production and  
276 consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers,  
277 and the need for an emergency order to relieve critical conditions on dairy farms.

278 § 9. Equitable farm prices.

279 (a) The powers granted in this section and § 10 shall apply only to the establishment of a compact  
280 over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that  
281 any or all such orders are terminated, this article authorizes the Commission to establish one or more  
282 commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

283 (b) A compact over-order price established pursuant to this section shall apply only to Class I milk.  
284 Such compact over-order price shall not exceed one dollar and fifty cents (\$1.50) per gallon at Atlanta,  
285 Georgia, however, this compact over-order price shall be adjusted upward or downward at other locations  
286 in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that  
287 year as a base, the foregoing one dollar and fifty cents (\$1.50) per gallon maximum shall be adjusted  
288 annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics  
289 of the United States Department of Labor. For purposes of the pooling and equalization of an over-order  
290 price, the value of milk used in other use classifications shall be calculated at the appropriate class price  
291 established pursuant to the applicable federal order or state dairy regulation and the value of unregulated

292 milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to  
293 such adjustments as the Commission may prescribe in regulations.

294 (c) A commission marketing order shall apply to all classes and uses of milk.

295 (d) The Commission may establish a compact over-order price for milk to be paid by pool plants  
296 and partially regulated plants. The Commission also may establish a compact over-order price to be paid  
297 by all other handlers receiving milk from producers located in a regulated area. This price shall be  
298 established either as a compact over-order price or by one or more commission marketing orders.  
299 Whenever such a price has been established by either type of regulation, the legal obligation to pay such  
300 price shall be determined solely by the terms and purpose of the regulation without regard to the situs of  
301 the transfer of title, possession, or any other factors not related to the purposes of the regulation and this  
302 compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a  
303 compact over-order price. The Commission shall provide for similar treatment of producer-handlers under  
304 commission marketing orders.

305 (e) In determining the price, the Commission shall consider the balance between production and  
306 consumption of milk and milk products in the regulated area, the costs of production including, but not  
307 limited to, the price of feed, the cost of labor including the reasonable value of the producer's own labor  
308 and management, machinery expense and interest expense, the prevailing price for milk outside the  
309 regulated area, the purchasing power of the public, and the price necessary to yield a reasonable return to  
310 the producer and distributor.

311 (f) When establishing a compact over-order price, the Commission shall take such other action as  
312 is necessary and feasible to help ensure that the over-order price does not cause or compensate producers  
313 so as to generate local production of milk in excess of those quantities necessary to assure consumers of  
314 an adequate supply for fluid purposes.

315 (g) The Commission shall whenever possible enter into agreements with state or federal agencies  
316 for exchange of information or services for the purpose of reducing regulatory burden and cost of  
317 administering the compact. The Commission may reimburse other agencies for the reasonable cost of  
318 providing these services.

319 § 10. Optional provisions for pricing order.

320 Regulations establishing a compact over-order price or a commission marketing order may  
321 contain, but shall not be limited to, any of the following:

322 (1) Provisions classifying milk in accordance with the form in which or purpose for which it is  
323 used, or creating a flat pricing program.

324 (2) With respect to a commission marketing order only, provisions establishing or providing a  
325 method for establishing separate minimum prices for each use classification prescribed by the  
326 Commission, or a single minimum price for milk purchased from producers or associations of producers.

327 (3) With respect to an over-order minimum price, provisions establishing or providing a method  
328 for establishing such minimum price for Class I milk.

329 (4) Provisions for establishing either an over-order price or a commission marketing order may  
330 make use of any reasonable method for establishing such price or prices including flat pricing and formula  
331 pricing. Provision may also be made for location adjustments, zone differentials, and competitive credits  
332 with respect to regulated handlers who market outside the regulated area.

333 (5) Provisions for the payment to all producers and associations of producers delivering milk to all  
334 handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the  
335 individual handler to whom it is delivered, or for the payment of producers delivering milk to the same  
336 handler of uniform prices for all milk delivered by them.

337 a. With respect to regulations establishing a compact over-order price, the Commission may  
338 establish one equalization pool within the regulated area for the sole purpose of equalizing returns to  
339 producers throughout the regulated area.

340 b. With respect to any commission marketing order, as defined in § 2, subdivision (3), which  
341 replaces one or more terminated federal orders or state dairy regulation, the marketing area of now separate  
342 state or federal orders shall not be merged without the affirmative consent of each state, voting through  
343 its delegation, which is partly or wholly included within any such new marketing area.

344 (6) Provisions requiring persons who bring Class I milk into the regulated area to make  
345 compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk

346 purchased by handlers subject to a compact over-order price or commission marketing order. No such  
347 provisions shall discriminate against milk producers outside the regulated area. The provisions for  
348 compensatory payments may require payment of the difference between the Class I price required to be  
349 paid for such milk in the state of production by a federal milk marketing order or state dairy regulation  
350 and the Class I price established by the compact over-order price or commission marketing order.

351 (7) Provisions specially governing the pricing and pooling of milk handled by partially regulated  
352 plants.

353 (8) Provisions requiring that the account of any person regulated under the compact over-order  
354 price shall be adjusted for any payments made to or received by such persons with respect to a producer  
355 settlement fund of any federal or state milk marketing order or other state dairy regulation within the  
356 regulated area.

357 (9) Provision requiring the payment by handlers of an assessment to cover the costs of the  
358 administration and enforcement of such order pursuant to subsection (a) of § 18 of Article VII.

359 (10) Provisions for reimbursement to participants of the Women, Infants and Children Special  
360 Supplemental Food Program of the United States Child Nutrition Act of 1966.

361 (11) Other provisions and requirements as the Commission may find are necessary or appropriate  
362 to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum  
363 prices to producers.

364 ARTICLE V. Rule-Making Procedure.

365 § 11. Rule-making procedure.

366 Before promulgation of any regulations establishing a compact over-order price or commission  
367 marketing order, including any provision with respect to milk supply under subsection (f) of § 9, or  
368 amendment thereof, as provided in Article IV, the Commission shall conduct an informal rule-making  
369 proceeding to provide interested persons with an opportunity to present data and views. Such rule-making  
370 proceeding shall be governed by § 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C.  
371 § 553). In addition, the Commission shall, to the extent practicable, publish notice of rule-making  
372 proceedings in the official register of each participating state. Before the initial adoption of regulations

373 establishing a compact over-order price or a commission marketing order and thereafter before any  
374 amendment with regard to prices or assessments, the Commission shall hold a public hearing. The  
375 Commission may commence a rule-making proceeding on its own initiative or may in its sole discretion  
376 act upon the petition of any person including individual milk producers, any organization of milk  
377 producers or handlers, general farm organizations, consumer or public interest groups, and local, state or  
378 federal officials.

379 § 12. Findings and referendum.

380 (a) In addition to the concise general statement of basis and purpose required by § 4(b) of the  
381 Federal Administrative Procedure Act, as amended (5 U.S.C. § 553 (c)), the Commission shall make  
382 findings of fact with respect to:

383 (1) Whether the public interest will be served by the establishment of minimum milk prices to  
384 dairy farmers under Article IV.

385 (2) What level of prices will assure that producers receive a price sufficient to cover their costs of  
386 production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for  
387 manufacturing purposes.

388 (3) Whether the major provisions of the order, other than those fixing minimum milk prices, are  
389 in the public interest and are reasonably designed to achieve the purposes of the order.

390 (4) Whether the terms of the proposed regional order or amendment are approved by producers as  
391 provided in § 13.

392 § 13. Producer referendum.

393 (a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing  
394 a compact over-order price or a commission marketing order, including any provision with respect to milk  
395 supply under subsection (f) of § 9, is approved by producers, the Commission shall conduct a referendum  
396 among producers. The referendum shall be held in a timely manner, as determined by regulation of the  
397 Commission. The terms and conditions of the proposed order or amendment shall be described by the  
398 Commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such  
399 description shall not be a basis for attacking the legality of the order or any action relating thereto.

400 (b) An order or amendment shall be deemed approved by producers if the Commission determines  
401 that it is approved by at least two-thirds of the voting producers who, during a representative period  
402 determined by the Commission, have been engaged in the production of milk the price of which would be  
403 regulated under the proposed order or amendment.

404 (c) For purposes of any referendum, the Commission shall consider the approval or disapproval  
405 by any cooperative association of producers, qualified under the provisions of the Act of Congress of  
406 February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk,  
407 or in rendering services for or advancing the interests of producers of such commodity, as the approval or  
408 disapproval of the producers who are members or stockholders in, or under contract with, such cooperative  
409 association of producers, except as provided in subdivision (1) of this subsection and subject to the  
410 provisions of subdivisions (2) through (5) of this subsection.

411 (1) No cooperative that has been formed to act as a common marketing agency for both  
412 cooperatives and individual producers shall be qualified to block vote for either.

413 (2) Any cooperative that is qualified to block vote shall, before submitting its approval or  
414 disapproval in any referendum, give prior written notice to each of its members as to whether and how it  
415 intends to cast its vote. The notice shall be given in a timely manner as established, and in the form  
416 prescribed, by the Commission.

417 (3) Any producer may obtain a ballot from the Commission in order to register approval or  
418 disapproval of the proposed order.

419 (4) A producer who is a member of a cooperative which has provided notice of its intent to approve  
420 or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his-~~or her~~  
421 approval or disapproval of the proposed order, shall notify the Commission as to the name of the  
422 cooperative of which he-~~or she~~ is a member, and the Commission shall remove such producer's name from  
423 the list certified by such cooperative with its corporate vote.

424 (5) In order to ensure that all milk producers are informed regarding a proposed order, the  
425 Commission shall notify all milk producers that an order is being considered and that each producer may

426 register his-~~or~~-~~her~~ approval or disapproval with the Commission either directly or through his-~~or~~-~~her~~  
427 cooperative.

428 § 14. Termination of over-order price or marketing order.

429 (a) The Commission shall terminate any regulations establishing an over-order price or  
430 commission marketing order issued under this Article whenever it finds that such order or price obstructs  
431 or does not tend to effectuate the declared policy of this compact.

432 (b) The Commission shall terminate any regulations establishing an over-order price or a  
433 commission marketing order issued under this Article whenever it finds that such termination is favored  
434 by a majority of the producers who, during a representative period determined by the Commission, have  
435 been engaged in the production of milk, the price of which is regulated by such order; but such termination  
436 shall be effective only if announced on or before such date as may be specified in such marketing  
437 agreement or order.

438 (c) The termination or suspension of any order or provision thereof, shall not be considered an  
439 order within the meaning of this Article and shall require no hearing, but shall comply with the  
440 requirements for informal rule making prescribed by § 4 of the Federal Administrative Procedure Act, as  
441 amended (5 U.S.C. § 553).

442 ARTICLE VI. Enforcement.

443 § 15. Records, reports, access to premises.

444 (a) The Commission may by rule and regulation prescribe record keeping and reporting  
445 requirements for all regulated persons. For purposes of the administration and enforcement of this  
446 compact, the Commission may examine the books and records of any regulated person relating to his-~~or~~-  
447 ~~her~~ milk business and for that purpose, the Commission's properly designated officers, employees, or  
448 agents shall have full access during normal business hours to the premises and records of all regulated  
449 persons.

450 (b) Information furnished to or acquired by the Commission officers, employees, or its agents  
451 pursuant to this section shall be confidential and not subject to disclosure except to the extent that the  
452 Commission deems disclosure to be necessary in any administrative or judicial proceeding involving the

453 administration or enforcement of this compact, an over-order price, a compact marketing order, or other  
454 regulations of the Commission. The Commission may adopt rules further defining the confidentiality of  
455 information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of  
456 general statements based upon the reports of a number of handlers, which do not identify the information  
457 furnished by any person, or (ii) the publication by direction of the Commission of the name of any person  
458 violating any regulation of the Commission, together with a statement of the particular provisions violated  
459 by such person.

460 (c) No officer, employee, or agent of the Commission shall intentionally disclose information, by  
461 inference or otherwise, that is made confidential pursuant to this section. Any person violating the  
462 provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars  
463 (\$1,000) or to imprisonment for not more than one year, or both, and shall be removed from office. The  
464 Commission shall refer any allegation of a violation of this section to the appropriate state enforcement  
465 authority or United States Attorney.

466 § 16. Subpoena, hearings, and judicial review.

467 (a) The Commission is hereby authorized and empowered by its members and its properly  
468 designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the  
469 attendance of witnesses and the giving of testimony and the production of other evidence.

470 (b) Any handler subject to an order may file a written petition with the Commission stating that  
471 any order or any provision of any such order or any obligation imposed in connection therewith is not in  
472 accordance with law and praying for a modification thereof or to be exempted therefrom. The handler  
473 shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations  
474 made by the Commission. After such hearing, the Commission shall make a ruling upon the prayer of  
475 such petition which shall be final, if in accordance with law.

476 (c) The district courts of the United States in any district in which the handler is an inhabitant, or  
477 has his ~~or her~~ principal place of business, are hereby vested with jurisdiction to review such ruling,  
478 provided a complaint for that purpose is filed within 30 days from the date of the entry of the ruling.  
479 Service of process in these proceedings may be had upon the Commission by delivering to it a copy of the



480 complaint. If the court determines that the ruling is not in accordance with law, it shall remand such  
481 proceedings to the Commission with directions either (i) to make such ruling as the court shall determine  
482 to be in accordance with law, or (ii) to take such further proceedings as, in its opinion, the law requires.  
483 The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the  
484 Commission from obtaining relief pursuant to § 17. Any proceedings brought pursuant to § 17, except  
485 where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate  
486 whenever a final decree has been rendered in proceedings between the same parties, and covering the  
487 same subject matter, instituted pursuant to this section.

488 § 17. Enforcement with respect to handlers.

489 (a) Any violation by a handler of the provisions of regulation establishing an over-order price or a  
490 commission marketing order, or other regulations adopted pursuant to this compact shall:

491 (1) Constitute a violation of the laws of each of the signatory states. Such violation shall render  
492 the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the  
493 participating states, recoverable in any state or federal court of competent jurisdiction. Each day such  
494 violation continues shall constitute a separate violation.

495 (2) Constitute grounds for the revocation of license or permit to engage in the milk business under  
496 the applicable laws of the participating states.

497 (b) With respect to handlers, the Commission shall enforce the provisions of this compact,  
498 regulations establishing an over-order price, a commission marketing order or other regulations adopted  
499 hereunder by:

500 (1) Commencing an action for legal or equitable relief brought in the name of the Commission in  
501 any state or federal court of competent jurisdiction; or

502 (2) Referral to the state agency for enforcement by judicial or administrative remedy with the  
503 agreement of the appropriate state agency of a participating state.

504 (c) With respect to handlers, the Commission may bring an action for injunction to enforce the  
505 provisions of this compact or the order or regulations adopted thereunder without being compelled to  
506 allege or prove that an adequate remedy of law does not exist.

507 ARTICLE VII. Finance.

508 § 18. Finance of start-up and regular costs.

509 (a) To provide for its start-up costs, the Commission may borrow money pursuant to its general  
510 power under § 6, subsection (d), subdivision 4. In order to finance the cost of administration and  
511 enforcement of this compact, including payback of start-up costs, the Commission may collect an  
512 assessment from each handler who purchases milk from producers within the region. If imposed, this  
513 assessment shall be collected on a monthly basis for up to one year from the date the Commission  
514 convenes, in an amount not to exceed \$.015 per hundred weight of milk purchased from producers during  
515 the period of the assessment. The initial assessment may apply to the projected purchases of handlers for  
516 the two-month period following the date the Commission convenes. In addition, if regulations establishing  
517 an over-order price or a compact marketing order are adopted, they may include an assessment for the  
518 specific purpose of their administration. These regulations shall provide for establishment of a reserve for  
519 the Commission's ongoing operating expenses.

520 (b) The Commission shall not pledge the credit of any participating state or of the United States.  
521 Notes issued by the Commission and all other financial obligations incurred by it, shall be its sole  
522 responsibility and no participating state or the United States shall be liable therefor.

523 § 19. Audit and accounts.

524 (a) The Commission shall keep accurate accounts of all receipts and disbursements, which shall  
525 be subject to the audit and accounting procedures established under its rules. In addition, all receipts and  
526 disbursements of funds handled by the Commission shall be audited yearly by a qualified public  
527 accountant and the report of the audit shall be included in and become part of the annual report of the  
528 Commission.

529 (b) The accounts of the Commission shall be open at any reasonable time for inspection by duly  
530 constituted officers of the participating states and by any persons authorized by the Commission.

531 (c) Nothing contained in this Article shall be construed to prevent commission compliance with  
532 laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United  
533 States.

534 ARTICLE VIII. Entry into Force; Additional Members and Withdrawal.

535 § 20. Entry into force; additional members.

536 The compact shall enter into force effective when enacted into law by any three states of the group  
537 of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi,  
538 North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia and when the  
539 consent of Congress has been obtained.

540 § 21. Withdrawal from compact.

541 Any participating state may withdraw from this compact by enacting a statute repealing the same,  
542 but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to  
543 the Commission and the governors of all the participating states. No withdrawal shall affect any liability  
544 already incurred by or chargeable to a participating state prior to the time of such withdrawal.

545 § 22. Severability.

546 If any part or provision of this compact is adjudged invalid by any court, such judgment shall be  
547 confined in its operation to the part or provision directly involved in the controversy in which such  
548 judgment shall have been rendered and shall not affect or impair the validity of the remainder of this  
549 compact. In the event Congress consents to this compact subject to conditions, said conditions shall not  
550 impair the validity of this compact when said conditions are accepted by three or more compacting states.  
551 A compact state may accept the conditions of Congress by implementation of this compact.

552 **Drafting note: Technical changes consistent with Va. Code § 1-216. Non-substantive**  
553 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
554 **of the compact. As the opening paragraph of this section provides, the compact is effective among**  
555 **jurisdictions that adopt its provisions "in the form substantially" as adopted in Virginia. See**  
556 ***Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting**  
557 **that compacts "constitute an agreement between the Commonwealth of Virginia and other states,**  
558 **territories and the United States, who join in a compact by enacting substantially the same**  
559 **provisions"). Cf. *Sassoon v. Stynchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the**

560 **enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained**  
561 **differences, but were "substantively identical").**

562 **§ 4.1-212. Permits required in certain instances.**

563 A. The Board may grant the following permits which shall authorize:

564 1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine  
565 and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.

566 2. Any person having any interest in the manufacture, distribution or sale of spirits or other  
567 alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected  
568 with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic  
569 beverages.

570 3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any  
571 license to sell and which shall be used for culinary purposes only.

572 4. Any person to transport lawfully purchased alcoholic beverages within, into or through the  
573 Commonwealth, except that no permit shall be required for any person shipping or transporting into the  
574 Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of  
575 residence to the Commonwealth in accordance with § 4.1-310.

576 5. Any person to keep, store or possess any still or distilling apparatus.

577 6. The release of alcoholic beverages not under United States custom bonds or internal revenue  
578 bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive  
579 them within or outside of the Commonwealth.

580 7. The release of alcoholic beverages from United States customs bonded warehouses for delivery  
581 to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.

582 8. The release of alcoholic beverages from United States internal revenue bonded warehouses for  
583 delivery in accordance with subsection C of § 4.1-132.

584 9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary  
585 appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued

586 to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems  
587 appropriate.

588 10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which  
589 may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien  
590 or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff,  
591 personal representative, receiver or other officer acting under authority of a court having jurisdiction in  
592 the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia  
593 Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit  
594 to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale  
595 outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.

596 11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the  
597 premises or property of a person licensed by the Board and who has become lawfully entitled to the  
598 possession of the licensed premises to continue to operate the establishment to the same extent as a person  
599 holding such licenses for a period not to exceed 60 days or for such longer period as determined by the  
600 Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous  
601 owner to the extent determined by the Board. Such temporary permit may be issued in advance,  
602 conditioned on the above requirements.

603 12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail  
604 for off-premises consumption.

605 13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal  
606 revenue bond in warehouses located in the Commonwealth.

607 14. The storage of wine by a licensed winery or farm winery under internal revenue bond in  
608 warehouses located in the Commonwealth.

609 15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has  
610 filed an application for a permit in which the applicant represents (i) that he-~~or she~~ is under contract to  
611 conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the  
612 application; (ii) that such contract grants to the applicant the authority to act as the authorized

613 representative of such manufacturer or wholesaler; and (iii) that such contract contains an  
614 acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any  
615 violation of § 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall  
616 be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-  
617 229.

618 16. Any person who, through contract, lease, concession, license, management or similar  
619 agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the  
620 premises of a person licensed by the Board to continue to operate the establishment to the same extent as  
621 a person holding such licenses, provided such person has made application to the Board for a license at  
622 the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner  
623 to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period  
624 as may be necessary as determined by the Board pending the completion of the processing of the  
625 permittee's license application. No permit shall be issued without the written consent of the previous  
626 licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes  
627 any state or local taxes, or has any pending charges for violation of this title or any Board regulation,  
628 unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for  
629 the pending charges. An application for a permit may be filed prior to the effective date of the contract, in  
630 which case the permit when issued shall become effective on the effective date of the contract. Upon the  
631 effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of  
632 this title and any Board regulation and (b) the previous licensee shall not be held liable for any violation  
633 of this title or any Board regulation committed by, or any errors or omissions of, the permittee.

634 17. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting  
635 individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and  
636 authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole  
637 purpose of remitting such fees to the licensee.

638 18. Any tour company guiding individuals for compensation on a culinary walking tour to one or  
639 more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect

640 as one fee from tour participants (i) the licensee's fee for the food and alcoholic beverages served as part  
641 of the tour and (ii) a fee for the culinary walking tour service. The tour company shall remit to the licensee  
642 any fee collected for the food and alcoholic beverages served as part of the tour. Food cooked or prepared  
643 on the premises of such licensed establishments shall be served at each such establishment on the tour.

644 B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a  
645 subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the  
646 wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-  
647 216.

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

649 **§ 8.01-40. Unauthorized use of name or picture of any person; punitive damages; statute of**  
650 **limitations.**

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

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

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

662 **§ 8.01-298. How summons for witness or juror served.**

663 In addition to the manner of service on natural persons prescribed in § 8.01-296, a summons for a  
664 witness or for a juror may be served:

665 1. At his-~~or her~~ usual place of business or employment during business hours, by delivering a copy  
666 thereof and giving information of its purport to the person found there in charge of such business or place  
667 of employment; or

668 2. In the case of a juror, by mailing a summons to the person being served, at least seven days prior  
669 to the day he is summoned to appear.

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

671 **§ 8.01-319. Publication of interim notice.**

672 A. In any case in which a nonresident party or party originally served by publication has been  
673 served as provided by law, and notice of further proceedings in the case is required but no method of  
674 service thereof is prescribed either by statute or by order or rule of court, such notice may be served by  
675 publication thereof once each week for two successive weeks in a newspaper published or circulated in  
676 the city or county in which the original proceedings are pending. If the original proceedings were instituted  
677 by order of publication, then the publication of such notice of additional or further proceedings shall be  
678 made in the same newspaper. A party, who appears pro se in an action, shall file with the clerk of the court  
679 in which the action is pending a written statement of his place of residence and mailing address, and shall  
680 inform the clerk in writing of any changes of residence and mailing address during the pendency of the  
681 action. The clerk and all parties to the action may rely on the last written statement filed as aforesaid. The  
682 court in which the action is pending may dispense with such notice for failure of the party to file the  
683 statement herein provided for or may require notice to be given in such manner as the court may determine.

684 B. Notwithstanding any provision to the contrary in paragraph A hereof, depositions may be taken,  
685 testimony heard and orders and decrees entered without an order of publication, when the defendant has  
686 been legally served with or has accepted service of process to commence a suit for divorce or for annulling  
687 or affirming a marriage, and he-~~or she~~ or the plaintiff:

688 1. Shall thereafter become a nonresident; or

689 2. Shall remove from the county or city in which the suit is pending, if a resident thereof, or in  
690 which he-~~or she~~ resided at the time of the institution of the suit, or was served with process, without having



691 filed with the clerk of the court where the suit is pending a written statement of his ~~or her~~ intended future  
 692 place of residence, and a like statement of subsequent changes of residence; or

693 3. When after such written statement has been filed with the clerk, notice shall have been served  
 694 upon him ~~or her~~ at the last place of residence given in the written statement as provided by law; or

695 4. Could not be found by the sheriff of the county or city for the service of the notice, and the party  
 696 sending the service makes affidavit that he has used due diligence to find the adverse party without  
 697 success. If such absent party has an attorney of record in such suit, notice shall be served on such attorney,  
 698 as provided by § 8.01-314.

699 C. This section shall not apply to orders of publication in condemnation actions.

700 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

701 **§ 8.01-512.3. Form of garnishment summons.**

702 Any garnishment issued pursuant to § 8.01-511 shall be in the following form:

703 (a) Front side of summons:

704 GARNISHMENT SUMMONS

705 (Court Name)

706 (Name, address and telephone number of judgment creditor except that when the judgment  
 707 creditor's attorney's name, address and telephone number appear on the summons, only the creditor's name  
 708 shall be used.)

709 (Name, address and telephone number of judgment creditor's attorney)

710 (Name, street address and social security number of judgment debtor)

711 (Name and street address of garnishee)

712 \_\_\_\_\_ Hearing Date and Time

713 This is a garnishment against (check only one of the designations below):

a  wages, salary, or other compensation.  some other debt due or property of  
 the judgment debtor.

b MAXIMUM PORTION OF DISPOSABLE STATEMENT  
 EARNINGS SUBJECT TO GARNISHMENT

c	<input type="checkbox"/> Support	Judgment Principal	\$ _____
d	<input type="checkbox"/> 50% <input type="checkbox"/> 55% <input type="checkbox"/> 60% <input type="checkbox"/> 65%	Credits	\$ _____
e	(if not specified, then 50%)	Interest	\$ _____
f	<input type="checkbox"/> state taxes, 100%	Judgment Costs	\$ _____
g	If none of the above is checked,	Attorney's Fees	\$ _____
h	then § 34-29 (a) applies.	Garnishment Costs	\$ _____
i		TOTAL BALANCE DUE	\$ _____
j		The garnishee shall rely on this amount.	

714 \_\_\_\_\_

715 Date of Judgment

716 TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the  
717 judgment debtor and the garnishee.

718 TO THE GARNISHEE: You are hereby commanded to

719 (1) File a written answer with this court, or

720 (2) Deliver payment to this court, or

721 (3) Appear before this court on the return date and time shown on this summons to answer the  
722 Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of  
723 fieri facias, there is a liability as shown in the statement upon the garnishee.

724 As garnishee, you shall withhold from the judgment debtor any sums of money to which the  
725 judgment debtor is or may be entitled from you during the period between the date of service of this  
726 summons on you and the date for your appearance in court, subject to the following limitations:

727 (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown  
728 on this summons.

729 (2) If the sums of money being garnished are earnings of the judgment debtor, then the provision  
730 of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall  
731 apply.

732 If a garnishment summons is served on an employer having 1,000 or more employees, then money  
733 to which the judgment debtor is or may be entitled from ~~his or her~~ the judgment debtor's employer shall  
734 be considered those wages, salaries, commissions, or other earnings which, following service on the  
735 garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-  
736 employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail  
737 to this court.

738 \_\_\_\_\_

739 Date of Issuance of Summons

740 \_\_\_\_\_

741 Clerk

742 \_\_\_\_\_

743 Date of delivery of writ of fieri facias to sheriff if different from date of issuance of this summons.

744 (b) A plain language interpretation of § 34-29 shall appear on the reverse side of the summons as  
745 follows:

746 "The following statement is not the law but is an interpretation of the law which is intended to  
747 assist those who must respond to this garnishment. You may rely on this only for general guidance because  
748 the law itself is the final word. (Read the law, § 34-29 of the Code of Virginia, for a full explanation. A  
749 copy of § 34-29 is available at the clerk's office. If you do not understand the law, call a lawyer for help.)

750 An employer may take as much as 25 percent of an employee's disposable earnings to satisfy this  
751 garnishment. But if an employee makes the minimum wage or less for ~~his~~ the employee's week's earnings,  
752 the employee will ordinarily get to keep 40 times the minimum hourly wage."

753 But an employer may withhold a different amount of money from that above if:

754 (1) The employee must pay child support or spousal support and was ordered to do so by a court  
755 procedure or other legal procedure. No more than 65 percent of an employee's earnings may be withheld  
756 for support;

757 (2) Money is withheld by order of a bankruptcy court; or

758 (3) Money is withheld for a tax debt.

759 "Disposable earnings" means the money an employee makes after taxes and after other amounts  
760 required by law to be withheld are satisfied. Earnings can be salary, hourly wages, commissions, bonuses,  
761 or otherwise, whether paid directly to the employee or not. After those earnings are in the bank for 30  
762 days, they are not considered earnings any more.

763 If an employee tries to transfer, assign, or in any way give ~~his~~ the employee's earnings to another  
764 person to avoid the garnishment, it will not be legal; earnings are still earnings.

765 An employee cannot be fired because ~~he~~ the employee is garnished for one debt.

766 Financial institutions that receive an employee's paycheck by direct deposit do not have to  
767 determine what part of a person's earnings can be garnished.

768 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

769 **§ 8.01-623. Injunction against decree subject to bill of review; limitations to bill of review.**

770 A court allowing a bill of review may award an injunction to the decree to be reviewed. But no bill  
771 of review shall be allowed to a final decree, unless it be exhibited within six months next after such decree,  
772 except that a person under a disability as defined in § 8.01-2 may exhibit the same within six months after  
773 the removal of his ~~or her~~ disability. In no case shall such a bill be filed without the leave of court first  
774 obtained, unless it be for error of law apparent upon the face of the record.

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

776 **§ 8.2A-103. Definitions and index of definitions.**

777 (1) In this title unless the context otherwise requires:

778 (a) "Buyer in ordinary course of business" means a person who in good faith and without  
779 knowledge that the sale to him ~~or her~~ is in violation of the ownership rights or security interest or leasehold  
780 interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods  
781 of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property  
782 or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting  
783 contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction  
784 of a money debt.

785 (b) "Cancellation" occurs when either party puts an end to the lease contract for default by the  
786 other party.

787 (c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for  
788 purposes of lease and division of which materially impairs its character or value on the market or in use.  
789 A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line  
790 of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market  
791 as a single whole.

792 (d) "Conforming" goods or performance under a lease contract means goods or performance that  
793 are in accordance with the obligations under the lease contract.

794 (e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or  
795 selling makes to a lessee who is an individual and who takes under the lease primarily for a personal,  
796 family, or household purpose.

797 (f) "Fault" means wrongful act, omission, breach, or default.

798 (g) "Finance lease" means a lease with respect to which:

799 (i) The lessor does not select, manufacture, or supply the goods;

800 (ii) The lessor acquires the goods or the right to possession and use of the goods in connection  
801 with the lease; and

802 (iii) One of the following occurs:

803 (A) The lessee receives a copy of the contract by which the lessor acquired the goods or the right  
804 to possession and use of the goods before signing the lease contract;

805 (B) The lessee's approval of the contract by which the lessor acquired the goods or the right to  
806 possession and use of the goods is a condition to effectiveness of the lease contract;

807 (C) The lessee, before signing the lease contract, receives an accurate and complete statement  
808 designating the promises and warranties, and any disclaimers of warranties, limitations or modifications  
809 of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods,  
810 provided to the lessor by the person supplying the goods in connection with or as part of the contract by  
811 which the lessor acquired the goods or the right to possession and use of the goods; or

812 (D) If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs  
813 the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee  
814 has selected that person and directed the lessor to acquire the goods or the right to possession and use of  
815 the goods from that person, (b) that the lessee is entitled under this title to the promises and warranties,  
816 including those of any third party, provided to the lessor by the person supplying the goods in connection  
817 with or as part of the contract by which the lessor acquired the goods or the right to possession and use of  
818 the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and  
819 receive an accurate and complete statement of those promises and warranties, including any disclaimers  
820 and limitations of them or of remedies.

821 (h) "Goods" means all things that are movable at the time of identification to the lease contract, or  
822 are fixtures (§ 8.2A-309), but the term does not include money, documents, instruments, accounts, chattel  
823 paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also  
824 includes the unborn young of animals.

825 (i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of  
826 goods in separate lots to be separately accepted, even though the lease contract contains a clause "each  
827 delivery is a separate lease" or its equivalent.

828 (j) "Lease" means a transfer of the right to possession and use of goods for a term in return for  
829 consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a  
830 security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

831 (k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in  
832 fact as found in their language or by implication from other circumstances including course of dealing or  
833 usage of trade or course of performance as provided in this title. Unless the context clearly indicates  
834 otherwise, the term includes a sublease agreement.

835 (l) "Lease contract" means the total legal obligation that results from the lease agreement as  
836 affected by this title and any other applicable rules of law. Unless the context clearly indicates otherwise,  
837 the term includes a sublease contract.

838 (m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

839 (n) "Lessee" means a person who acquires the right to possession and use of goods under a lease.  
840 Unless the context clearly indicates otherwise, the term includes a sublessee.

841 (o) "Lessee in ordinary course of business" means a person who in good faith and without  
842 knowledge that the lease to him~~-or her~~ is in violation of the ownership rights or security interest or  
843 leasehold interest of a third party in the goods leases in ordinary course from a person in the business of  
844 selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by  
845 exchange of other property or on secured or unsecured credit and includes acquiring goods or documents  
846 of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in  
847 total or partial satisfaction of a money debt.

848 (p) "Lessor" means a person who transfers the right to possession and use of goods under a lease.  
849 Unless the context clearly indicates otherwise, the term includes a sublessor.

850 (q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination,  
851 or cancellation of the lease contract.

852 (r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance  
853 of an obligation, but the term does not include a security interest.

854 (s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery,  
855 whether or not it is sufficient to perform the lease contract.

856 (t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject  
857 to the lease.

858 (u) "Present value" means the amount as of a date certain of one or more sums payable in the  
859 future, discounted to the date certain. The discount is determined by the interest rate specified by the  
860 parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise,  
861 the discount is determined by a commercially reasonable rate that takes into account the facts and  
862 circumstances of each case at the time the transaction was entered into.

863 (v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other  
864 voluntary transaction creating an interest in goods.

865 (w) "Sublease" means a lease of goods the right to possession and use of which was acquired by  
866 the lessor as a lessee under an existing lease.

867 (x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a  
868 finance lease.

869 (y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

870 (z) "Termination" occurs when either party pursuant to a power created by agreement or law puts  
871 an end to the lease contract otherwise than for default.

872 (2) Other definitions applying to this title and the sections in which they appear are:

873 "Accessions" § 8.2A-310 (1).

874 "Construction mortgage" § 8.2A-309 (1) (d).

875 "Encumbrance" § 8.2A-309 (1) (e).

876 "Fixture filing" § 8.2A-309 (1) (b).

877 "Fixtures" § 8.2A-309 (1) (a).

878 "Purchase money lease" § 8.2A-309 (1) (c).

879 (3) The following definitions in other titles apply to this title:

880 "Account" § 8.9A-102 (a) (2).

881 "Between merchants" § 8.2-104 (3).

882 "Buyer" § 8.2-103 (1) (a).

883 "Chattel paper" § 8.9A-102 (a) (11).

884 "Consumer goods" § 8.9A-102 (a) (23).

885 "Document" § 8.9A-102 (a) (30).

886 "Entrusting" § 8.2-403 (3).

887 "General intangible" § 8.9A-102 (a) (42).

888 "Good faith" § 8.2-103 (1) (b).

889 "Instrument" § 8.9A-102 (a) (47).

890 "Merchant" § 8.2-104 (1).

891 "Mortgage" § 8.9A-102 (a) (55).



892 "Pursuant to commitment" § 8.9A-102 (a)(69).

893 "Receipt" § 8.2-103 (1) (c).

894 "Sale" § 8.2-106 (1).

895 "Sale on approval" § 8.2-326.

896 "Sale or return" § 8.2-326.

897 "Seller" § 8.2-103 (1) (d).

898 (4) In addition, Title 8.1A contains general definitions and principles of construction and  
899 interpretation applicable throughout this title.

900 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

901 **§ 8.2A-108. Unconscionability.**

902 (1) If the court as a matter of law finds a lease contract or any clause of a lease contract to have  
903 been unconscionable at the time it was made, the court may refuse to enforce the lease contract, or it may  
904 enforce the remainder of the lease contract without the unconscionable clause, or it may so limit the  
905 application of any unconscionable clause as to avoid any unconscionable result.

906 (2) With respect to a consumer lease, if the court as a matter of law finds that a lease contract or  
907 any clause of a lease contract has been induced by unconscionable conduct or that unconscionable conduct  
908 has occurred in the collection of a claim arising from a lease contract, the court may grant appropriate  
909 relief.

910 (3) Before making a finding of unconscionability under subsection (1) or (2) of this section, the  
911 court, on its own motion or that of a party, shall afford the parties a reasonable opportunity to present  
912 evidence as to the setting, purpose, and effect of the lease contract or clause thereof, or of the conduct.

913 (4) In an action in which the lessee claims unconscionability with respect to a consumer lease:

914 (a) If the court finds unconscionability under subsection (1) or (2) of this section, the court shall  
915 award reasonable attorney's fees to the lessee.

916 (b) If the court does not find unconscionability and the lessee claiming unconscionability has  
917 brought or maintained an action he-~~or she~~ knew to be groundless, the court shall award reasonable  
918 attorney's fees to the party against whom the claim is made.

919 (c) In determining attorney's fees, the amount of the recovery on behalf of the claimant under  
920 subsections (1) and (2) of this section is not controlling.

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

922 **§ 8.2A-109. Option to accelerate at will.**

923 (1) A term providing that one party or his or her successor in interest may accelerate payment or  
924 performance or require collateral or additional collateral "at will" or "when he-~~or she~~ deems himself-~~or~~  
925 ~~herself~~ insecure" or in words of similar import must be construed to mean that he-~~or she~~ has power to do  
926 so only if he-~~or she~~ in good faith believes that the prospect of payment or performance is impaired.

927 (2) With respect to a consumer lease, the burden of establishing good faith under subsection (1) of  
928 this section is on the party who exercised the power; otherwise the burden of establishing lack of good  
929 faith is on the party against whom the power has been exercised.

930 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

931 **§ 8.2A-220. Effect of default on risk of loss.**

932 (1) Where risk of loss is to pass to the lessee and the time of passage is not stated:

933 (a) If a tender or delivery of goods so fails to conform to the lease contract as to give a right of  
934 rejection, the risk of their loss remains with the lessor, or, in the case of a finance lease, the supplier, until  
935 cure or acceptance.

936 (b) If the lessee rightfully revokes acceptance, he-~~or she~~, to the extent of any deficiency in his-~~or~~  
937 ~~her~~ effective insurance coverage, may treat the risk of loss as having remained with the lessor from the  
938 beginning.

939 (2) Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already  
940 identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor, or,  
941 in the case of a finance lease, the supplier, to the extent of any deficiency in his-~~or her~~ effective insurance  
942 coverage may treat the risk of loss as resting on the lessee for a commercially reasonable time.

943 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

944 **§ 8.2A-221. Casualty to identified goods.**

945 If a lease contract requires goods identified when the lease contract is made, and the goods suffer  
946 casualty without fault of the lessee, the lessor or the supplier before delivery, or the goods suffer casualty  
947 before risk of loss passes to the lessee pursuant to the lease agreement or § 8.2A-219, then if:

948 (a) The loss is total, the lease contract is avoided; and

949 (b) The loss is partial or the goods have so deteriorated as to no longer conform to the lease  
950 contract, the lessee may nevertheless demand inspection and at his-~~or her~~ option either treat the lease  
951 contract as avoided or, except in a finance lease that is not a consumer lease, accept the goods with due  
952 allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in  
953 quantity but without further right against the lessor.

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

955 **§ 8.2A-306. Priority of certain liens arising by operation of law.**

956 If a person in the ordinary course of his-~~or her~~ business furnishes services or materials with respect  
957 to goods subject to a lease contract, a lien upon those goods in the possession of that person given by  
958 statute or rule of law for those materials or services takes priority over any interest of the lessor or lessee  
959 under the lease contract or this title unless the lien is created by statute and the statute provides otherwise  
960 or unless the lien is created by rule of law and the rule of law provides otherwise.

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

962 **§ 8.2A-310. Lessor's and lessee's rights when goods become accessions.**

963 (1) Goods are "accessions" when they are installed in or affixed to other goods.

964 (2) The interest of a lessor or a lessee under a lease contract entered into before the goods became  
965 accessions is superior to all interests in the whole except as stated in subsection (4) of this section.

966 (3) The interest of a lessor or a lessee under a lease contract entered into at the time or after the  
967 goods became accessions is superior to all subsequently acquired interests in the whole except as stated  
968 in subsection (4) of this section but is subordinate to interests in the whole existing at the time the lease  
969 contract was made unless the holders of such interests in the whole have in writing consented to the lease  
970 or disclaimed an interest in the goods as part of the whole.

971 (4) The interest of a lessor or a lessee under a lease contract described in subsection (2) or (3) of  
972 this section is subordinate to the interest of:

973 (a) A buyer in the ordinary course of business or a lessee in the ordinary course of business of any  
974 interest in the whole acquired after the goods became accessions; or

975 (b) A creditor with a security interest in the whole perfected before the lease contract was made to  
976 the extent that the creditor makes subsequent advances without knowledge of the lease contract.

977 (5) When under subsections (2) or (3) and (4) of this section a lessor or a lessee of accessions holds  
978 an interest that is superior to all interests in the whole, the lessor or the lessee may (a) on default,  
979 expiration, termination, or cancellation of the lease contract by the other party but subject to the provisions  
980 of the lease contract and this title, or (b) if necessary to enforce his-~~or her~~ other rights and remedies under  
981 this title, remove the goods from the whole, free and clear of all interests in the whole, but he-~~or she~~ shall  
982 reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed  
983 for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the  
984 absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement  
985 may refuse permission to remove until the party seeking removal gives adequate security for the  
986 performance of this obligation.

987 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

988 **§ 8.2A-401. Insecurity: adequate assurance of performance.**

989 (1) A lease contract imposes an obligation on each party that the other's expectation of receiving  
990 due performance will not be impaired.

991 (2) If reasonable grounds for insecurity arise with respect to the performance of either party, the  
992 insecure party may demand in writing adequate assurance of due performance. Until the insecure party  
993 receives that assurance, if commercially reasonable the insecure party may suspend any performance for  
994 which he-~~or she~~ has not already received the agreed return.

995 (3) A repudiation of the lease contract occurs if assurance of due performance adequate under the  
996 circumstances of the particular case is not provided to the insecure party within a reasonable time, not to  
997 exceed thirty days after receipt of a demand by the other party.

998 (4) Between merchants, the reasonableness of grounds for insecurity and the adequacy of any  
999 assurance offered shall be determined according to commercial standards.

1000 (5) Acceptance of any nonconforming delivery or payment does not prejudice the aggrieved party's  
1001 right to demand adequate assurance of future performance.

1002 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1003 **§ 8.2A-504. Liquidation of damages.**

1004 (1) Damages payable by either party for default, or any other act or omission, including indemnity  
1005 for loss or diminution of anticipated tax benefits or loss or damage to lessor's residual interest, may be  
1006 liquidated in the lease agreement but only at an amount or by a formula that is reasonable in light of the  
1007 then anticipated harm caused by the default or other act or omission.

1008 (2) If the lease agreement provides for liquidation of damages, and such provision does not comply  
1009 with subsection (1) of this section, or such provision is an exclusive or limited remedy that circumstances  
1010 cause to fail of its essential purpose, remedy may be had as provided in this title.

1011 (3) If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or  
1012 insolvency, under § 8.2A-525 or § 8.2A-526, the lessee is entitled to restitution of any amount by which  
1013 the sum of his-~~or her~~ payments exceeds:

1014 (a) The amount to which the lessor is entitled by virtue of terms liquidating the lessor's damages  
1015 in accordance with subsection (1) of this section; or

1016 (b) In the absence of those terms, twenty percent of the then present value of the total rent the  
1017 lessee was obligated to pay for the balance of the lease term, or, in the case of a consumer lease, the lesser  
1018 of such amount or \$500.

1019 (4) A lessee's right to restitution under subsection (3) of this section is subject to offset to the extent  
1020 the lessor establishes:

1021 (a) A right to recover damages under the provisions of this Article other than subsection (1) of this  
1022 section; and

1023 (b) The amount or value of any benefits received by the lessee directly or indirectly by reason of  
1024 the lease contract.

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

**§ 8.2A-507. Proof of market rent; time and place.**

(1) Damages based on market rent as provided in § 8.2A-519 or § 8.2A-528 are determined according to the rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times specified in §§ 8.2A-519 and 8.2A-528.

(2) If evidence of rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times or places described in this title is not readily available, the rent prevailing within any reasonable time before or after the time described or at any other place or for a different lease term which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the difference, including the cost of transporting the goods to or from the other place.

(3) Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this title offered by one party is not admissible unless and until he-~~or she~~ has given the other party notice the court finds sufficient to prevent unfair surprise.

(4) If the prevailing rent or value of any goods regularly leased in any established market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of the report may be shown to affect its weight but not its admissibility.

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

**§ 8.2A-511. Merchant lessee's duties as to rightfully rejected goods.**

(1) Subject to any security interest of a lessee (subsection (5) of § 8.2A-508), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in his-~~or her~~ possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall make reasonable efforts to sell, lease, or otherwise dispose of the goods for the lessor's account if they threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

1052 (2) If a merchant lessee as mentioned in subsection (1) of this section or any other lessee (§ 8.2A-  
1053 512) disposes of goods, he-~~or she~~ is entitled to reimbursement either from the lessor or the supplier or out  
1054 of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses  
1055 include no disposition commission, to such commission as is usual in the trade, or if there is none, to a  
1056 reasonable sum not exceeding ten percent of the gross proceeds.

1057 (3) In complying with this section or § 8.2A-512, the lessee is held only to good faith. Good faith  
1058 conduct hereunder is neither acceptance or conversion nor the basis of an action for damages.

1059 (4) A purchaser who purchases in good faith from a lessee pursuant to this section or § 8.2A-512  
1060 takes the goods free of any rights of the lessor and the supplier even though the lessee fails to comply with  
1061 one or more of the requirements of this title.

1062 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

1063 **§ 13.1-704. Application of article.**

1064 A. Unless the articles of incorporation or bylaws expressly provide otherwise, any authorization  
1065 of indemnification or advances or reimbursement of expenses in the articles of incorporation or bylaws  
1066 shall not be deemed to prevent the corporation from providing indemnity or advances or reimbursement  
1067 of expenses permitted or mandated by this article. A corporation, by a provision in its articles of  
1068 incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or  
1069 shareholders, may obligate itself in advance of the act or omission giving rise to a proceeding to provide  
1070 indemnification in accordance with § 13.1-697 and advance funds to pay for or reimburse expenses in  
1071 accordance with § 13.1-699. Any such obligatory provision shall be deemed to satisfy the requirements  
1072 for authorization referred to in subsection C of § 13.1-699 and subsection C of § 13.1-701.

1073 B. Any corporation shall have power to make any further indemnity, including indemnity with  
1074 respect to a proceeding by or in the right of the corporation, and to make additional provision for advances  
1075 and reimbursement of expenses, to any director or officer that may be authorized by the articles of  
1076 incorporation or any bylaw made by the shareholders or any resolution adopted, before or after the event,  
1077 by the shareholders, except an indemnity against (i) his willful misconduct, or (ii) a knowing violation of  
1078 the criminal law. Any such provision that obligates the corporation to provide indemnification to the fullest

1079 extent permitted by law shall be deemed, unless the articles of incorporation or any such bylaw or  
1080 resolution expressly provides otherwise, also to obligate the corporation to advance funds to pay for or  
1081 reimburse expenses to the fullest extent permitted by law in accordance with § 13.1-699 except that the  
1082 applicable standard shall be conduct that does not constitute willful misconduct or a knowing violation of  
1083 criminal law, rather than the standard of conduct prescribed in § 13.1-697. Unless the articles of  
1084 incorporation, or any such bylaw or resolution expressly provide otherwise, any determination as to the  
1085 right to any further indemnity shall be made in accordance with subsection B of § 13.1-701. Each such  
1086 indemnity may continue as to a person who has ceased to have the capacity referred to above and may  
1087 inure to the benefit of the heirs, executors and administrators of such a person.

1088 C. No right provided to any person pursuant to this section may be reduced or eliminated by any  
1089 amendment of the articles of incorporation or bylaws with respect to any act or omission occurring before  
1090 such amendment.

1091 D. This article does not limit a corporation's power to pay or reimburse expenses incurred by a  
1092 director or an officer in connection with his-~~or her~~ appearance as a witness in a proceeding at a time when  
1093 he-~~or she~~ is not a party.

1094 E. This article does not limit a corporation's power to provide indemnity to, advance or reimburse  
1095 expenses incurred by, or provide or maintain insurance on behalf of an agent or an employee who is not a  
1096 director or officer.

1097 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

1098 **§ 15.2-1512.2. Political activities of employees of localities, firefighters, emergency medical**  
1099 **services personnel, and law-enforcement officers and certain other officers and employees.**

1100 A. For the purposes of this section:

1101 "Emergency medical services personnel" means any person who is employed within the fire  
1102 department or public safety department of a locality whose primary responsibility is the provision of  
1103 emergency medical care to the sick or injured, using either basic or advanced techniques. Emergency  
1104 medical services personnel may also provide fire protection services and assist in the enforcement of the  
1105 fire prevention code.



1106 "Firefighter" means any person who is employed within the fire department or public safety  
1107 department of a locality whose primary responsibility is the prevention or extinguishment of fires, the  
1108 protection of life and property, or the enforcement of local or state fire prevention codes or laws pertaining  
1109 to the prevention or control of fires.

1110 "Law-enforcement officer" means any person who is employed within the police department,  
1111 bureau, or force of any locality, including the sheriff's department of any city or county, and who is  
1112 authorized by law to make arrests.

1113 "Locality" means counties, cities, towns, authorities, or special districts.

1114 "Political campaign" means activities engaged in for the purpose of promoting a political issue,  
1115 for influencing the outcome of an election for local or state office, or for influencing the outcome of a  
1116 referendum or special election.

1117 "Political candidate" means any person who has made known his-~~or her~~ intention to seek, or  
1118 campaign for, local or state office in a general, primary, or special election.

1119 "Political party" means any party, organization, or group having as its purpose the promotion of  
1120 political candidates or political campaigns.

1121 B. Notwithstanding any contrary provision of law, general or special, no locality shall prohibit an  
1122 employee of the locality, including firefighters, emergency medical services personnel, or law-  
1123 enforcement officers within its employment, or deputies, appointees, and employees of local constitutional  
1124 officers as defined in § 15.2-1600, from participating in political activities while these employees are off  
1125 duty, out of uniform and not on the premises of their employment with the locality.

1126 C. For purposes of this section, the term "political activities" includes, but is not limited to, voting;  
1127 registering to vote; soliciting votes or endorsements on behalf of a political candidate or political  
1128 campaign; expressing opinions, privately or publicly, on political subjects and candidates; displaying a  
1129 political picture, sign, sticker, badge, or button; participating in the activities of, or contributing financially  
1130 to, a political party, candidate, or campaign or an organization that supports a political candidate or  
1131 campaign; attending or participating in a political convention, caucus, rally, or other political gathering;  
1132 initiating, circulating, or signing a political petition; engaging in fund-raising activities for any political

1133 party, candidate, or campaign; acting as a recorder, watcher, challenger, or similar officer at the polls on  
1134 behalf of a political party, candidate, or campaign; or becoming a political candidate.

1135 D. Employees of a locality, including firefighters, emergency medical services personnel, law-  
1136 enforcement officers, and other employees specified in subsection B are prohibited from using their  
1137 official authority to coerce or attempt to coerce a subordinate employee to pay, lend, or contribute anything  
1138 of value to a political party, candidate, or campaign, or to discriminate against any employee or applicant  
1139 for employment because of that person's political affiliations or political activities, except as such  
1140 affiliation or activity may be established by law as disqualification for employment.

1141 E. Employees of a locality, including firefighters, emergency medical services personnel, law-  
1142 enforcement officers, and other employees specified in subsection B are prohibited from discriminating  
1143 in the provision of public services, including but not limited to firefighting, emergency medical, and law-  
1144 enforcement services, or responding to requests for such services, on the basis of the political affiliations  
1145 or political activities of the person or organization for which such services are provided or requested.

1146 F. Employees of a locality, including firefighters, emergency medical services personnel, law-  
1147 enforcement officers, and other employees specified in subsection B are prohibited from suggesting or  
1148 implying that a locality has officially endorsed a political party, candidate, or campaign.

1149 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1150 **§ 15.2-2611. Holding of election; order authorizing bonds; authority of governing body.**

1151 The regular election officers of the locality at the time designated in the order authorizing the vote  
1152 shall open the polls at the various voting places in the locality and conduct the election in the manner  
1153 provided by law for other elections. At the election, each voter may cast his-~~or~~-her vote for or against the  
1154 bond issue. The votes shall be counted, the returns made and canvassed and the results certified as  
1155 provided in § 24.2-681 et seq. If it appears from the returns that a majority of the voters of the locality  
1156 voting on the question at the election are against the proposed bond issue, an order shall be entered by the  
1157 court to such effect. If a majority of the voters of the locality voting on the question approve the bond  
1158 issue, the court shall enter an order to such effect, a copy of which shall be promptly certified by the clerk  
1159 of the court to the governing body of the locality. The locality may then proceed to prepare, issue and sell

1160 its bonds up to the amount so authorized and in doing so shall have all of the powers granted to the locality  
1161 by this chapter with respect to incurring debt and issuing bonds. Bonds authorized by a referendum may  
1162 not be issued by a locality more than eight years after the date of the referendum; however, this eight-year  
1163 period may, at the request of the governing body of the locality, be extended to up to ten years after the  
1164 date of the referendum by order of the circuit court for the locality, or in the case of a town the circuit  
1165 court for the county in which the town is located, entered before the expiration of the eight-year period.  
1166 The court shall grant such extension unless the court is shown by clear and convincing evidence that the  
1167 extension is not in the best interests of the locality.

1168 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1169 **§ 15.2-3542. Governing body to be elected and take office before effective date of**  
1170 **consolidation in certain cases; powers.**

1171 A. Notwithstanding the provisions of § 15.2-3541 or any other statutory provision, in any  
1172 consolidation which results in the formation of a consolidated county with a tier-city therein, the  
1173 consolidation agreement may provide as follows:

1174 1. The special election provided in § 15.2-3541 may apply solely to election of members of boards  
1175 of supervisors and members of tier-city councils, with all other elected officers being elected at the general  
1176 election next preceding the effective date of consolidation.

1177 2. Members of the governing bodies elected at such special elections may assume office  
1178 immediately upon qualification, and no later than thirty days following the date upon which the special  
1179 election was held, as provided in § 24.2-201, and shall hold office prior to the effective date of  
1180 consolidation, only for such of the following limited purposes as may be provided by the consolidation  
1181 agreement:

1182 a. Organization of itself and election of one of its members as chairman of the board of supervisors  
1183 or as mayor, as the case may be.

1184 b. Preparation and approval of budgets applicable to the respective newly formed governmental  
1185 entities, for the fiscal year or partial fiscal year beginning with the effective date of consolidation.

1186 c. Adoption of ordinances required or permitted by the consolidation agreement, to be effective  
1187 upon the date of consolidation.

1188 d. Hiring by the newly elected tier-city council of a tier-city manager, tier-city attorney and clerk  
1189 of council.

1190 e. Hiring by the newly elected board of supervisors of its chief administrative officer, county  
1191 attorney, and clerk of board.

1192 f. Negotiation, preparation and approval of leases, servicing agreements, and other documents  
1193 required by the consolidation agreement, or otherwise deemed advisable.

1194 B. Prior to the effective date of consolidation, provision shall be made for funding the activities  
1195 described in subdivision 2 of subsection A.

1196 C. Upon the effective date of consolidation, all elected officers who have taken the oath of office  
1197 shall assume full powers, duties, rights and responsibilities of their respective offices.

1198 D. Any member of a governing body of a consolidating locality may be elected to public office,  
1199 for which he ~~or she~~ is otherwise qualified, in a governing body of a new governmental entity formed by  
1200 consolidation. For the limited time period and limited purposes specified in subdivision 2 of subsection  
1201 A, such officers may hold both offices at the same time.

1202 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1203 **§ 15.2-5405. Certificate of incorporation or charter; addition and withdrawal of members;  
1204 board of directors; indemnification of directors, officers or employees.**

1205 A. After adoption or approval of the ordinances or agreement providing for the creation of an  
1206 authority, the articles of incorporation of the authority shall be filed with the State Corporation  
1207 Commission. If the State Corporation Commission finds that the articles of incorporation conform to law,  
1208 and the creation of such an authority is in the public interest, a certificate of incorporation or charter shall  
1209 forthwith be issued, and thereupon the authority shall constitute a political subdivision of the  
1210 Commonwealth and a body politic and corporate and shall be deemed to have been lawfully and properly  
1211 created, established and authorized to exercise the powers granted under this chapter.

1212 In any suit, action or proceeding involving the validity or enforcement of, or relating to, any  
1213 contract or action of the authority, the authority, in the absence of establishing fraud in the premises, shall  
1214 be conclusively deemed to have been established in accordance with the provisions of this chapter upon  
1215 proof of the issuance of the aforesaid certificate by the State Corporation Commission. A copy of such  
1216 certificate, duly certified by the State Corporation Commission, shall be admissible in evidence in any  
1217 such suit, action or proceeding, and shall be conclusive evidence of the filing and contents thereof.

1218 Notice of the issuance of such certificate by the State Corporation Commission shall be given to  
1219 each of the member governmental units of the authority by the State Corporation Commission.

1220 B. After the creation of an authority, any other governmental unit may become a member thereof  
1221 upon application to such authority after the adoption of an ordinance by the governing body of the  
1222 governmental unit authorizing such governmental unit to become a member of the authority, and with the  
1223 unanimous consent of the members of the authority evidenced by ordinances of their respective governing  
1224 bodies. Except for an authority created by a governmental unit exempt from the referendum requirement  
1225 of § 15.2-5403, any governmental unit may withdraw from an authority; however, all contractual rights  
1226 acquired and obligations incurred while a governmental unit was a member shall remain in full force and  
1227 effect.

1228 In the case of the joining of a new member governmental unit to an authority, or in the case of the  
1229 withdrawal of an existing member governmental unit from an authority, the articles of incorporation of  
1230 the authority shall be amended to evidence such joinder or withdrawal, as the case may be, and such  
1231 amendment shall be filed with the State Corporation Commission. Thereupon, the State Corporation  
1232 Commission shall issue a certificate of joinder or withdrawal, as the case may be, to which shall be  
1233 attached a copy of the amendment to the articles of incorporation. The joining or withdrawal shall become  
1234 effective upon the issuance of such certificate.

1235 C. The powers of each authority created by the governing body of a single governmental unit shall  
1236 be exercised by a board of five directors, or, at the option of the governing body of the particular  
1237 governmental unit, a number of directors equal to the number of persons on the governing body of the  
1238 governmental unit. The powers of each authority created by the governing bodies of two or more

1239 governmental units shall be exercised by a board of such number of directors specified in its articles of  
1240 incorporation, which shall be not less than one member for each governmental unit and not less than a  
1241 total of five directors. The directors of an authority shall be selected in the manner and for the terms  
1242 provided by the ordinance of a single governmental unit, or the concurrent ordinances or agreement of  
1243 two or more of the governmental units creating the authority. No director shall be appointed for a term of  
1244 more than four years but a director may be reappointed and succeed himself-~~or herself~~. Directors shall  
1245 hold office until their successors have been appointed. When one or more additional governmental units  
1246 join an existing authority, each of such joining governmental units shall appoint not less than one director  
1247 of the authority.

1248         The directors of the authority shall elect one of their number chairman of the authority, and shall  
1249 elect a secretary and treasurer and such other officers as are deemed necessary who need not be directors  
1250 of the authority. The offices of secretary and treasurer may be combined. A majority of the directors of  
1251 the authority shall constitute a quorum, and the vote of a majority of the directors shall be necessary for  
1252 any action taken by the authority. No vacancy in the board of directors of the authority shall impair the  
1253 right of a quorum to exercise all the rights and perform all the duties of the authority. If a vacancy occurs  
1254 by reason of the death, disqualification or resignation of a director, the governing body of the  
1255 governmental unit which appointed such director shall appoint a successor to fill his unexpired term. In  
1256 the event of a vacancy in the board of directors for any reason, a successor shall be appointed within six  
1257 months of the date on which such vacancy occurred.

1258         Whenever a governmental unit withdraws from an authority, the term of any director appointed to  
1259 the board of directors from such governmental unit shall immediately terminate, and, if such termination  
1260 results in less than five directors of the authority, additional directors shall be selected in the manner and  
1261 for the terms provided by the ordinances or agreement creating the authority so as to comply with the  
1262 requirements of this section. No elected official of a member governmental unit shall be a director of an  
1263 authority. No person shall serve as a director unless he resides within the governmental unit which has  
1264 appointed him. Directors shall receive such compensation as shall be fixed from time to time by resolution

1265 or resolutions of the governing body or bodies of the member governmental unit or units of the authority,  
1266 and shall be reimbursed for any actual expenses necessarily incurred in the performance of their duties.

1267 D. An authority may defend, indemnify against loss or liability and save harmless any of its  
1268 directors, officers or employees whenever a claim or demand is made or threatened, or whenever  
1269 proceeded against in any investigation or before any court, board, commission or other public body to  
1270 defend or maintain his official position or a position taken in the course of the execution of his duties or  
1271 because of any act or omission arising out of the performance of his official duties if the director, officer  
1272 or employee acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the  
1273 best interests of the authority. If it is ultimately determined that a director, officer or employee of an  
1274 authority is entitled to be indemnified by the authority as authorized in this section, he shall be indemnified  
1275 against expenses, including attorneys' fees, actually and reasonably incurred by him in connection  
1276 therewith. Expenses, including attorneys' fees, incurred in defending a civil action, suit or proceeding may  
1277 be paid by an authority in advance of the final disposition of such action, suit or proceeding as authorized  
1278 in the manner provided in this section upon receipt of an undertaking by or on behalf of the director,  
1279 officer or employee, to repay such amount unless it shall ultimately be determined that he is entitled to be  
1280 indemnified by the authority as authorized in this section.

1281 The indemnification provided by this section shall not be deemed exclusive of any other rights to  
1282 which those indemnified may be entitled under any bylaw, agreement, or otherwise, both as to action in  
1283 his official capacity and as to action in another capacity while holding such office, and shall continue as  
1284 to a person who has ceased to be a director, officer or employee, and shall inure to the benefit of the heirs,  
1285 executors and administrators of such person. An authority shall have power to purchase and maintain  
1286 insurance on behalf of any person who is or was a director, officer or employee of the authority against  
1287 any liability asserted against him and incurred by him in any such capacity or arising out of his status as  
1288 such, whether or not the authority would have the power to indemnify him against such liability under the  
1289 provisions of this section.

1290 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1291 **§ 15.2-6020. Powers of Authority.**

1292           The Authority, as a public corporation and governmental instrumentality exercising public powers  
1293 of the state, may exercise all powers necessary or appropriate to carry out the purposes of this chapter,  
1294 including the power to:

1295           1. Acquire, own, hold and dispose of property, real and personal, tangible and intangible; provided  
1296 that, the Authority shall not acquire such property through the exercise of the power of eminent domain;

1297           2. Lease property, whether as lessee or lessor, and acquire or grant through easement, license or  
1298 other appropriate legal form, the right to develop and use property and open it to the use of the public;

1299           3. Mortgage or otherwise grant security interests in its property;

1300           4. Procure insurance against any losses in connection with its property, license or easements,  
1301 contracts, including hold-harmless agreements, operations or assets in such amounts and from such  
1302 insurers as the Authority considers desirable;

1303           5. Maintain such sinking funds and reserves as the board determines appropriate for the purposes  
1304 of meeting future monetary obligations and needs of the Authority;

1305           6. Sue and be sued, implead and be impleaded, and complain and defend in any court;

1306           7. Adopt, use, and alter at will a corporate seal;

1307           8. Make, amend, repeal, and adopt bylaws for the management and regulation of its affairs;

1308           9. Make contracts of every kind and nature and execute all instruments necessary or convenient  
1309 for carrying on its business, including contracts with any other governmental agency of this state or of the  
1310 federal government or with any person, individual, partnership, or corporation to effect any or all of the  
1311 purposes of this chapter;

1312           10. Accept grants and loans from and enter into contracts and other transactions with any federal  
1313 agency;

1314           11. Maintain an office at such places within the state as it may designate;

1315           12. Borrow money and issue bonds, security interests, or notes and provide for and secure the  
1316 payment of the bonds, security interests, or notes and provide for the rights of the holders of the bonds,  
1317 security interests, or notes and purchase, hold, and dispose of any of its bonds, security interests, or notes;



1318 13. Accept gifts or grants of property, funds, security interests, money, materials, labor, supplies,  
1319 or services from the federal government or from any governmental unit or any person, firm, or corporation  
1320 and to carry out the terms or provisions of or make agreements with respect to or pledge any gifts or grants  
1321 and to do any and all things necessary, useful, desirable, or convenient in connection with the procuring,  
1322 acceptance, or disposition of gifts or grants;

1323 14. Enter into contract with landowners and other persons holding an interest in the land being  
1324 used for its recreational facilities to hold those landowners and other persons harmless with respect to any  
1325 claim in tort growing out of the use of the land for public recreation or growing out of the recreational  
1326 activities operated or managed by the Authority from any claim except a claim for damages proximately  
1327 caused by the willful or malicious conduct of the landowner or other person or any of his-~~or her~~ agents or  
1328 employees;

1329 15. Assess and collect a reasonable fee from those persons who use the trails, parking facilities,  
1330 visitor centers, or other facilities which are part of the Southwest Regional Recreation Area and to retain  
1331 and utilize that revenue for any purposes consistent with this chapter;

1332 16. Adopt rules to regulate the use and maintenance of the Southwest Regional Recreation Area;

1333 17. Cooperate with the states of Kentucky, Tennessee, and West Virginia and appropriate state and  
1334 local officials and community leaders in those states to connect the trails in Virginia with similar recreation  
1335 facilities in those states; and

1336 18. Exercise all of the powers that a corporation may lawfully exercise under the laws of the  
1337 Commonwealth.

1338 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1339 **§ 15.2-6024. Limiting liability.**

1340 A. An owner of land used by or for the stated purposes of the Authority, whether with or without  
1341 charge, owes no duty of care to keep the premises safe for entry or use by others for recreational purposes  
1342 or to give any warning of a dangerous or hazardous condition, use, structure, or activity on the premises  
1343 to persons entering for those purposes.

1344 B. The landowner or lessor of the property used for recreational purposes does not: (i) extend any  
1345 assurance that the premises are safe for any purpose; (ii) confer upon users the legal status of an invitee  
1346 or licensee to whom a duty of care is owed; or (iii) assume responsibility for or incur liability for any  
1347 injury to person or property caused by an act or omission of these persons.

1348 C. Nothing herein limits in any way any liability which otherwise exists for deliberate, willful, or  
1349 malicious infliction of injury to persons or property. Nothing herein limits in any way the obligation of a  
1350 person entering upon or using the land of another for recreational purposes to exercise due care in his-~~or~~  
1351 ~~her~~ use of the land and in his-~~or~~ ~~her~~ activities thereon, so as to prevent the creation of hazards or waste.

1352 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

1353 **§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions and other violations in district**  
1354 **court; additional fees to be added.**

1355 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court  
1356 hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing  
1357 and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his-~~or~~ ~~her~~ absence resulting in a  
1358 finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant  
1359 successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver  
1360 improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§ 4.1-305,  
1361 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251 or 19.2-303.2; or (vi) proof of compliance with law under §§  
1362 46.2-104, 46.2-324, 46.2-613, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052,  
1363 46.2-1053, and 46.2-1158.02.

1364 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever  
1365 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such  
1366 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the  
1367 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in  
1368 absence related to that incident. However, when a defendant who has multiple charges arising from the  
1369 same incident and who has been assessed a fixed fee for one of those charges is later convicted of another

1370 charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference  
1371 between the fixed fee earlier assessed and the higher fixed fee.

1372 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident  
1373 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

1374 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk  
1375 shall also assess any costs otherwise specifically provided by statute.

1376 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection  
1377 C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for  
1378 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts  
1379 designated:

- 1380 1. Processing fee (General Fund)(.573770);
- 1381 2. Virginia Crime Victim-Witness Fund (.049180);
- 1382 3. Regional Criminal Justice Training Academies Fund (.016393);
- 1383 4. Courthouse Construction/Maintenance Fund (.032787);
- 1384 5. Criminal Injuries Compensation Fund (.098361);
- 1385 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 1386 7. Sentencing/supervision fee (General Fund)(.131148); and
- 1387 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

1388 C. In criminal actions and proceedings in district court for a violation of any provision of Article  
1389 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.  
1390 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to  
1391 the following funds in the fractional amounts designated:

- 1392 1. Processing fee (General Fund)(.257353);
- 1393 2. Virginia Crime Victim-Witness Fund (.022059);
- 1394 3. Regional Criminal Justice Training Academies Fund (.007353);
- 1395 4. Courthouse Construction/Maintenance Fund (.014706);
- 1396 5. Criminal Injuries Compensation Fund (.044118);

1397 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);

1398 7. Drug Offender Assessment and Treatment Fund (.551471);

1399 8. Forensic laboratory fee and sentencing/supervision fee (General Fund)(.058824); and

1400 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

1401 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of  
1402 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law,  
1403 to the following funds in the fractional amounts designated:

1404 1. Processing fee (General Fund)(.764706);

1405 2. Virginia Crime Victim-Witness Fund (.058824);

1406 3. Regional Criminal Justice Training Academies Fund (.019608);

1407 4. Courthouse Construction/Maintenance Fund (.039216);

1408 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and

1409 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

1410 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1411 **§ 16.1-243. Venue.**

1412 A. Original venue:

1413 1. Cases involving children, other than support or where protective order issued: Proceedings with  
1414 respect to children under this law, except support proceedings as provided in subdivision 2 or family abuse  
1415 proceedings as provided in subdivision 3, shall:

1416 a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts  
1417 constituting the alleged delinquency occurred or they may, with the written consent of the child and the  
1418 attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the child  
1419 resides;

1420 b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the  
1421 city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition,  
1422 or had been the home of the child within six months before the filing of the petition and the child is absent  
1423 from the city or county because of his removal or retention by a person claiming his custody or for other

1424 reasons, and a parent or person acting as a parent continues to live in the city or county, (ii) has significant  
1425 connection with the child and in which there is substantial evidence concerning the child's present or future  
1426 care, protection, training and personal relationships, (iii) is where the child is physically present and the  
1427 child has been abandoned or it is necessary in an emergency to protect the child because he has been  
1428 subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or (iv) it is  
1429 in the best interest of the child for the court to assume jurisdiction as no other city or county is an  
1430 appropriate venue under the preceding provisions of this subdivision;

1431 c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233,  
1432 and 63.2-1237, be commenced in any city or county, provided, however, that diligent efforts shall first be  
1433 made to commence such hearings (i) in the city or county where the child to be adopted was born, (ii) in  
1434 the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective  
1435 adoptive parent(s) reside. In cases in which a hearing is commenced in a city or county other than one  
1436 described in clauses (i) through (iii), the petitioner shall certify in writing to the court that diligent efforts  
1437 to commence a hearing in such city or county have been made but have proven ineffective; and

1438 d. All other cases: In all other proceedings, be commenced in the city or county where the child  
1439 resides or in the city or county where the child is present when the proceedings are commenced.

1440 2. Support: Proceedings that involve child or spousal support or child and spousal support,  
1441 exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the  
1442 city or county where either party resides or in the city or county where the respondent is present when the  
1443 proceeding commences.

1444 3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse  
1445 shall be commenced where (i) either party has his-~~or her~~ principal residence (ii) the abuse occurred or (iii)  
1446 a protective order was issued if at the time the proceeding is commenced the order is in effect to protect  
1447 the petitioner or a family or household member of the petitioner.

1448 B. Transfer of venue:

1449 1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county  
1450 of the Commonwealth and the proceeding is commenced in a court of another city or county, that court

1451 may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding  
1452 to the city or county of the child's residence for such further action or proceedings as the court receiving  
1453 the transfer may deem proper. However, such transfer may occur only after adjudication in delinquency  
1454 proceedings.

1455         2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or  
1456 counties, the court in which the motion for transfer is made shall determine which such city or county is  
1457 the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration  
1458 of the motion, the best interests of the child shall determine the most appropriate forum.

1459         3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 of Title 20,  
1460 if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a  
1461 court of another city or county, that court may, at any time on its own motion or a motion of a party for  
1462 good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the  
1463 respondent's residence for such further action or proceedings as the court receiving the transfer may deem  
1464 proper. For the purposes of determining venue of cases involving support, the respondent's residence shall  
1465 include any city or county in which the respondent has resided within the last six months prior to the  
1466 commencement of the proceeding or in which the respondent is residing at the time that the motion for  
1467 transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which  
1468 the motion for transfer is made shall determine which such city or county is the most appropriate venue  
1469 unless the parties mutually agree to the selection of such venue.

1470         When the support proceeding is a companion case to a child custody or visitation proceeding, the  
1471 provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

1472         4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section  
1473 may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown  
1474 based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any  
1475 transfer of venue in cases involving children, the best interests of the child shall be considered in deciding  
1476 if and to which court a transfer of venue would be appropriate.

1477 5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic  
1478 relations district court to which a suit is transferred for enforcement of orders pertaining to support,  
1479 maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

1480 C. Records: Originals of all legal and social records pertaining to the case shall accompany the  
1481 transfer of venue. Records imaged from the original documents shall be considered original documents  
1482 for purposes of the transfer of venue. The transferor court may, in its discretion, retain copies as it deems  
1483 appropriate.

1484 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1485 **§ 16.1-252. Preliminary removal order; hearing.**

1486 A. A preliminary removal order in cases in which a child is alleged to have been abused or  
1487 neglected may be issued by the court after a hearing wherein the court finds that reasonable efforts have  
1488 been made to prevent removal of the child from his home. The hearing shall be in the nature of a  
1489 preliminary hearing rather than a final determination of custody.

1490 B. Prior to the removal hearing, notice of the hearing shall be given at least 24 hours in advance  
1491 of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian or other  
1492 person standing in loco parentis of the child and to the child if he-~~or she~~ is 12 years of age or older. If  
1493 notice to the parents, guardian, legal custodian or other person standing in loco parentis cannot be given  
1494 despite diligent efforts to do so, the hearing shall be held nonetheless, and the parents, guardian, legal  
1495 custodian or other person standing in loco parentis shall be afforded a later hearing on their motion  
1496 regarding a continuation of the summary removal order. The notice provided herein shall include (i) the  
1497 time, date and place for the hearing; (ii) a specific statement of the factual circumstances which allegedly  
1498 necessitate removal of the child; and (iii) notice that child support will be considered if a determination is  
1499 made that the child must be removed from the home.

1500 C. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

1501 D. At the removal hearing the child and his parent, guardian, legal custodian or other person  
1502 standing in loco parentis shall have the right to confront and cross-examine all adverse witnesses and  
1503 evidence and to present evidence on their own behalf. If the child was 14 years of age or under on the date

1504 of the alleged offense and is 16 or under at the time of the hearing, the child's attorney or guardian ad  
1505 litem, or if the child has been committed to the custody of the Department of Social Services, the local  
1506 department of social services, may apply for an order from the court that the child's testimony be taken in  
1507 a room outside the courtroom and be televised by two-way closed-circuit television. The provisions of §  
1508 63.2-1521 shall apply, mutatis mutandis, to the use of two-way closed-circuit television except that the  
1509 person seeking the order shall apply for the order at least 48 hours before the hearing, unless the court for  
1510 good cause shown allows the application to be made at a later time.

1511 E. In order for a preliminary order to issue or for an existing order to be continued, the petitioning  
1512 party or agency must prove:

1513 1. The child would be subjected to an imminent threat to life or health to the extent that severe or  
1514 irreparable injury would be likely to result if the child were returned to or left in the custody of his  
1515 parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the  
1516 petition; and

1517 2. Reasonable efforts have been made to prevent removal of the child from his home and there are  
1518 no alternatives less drastic than removal of the child from his home which could reasonably and adequately  
1519 protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than  
1520 removal may include but not be limited to the provision of medical, educational, psychiatric,  
1521 psychological, homemaking or other similar services to the child or family or the issuance of a preliminary  
1522 protective order pursuant to § 16.1-253.

1523 When a child is removed from his home and there is no reasonable opportunity to provide  
1524 preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

1525 The petitioner shall not be required by the court to make reasonable efforts to prevent removal of  
1526 the child from his home if the court finds that (i) the residual parental rights of the parent regarding a  
1527 sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an  
1528 offense under the laws of the Commonwealth or a substantially similar law of any other state, the United  
1529 States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt,  
1530 conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the



1531 parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the  
1532 child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a  
1533 substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes  
1534 felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily  
1535 injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom  
1536 the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the  
1537 parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances  
1538 that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.

1539 As used in this section:

1540 "Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual  
1541 abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the  
1542 time such conduct occurred, including the failure to protect such a child from such conduct, which conduct  
1543 or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the  
1544 death of such a child or in serious bodily injury to such a child.

1545 "Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the  
1546 child's health, safety and well-being at risk.

1547 "Serious bodily injury" means bodily injury that involves substantial risk of death, extreme  
1548 physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a  
1549 bodily member, organ or mental faculty.

1550 "Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once  
1551 but otherwise meets the definition of "aggravated circumstances."

1552 F. If the court determines that pursuant to subsection E hereof the removal of the child is proper,  
1553 the court shall:

1554 1. Order that the child be placed in the temporary care and custody of a suitable person, subject to  
1555 the provisions of subsection F1 of this section and under the supervision of the local department of social  
1556 services, with consideration being given to placement in the temporary care and custody of a relative or  
1557 other interested individual, including grandparents, until such time as the court enters an order of

1558 disposition pursuant to § 16.1-278.2, or, if such placement is not available, in the care and custody of a  
1559 suitable agency;

1560 2. Order that reasonable visitation be allowed between the child and his parents, guardian, legal  
1561 custodian or other person standing in loco parentis, and between the child and his siblings, if such  
1562 visitation would not endanger the child's life or health; and

1563 3. Order that the parent or other legally obligated person pay child support pursuant to § 16.1-290.

1564 In addition, the court may enter a preliminary protective order pursuant to § 16.1-253 imposing  
1565 requirements and conditions as specified in that section which the court deems appropriate for protection  
1566 of the welfare of the child.

1567 F1. Prior to the entry of an order pursuant to subsection F of this section transferring temporary  
1568 custody of the child to a relative or other interested individual, including grandparents, the court shall  
1569 consider whether the relative or other interested individual is one who (i) is willing and qualified to receive  
1570 and care for the child; (ii) is willing to have a positive, continuous relationship with the child; and (iii) is  
1571 willing and has the ability to protect the child from abuse and neglect. The court's order transferring  
1572 temporary custody to a relative or other interested individual should provide for compliance with any  
1573 preliminary protective order entered on behalf of the child in accordance with the provisions of § 16.1-  
1574 253; initiation and completion of the investigation as directed by the court and court review of the child's  
1575 placement required in accordance with the provisions of § 16.1-278.2; and, as appropriate, ongoing  
1576 provision of social services to the child and the temporary custodian.

1577 G. At the conclusion of the preliminary removal order hearing, the court shall determine whether  
1578 the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of  
1579 abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person  
1580 responsible for the care and custody of the child, the child's guardian ad litem or the local department of  
1581 social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory  
1582 hearing to be held within 30 days of the date of the initial preliminary removal hearing. The adjudicatory  
1583 hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a  
1584 preponderance of the evidence. Parties who are present at the preliminary removal order hearing shall be

1585 given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned  
1586 as provided in § 16.1-263. The hearing shall be held and an order may be entered, although a party to the  
1587 preliminary removal order hearing fails to appear and is not represented by counsel, provided personal or  
1588 substituted service was made on the person, or the court determines that such person cannot be found,  
1589 after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be  
1590 found or his post office address cannot be ascertained after reasonable effort.

1591 The preliminary removal order and any preliminary protective order issued shall remain in full  
1592 force and effect pending the adjudicatory hearing.

1593 H. If the preliminary removal order includes a finding of abuse or neglect and the child is removed  
1594 from his home or a preliminary protective order is issued, a dispositional hearing shall be held pursuant  
1595 to § 16.1-278.2. The dispositional hearing shall be scheduled at the time of the preliminary removal order  
1596 hearing and shall be held within 60 days of the preliminary removal order hearing. If an adjudicatory  
1597 hearing is requested pursuant to subsection G, the dispositional hearing shall nonetheless be scheduled at  
1598 the initial preliminary removal order hearing. All parties present at the preliminary removal order hearing  
1599 shall be given notice of the date scheduled for the dispositional hearing; parties who are not present shall  
1600 be summoned to appear as provided in § 16.1-263.

1601 I. The local department of social services having "legal custody" of a child as defined in § 16.1-  
1602 228 (i) shall not be required to comply with the requirements of this section in order to redetermine where  
1603 and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

1604 J. Violation of any order issued pursuant to this section shall constitute contempt of court.

1605 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1606 **§ 16.1-253. Preliminary protective order.**

1607 A. Upon the motion of any person or upon the court's own motion, the court may issue a  
1608 preliminary protective order, after a hearing, if necessary to protect a child's life, health, safety or normal  
1609 development pending the final determination of any matter before the court. The order may require a  
1610 child's parents, guardian, legal custodian, other person standing in loco parentis or other family or

1611 household member of the child to observe reasonable conditions of behavior for a specified length of time.

1612 These conditions shall include any one or more of the following:

1613 1. To abstain from offensive conduct against the child, a family or household member of the child  
1614 or any person to whom custody of the child is awarded;

1615 2. To cooperate in the provision of reasonable services or programs designed to protect the child's  
1616 life, health or normal development;

1617 3. To allow persons named by the court to come into the child's home at reasonable times  
1618 designated by the court to visit the child or inspect the fitness of the home and to determine the physical  
1619 or emotional health of the child;

1620 4. To allow visitation with the child by persons entitled thereto, as determined by the court;

1621 5. To refrain from acts of commission or omission which tend to endanger the child's life, health  
1622 or normal development;

1623 6. To refrain from such contact with the child or family or household members of the child, as the  
1624 court may deem appropriate, including removal of such person from the residence of the child. However,  
1625 prior to the issuance by the court of an order removing such person from the residence of the child, the  
1626 petitioner must prove by a preponderance of the evidence that such person's probable future conduct would  
1627 constitute a danger to the life or health of such child, and that there are no less drastic alternatives which  
1628 could reasonably and adequately protect the child's life or health pending a final determination on the  
1629 petition; or

1630 7. To grant the person on whose behalf the order is issued the possession of any companion animal  
1631 as defined in § 3.2-6500 if such person meets the definition of owner in § 3.2-6500.

1632 B. A preliminary protective order may be issued ex parte upon motion of any person or the court's  
1633 own motion in any matter before the court, or upon petition. The motion or petition shall be supported by  
1634 an affidavit or by sworn testimony in person before the judge or intake officer which establishes that the  
1635 child would be subjected to an imminent threat to life or health to the extent that delay for the provision  
1636 of an adversary hearing would be likely to result in serious or irremediable injury to the child's life or  
1637 health. If an ex parte order is issued without an affidavit being presented, the court, in its order, shall state

1638 the basis upon which the order was entered, including a summary of the allegations made and the court's  
1639 findings. Following the issuance of an ex parte order the court shall provide an adversary hearing to the  
1640 affected parties within the shortest practicable time not to exceed five business days after the issuance of  
1641 the order.

1642 C. Prior to the hearing required by this section, notice of the hearing shall be given at least 24 hours  
1643 in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian,  
1644 or other person standing in loco parentis of the child, to any other family or household member of the  
1645 child to whom the protective order may be directed and to the child if he-~~or she~~ is 12 years of age or older.  
1646 The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific  
1647 statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective  
1648 order.

1649 D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

1650 E. At the hearing the child, his-~~or her~~ parents, guardian, legal custodian or other person standing  
1651 in loco parentis and any other family or household member of the child to whom notice was given shall  
1652 have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence  
1653 on their own behalf.

1654 F. If a petition alleging abuse or neglect of a child has been filed, at the hearing pursuant to this  
1655 section the court shall determine whether the allegations of abuse or neglect have been proven by a  
1656 preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However,  
1657 if, before such a finding is made, a person responsible for the care and custody of the child, the child's  
1658 guardian ad litem or the local department of social services objects to a finding being made at the hearing,  
1659 the court shall schedule an adjudicatory hearing to be held within 30 days of the date of the initial  
1660 preliminary protective order hearing. The adjudicatory hearing shall be held to determine whether the  
1661 allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are  
1662 present at the hearing shall be given notice of the date set for the adjudicatory hearing and parties who are  
1663 not present shall be summoned as provided in § 16.1-263. The adjudicatory hearing shall be held and an  
1664 order may be entered, although a party to the hearing fails to appear and is not represented by counsel,

1665 provided personal or substituted service was made on the person, or the court determines that such person  
1666 cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the  
1667 person cannot be found or his post office address cannot be ascertained after reasonable effort.

1668 Any preliminary protective order issued shall remain in full force and effect pending the  
1669 adjudicatory hearing.

1670 G. If at the preliminary protective order hearing held pursuant to this section the court makes a  
1671 finding of abuse or neglect and a preliminary protective order is issued, a dispositional hearing shall be  
1672 held pursuant to § 16.1-278.2. The court shall forthwith, but in all cases no later than the end of the  
1673 business day on which the order was issued, enter and transfer electronically to the Virginia Criminal  
1674 Information Network the respondent's identifying information and the name, date of birth, sex, and race  
1675 of each protected person provided to the court. A copy of the preliminary protective order containing any  
1676 such identifying information shall be forwarded forthwith to the primary law-enforcement agency  
1677 responsible for service and entry of protective orders. Upon receipt of the order by the primary law-  
1678 enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the  
1679 identifying information and other appropriate information required by the Department of State Police into  
1680 the Virginia Criminal Information Network established and maintained by the Department of State Police  
1681 pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly  
1682 abusing person in person as provided in § 16.1-264 and due return made to the court. However, if the  
1683 order is issued by the circuit court, the clerk of the circuit court shall forthwith forward an attested copy  
1684 of the order containing the respondent's identifying information and the name, date of birth, sex, and race  
1685 of each protected person provided to the court to the primary law-enforcement agency providing service  
1686 and entry of protective orders and upon receipt of the order, the primary law-enforcement agency shall  
1687 enter the name of the person subject to the order and other appropriate information required by the  
1688 Department of State Police into the Virginia Criminal Information Network established and maintained  
1689 by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served  
1690 forthwith upon the allegedly abusing person in person as provided in § 16.1-264. Upon service, the agency  
1691 making service shall enter the date and time of service and other appropriate information required by the

1692 Department of State Police into the Virginia Criminal Information Network and make due return to the  
1693 court. The preliminary order shall specify a date for the dispositional hearing. The dispositional hearing  
1694 shall be scheduled at the time of the hearing pursuant to this section, and shall be held within 60 days of  
1695 this hearing. If an adjudicatory hearing is requested pursuant to subsection F, the dispositional hearing  
1696 shall nonetheless be scheduled at the hearing pursuant to this section. All parties present at the hearing  
1697 shall be given notice of the date and time scheduled for the dispositional hearing; parties who are not  
1698 present shall be summoned to appear as provided in § 16.1-263.

1699 H. Nothing in this section enables the court to remove a child from the custody of his ~~or her~~ parents,  
1700 guardian, legal custodian or other person standing in loco parentis, except as provided in § 16.1-278.2,  
1701 and no order hereunder shall be entered against a person over whom the court does not have jurisdiction.

1702 I. Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's  
1703 office, nor any employee of them, may disclose, except among themselves, the residential address,  
1704 telephone number, or place of employment of the person protected by the order or that of the family of  
1705 such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court,  
1706 (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

1707 J. Violation of any order issued pursuant to this section shall constitute contempt of court.

1708 K. The court shall forthwith, but in all cases no later than the end of the business day on which the  
1709 order was issued, enter and transfer electronically to the Virginia Criminal Information Network the  
1710 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
1711 provided to the court. A copy of the preliminary protective order containing any such identifying  
1712 information shall be forwarded forthwith to the primary law-enforcement agency responsible for service  
1713 and entry of protective orders. Upon receipt of the order by the primary law-enforcement agency, the  
1714 agency shall forthwith verify and enter any modification as necessary to the identifying information and  
1715 other appropriate information required by the Department of State Police into the Virginia Criminal  
1716 Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et  
1717 seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing person in person as  
1718 provided in § 16.1-264 and due return made to the court. However, if the order is issued by the circuit

1719 court, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the  
1720 respondent's identifying information and the name, date of birth, sex, and race of each protected person  
1721 provided to the court to the primary law-enforcement agency providing service and entry of protective  
1722 orders and upon receipt of the order, the primary law-enforcement agency shall enter the name of the  
1723 person subject to the order and other appropriate information required by the Department of State Police  
1724 into the Virginia Criminal Information Network established and maintained by the Department pursuant  
1725 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the order shall be served forthwith on the allegedly abusing  
1726 person in person as provided in § 16.1-264. Upon service, the agency making service shall enter the date  
1727 and time of service and other appropriate information required by the Department of State Police into the  
1728 Virginia Criminal Information Network and make due return to the court. The preliminary order shall  
1729 specify a date for the full hearing.

1730       Upon receipt of the return of service or other proof of service pursuant to subsection C of § 16.1-  
1731 264, the clerk shall forthwith forward an attested copy of the preliminary protective order to the primary  
1732 law-enforcement agency and the agency shall forthwith verify and enter any modification as necessary  
1733 into the Virginia Criminal Information Network as described above. If the order is later dissolved or  
1734 modified, a copy of the dissolution or modification order shall also be attested, forwarded forthwith to the  
1735 primary law-enforcement agency responsible for service and entry of protective orders, and upon receipt  
1736 of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any  
1737 modification as necessary to the identifying information and other appropriate information required by the  
1738 Department of State Police into the Virginia Criminal Information Network as described above and the  
1739 order shall be served forthwith and due return made to the court.

1740       L. No fee shall be charged for filing or serving any petition or order pursuant to this section.

1741       **Drafting note: Technical changes consistent with Va. Code § 1-216.**

1742       **§ 16.1-257. Interference with or obstruction of officer; concealment or removal of child.**

1743       No person shall interfere with or obstruct any officer, juvenile probation officer or other officer or  
1744 employee of the court in the discharge of his duties under this law, nor remove or conceal or cause to be  
1745 removed or concealed any child in order that he-~~or she~~ may not be brought before the court, nor interfere



1746 with or remove or attempt to remove any child who is in the custody of the court or of an officer or who  
1747 has been lawfully committed under this law. Any person willfully violating any provision of this section  
1748 is guilty of a Class 1 misdemeanor.

1749 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1750 **§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care.**

1751 The juvenile court or the circuit court may cause any juvenile within its jurisdiction under the  
1752 provisions of this law to be physically examined and treated by a physician or to be examined and treated  
1753 at a local mental health center. If no such appropriate facility is available locally, the court may order the  
1754 juvenile to be examined and treated by any physician or psychiatrist or examined by a clinical  
1755 psychologist. The Commissioner of Behavioral Health and Developmental Services shall provide for  
1756 distribution a list of appropriate mental health centers available throughout the Commonwealth. Upon the  
1757 written recommendation of the person examining the juvenile that an adequate evaluation of the juvenile's  
1758 treatment needs can only be performed in an inpatient hospital setting, the court shall have the power to  
1759 send any such juvenile to a state mental hospital for not more than 10 days for the purpose of obtaining a  
1760 recommendation for the treatment of the juvenile. No juvenile sent to a state mental hospital pursuant to  
1761 this provision shall be held or cared for in any maximum security unit where adults determined to be  
1762 criminally insane reside; the juvenile shall be kept separate and apart from such adults. However, the  
1763 Commissioner of Behavioral Health and Developmental Services may place a juvenile who has been  
1764 certified to the circuit court for trial as an adult pursuant to § 16.1-269.6 or 16.1-270 or who has been  
1765 convicted as an adult of a felony in the circuit court in a unit appropriate for the care and treatment of  
1766 persons under a criminal charge when, in his discretion, such placement is necessary to protect the security  
1767 or safety of other patients, staff or the public.

1768 Whenever the parent or other person responsible for the care and support of a juvenile is  
1769 determined by the court to be financially unable to pay the costs of such examination as ordered by the  
1770 juvenile court or the circuit court, such costs may be paid according to procedures and rates adopted by  
1771 the Department from funds appropriated in the general appropriation act for the Department.

1772 The juvenile court or the circuit court may cause any juvenile within its jurisdiction who is found  
1773 to be delinquent for an offense that is eligible for commitment pursuant to subdivision A 14 of § 16.1-  
1774 278.8 or § 16.1-285.1 to be placed in the temporary custody of the Department of Juvenile Justice for a  
1775 period of time not to exceed 30 days for diagnostic assessment services after the adjudicatory hearing and  
1776 prior to final disposition of his-~~or her~~ case. Prior to such a placement, the Department shall determine that  
1777 the personnel, services and space are available in the appropriate correctional facility for the care,  
1778 supervision and study of such juvenile and that the juvenile's case is appropriate for referral for diagnostic  
1779 services.

1780 Whenever a juvenile concerning whom a petition has been filed appears to be in need of nursing,  
1781 medical or surgical care, the juvenile court or the circuit court may order the parent or other person  
1782 responsible for the care and support of the juvenile to provide such care in a hospital or otherwise and to  
1783 pay the expenses thereof. If the parent or other person is unable or fails to provide such care, the juvenile  
1784 court or the circuit court may refer the matter to the authority designated in accordance with law for the  
1785 determination of eligibility for such services in the county or city in which such juvenile or his parents  
1786 have residence or legal domicile.

1787 In any such case, if a parent who is able to do so fails or refuses to comply with the order, the  
1788 juvenile court or the circuit court may proceed against him as for contempt or may proceed against him  
1789 for nonsupport.

1790 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1791 **§ 16.1-296. Jurisdiction of appeals; procedure.**

1792 A. From any final order or judgment of the juvenile court affecting the rights or interests of any  
1793 person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from the  
1794 entry of a final judgment, order or conviction and shall be heard de novo. However, in a case arising under  
1795 the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to  
1796 this section within 30 days from entry of a final order or judgment. Protective orders issued pursuant to §  
1797 16.1-279.1 in cases of family abuse and orders entered pursuant to § 16.1-278.2 are final orders from  
1798 which an appeal may be taken.

1799 B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney  
1800 for the Commonwealth a report incorporating the results of any investigation conducted pursuant to §  
1801 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for  
1802 the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has  
1803 made its findings on the issues subject to appeal. After final determination of the case, the report and all  
1804 copies thereof shall be forthwith returned to such juvenile court.

1805 C. Where an appeal is taken by a child on a finding that he ~~or she~~ is delinquent and on a disposition  
1806 pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may  
1807 be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged  
1808 delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled  
1809 to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial  
1810 finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after  
1811 taking into consideration the report of any investigation made pursuant to § 16.1-237 or 16.1-273.

1812 C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on  
1813 a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except  
1814 in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to  
1815 this subsection, any records or portions thereof relating to such closed proceedings shall remain  
1816 confidential.

1817 C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition  
1818 pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court, when  
1819 practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon  
1820 receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order  
1821 and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt  
1822 of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has  
1823 escaped from custody. A juvenile held continuously in secure detention shall be released from  
1824 confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The

1825 circuit court may extend the time limitations for a reasonable period of time based upon good cause shown,  
1826 provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

1827 D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-  
1828 283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the  
1829 appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.

1830 E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction  
1831 of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an  
1832 appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal  
1833 is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in  
1834 prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

1835 F. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury;  
1836 however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon the  
1837 motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given  
1838 precedence on the docket of the court over other civil appeals taken to the circuit court from the district  
1839 courts, but shall otherwise be docketed and processed as other civil cases.

1840 G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee  
1841 could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit  
1842 court, except that the appeal to circuit court of any case in which a fee either was or could have been  
1843 assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

1844 H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic  
1845 relations district court except for that portion of any order or judgment establishing a support arrearage or  
1846 suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall  
1847 be allowed until the party applying for the same or someone for him gives bond, in an amount and with  
1848 sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may  
1849 be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the  
1850 court in which it was rendered. Upon appeal from a conviction for failure to support or from a finding of  
1851 civil or criminal contempt involving a failure to support, the juvenile and domestic relations district court

1852 may require the party applying for the appeal or someone for him to give bond, with or without surety, to  
1853 insure his appearance and may also require bond in an amount and with sufficient surety to secure the  
1854 payment of prospective support accruing during the pendency of the appeal. An appeal will not be  
1855 perfected unless such appeal bond as may be required is filed within 30 days from the entry of the final  
1856 judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal  
1857 is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a  
1858 county, city or town.

1859 If bond is furnished by or on behalf of any party against whom judgment has been rendered for  
1860 money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as  
1861 may be entered against the party on appeal, and for the payment of all damages which may be awarded  
1862 against him in the appellate court. If the appeal is by a party against whom there is no recovery, the bond  
1863 shall be conditioned for the payment of any damages as may be awarded against him on the appeal. The  
1864 provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

1865 This subsection shall not apply to release on bail pursuant to other subsections of this section or §  
1866 16.1-298.

1867 I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers  
1868 and authority granted by the chapter to the juvenile and domestic relations district court. Unless otherwise  
1869 specifically provided by this Code, the circuit court judge shall have the authority to appoint counsel for  
1870 the parties and compensate such counsel in accordance with the provisions of Article 6 (§ 16.1-266 et  
1871 seq.) of this chapter.

1872 J. In any case which has been referred or transferred from a circuit court to a juvenile court and an  
1873 appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit  
1874 court in the same locality as the juvenile court to which the case had been referred or transferred.

1875 **Drafting note: Technical change consistent with Va. Code § 1-216.**

1876 **§ 16.1-302. Dockets, indices and order books; when hearings and records private; right to**  
1877 **public hearing; presence of juvenile in court.**

1878 A. Every juvenile court shall keep a separate docket of cases arising under this law.

1879 B. Every circuit court shall keep a separate docket, index, and, for entry of its orders, a separate  
1880 order book or file for cases on appeal from the juvenile court except: (i) cases involving support pursuant  
1881 to § 20-61 or subdivisions A 3, F or L of § 16.1-241; (ii) cases involving criminal offenses committed by  
1882 adults which are commenced on a warrant or a summons as described in Title 19.2; and (iii) cases  
1883 involving civil commitments of adults pursuant to Title 37.2. Such cases shall be docketed on the  
1884 appropriate docket and the orders in such cases shall be entered in the appropriate order book as used with  
1885 similar cases commenced in circuit court.

1886 C. The general public shall be excluded from all juvenile court hearings and only such persons  
1887 admitted as the judge shall deem proper. However, proceedings in cases involving an adult charged with  
1888 a crime and hearings held on a petition or warrant alleging that a juvenile fourteen years of age or older  
1889 committed an offense which would be a felony if committed by an adult shall be open. Subject to the  
1890 provisions of subsection D for good cause shown, the court may, sua sponte or on motion of the accused  
1891 or the attorney for the Commonwealth close the proceedings. If the proceedings are closed, the court shall  
1892 state in writing its reasons and the statement shall be made a part of the public record.

1893 D. In any hearing held for the purpose of adjudicating an alleged violation of any criminal law, or  
1894 law defining a traffic infraction, the juvenile or adult so charged shall have a right to be present and shall  
1895 have the right to a public hearing unless expressly waived by such person. The chief judge may provide  
1896 by rule that any juvenile licensed to operate a motor vehicle who has been charged with a traffic infraction  
1897 may waive court appearance and admit to the infraction or infractions charged if he-~~or she~~ and a parent,  
1898 legal guardian, or person standing in loco parentis to the juvenile appear in person at the court or before a  
1899 magistrate or sign and either mail or deliver to the court or magistrate a written form of appearance, plea  
1900 and waiver, provided that the written form contains the notarized signature of the parent, legal guardian,  
1901 or person standing in loco parentis to the juvenile. An emancipated juvenile charged with a traffic  
1902 infraction shall have the opportunity to waive court appearance and admit to the infraction or infractions  
1903 if he-~~or she~~ appears in person at the court or before a magistrate or signs and either mails or delivers to the  
1904 court or magistrate a written form of appearance, plea, and waiver, provided that the written plea form  
1905 containing the signature of the emancipated juvenile is accompanied by a notarized sworn statement which

1906 details the facts supporting the claim of emancipated status. Whenever the sole purpose of a proceeding  
1907 is to determine the custody of a child of tender years, the presence of such juvenile in court may be waived  
1908 by the judge at any stage thereof.

1909 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

1910 **§ 17.1-400. Creation and organization; election and terms of judges; oath; vacancies;**  
1911 **qualifications; incompatible activities prohibited; chief judge.**

1912 A. The Court of Appeals of Virginia is hereby established effective January 1, 1985. It shall consist  
1913 of 11 judges who shall be elected for terms of eight years by the majority of the members elected to each  
1914 house of the General Assembly. Before entering upon the duties of the office, a judge of the Court of  
1915 Appeals shall take the oath of office required by law. The oath shall be taken before a justice of the  
1916 Supreme Court of Virginia or before any officer authorized by law to administer an oath. When any  
1917 vacancy exists while the General Assembly is not in session, the Governor may appoint a successor to  
1918 serve until 30 days after the commencement of the next regular session of the General Assembly.  
1919 Whenever a vacancy occurs or exists in the office of a judge of the Court of Appeals while the General  
1920 Assembly is in session, or when the term of office of a judge of the Court of Appeals will expire or the  
1921 office will be vacated at a date certain between the adjournment of the General Assembly and the  
1922 commencement of the next session of the General Assembly, a successor may be elected at any time  
1923 during a session preceding the date of such vacancy by the vote of a majority of the members elected to  
1924 each house of the General Assembly for a full term and, upon qualification, the successor shall enter at  
1925 once upon the discharge of the duties of the office; however, such successor shall not qualify prior to the  
1926 predecessor leaving office. No person shall be elected or reelected to a subsequent term under this section  
1927 until he has submitted to a criminal history record search and a report of such search has been received by  
1928 the chairmen of the House and Senate Committees for Courts of Justice.

1929 All judges of the Court of Appeals shall be residents of the Commonwealth and shall, at least five  
1930 years prior to the appointment or election, have been licensed to practice law in the Commonwealth. No  
1931 judge of the Court of Appeals, during his continuance in office, shall engage in the practice of law within

1932 or without the Commonwealth or seek or accept any nonjudicial elective office, or hold any other office  
1933 of public trust, or engage in any other incompatible activity.

1934 B. The chief judge shall be elected by majority vote of the judges of the Court of Appeals to serve  
1935 a term of four years.

1936 C. If a judge of the Court of Appeals is absent or unable through sickness, disability, or any other  
1937 reason to perform or discharge any official duty or function authorized or required by law, a (i) retired  
1938 chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of  
1939 the Court of Appeals of Virginia, or (iii) retired judge of a circuit court of Virginia, with his-~~or her~~ prior  
1940 consent, may be appointed by the chief judge of the Court of Appeals, acting upon his own initiative or  
1941 upon a personal request from the absent or disabled judge, to perform or discharge the official duties or  
1942 functions of the absent or disabled judge until that judge shall again be able to attend his duties. The chief  
1943 judge of the Court of Appeals shall be notified forthwith at the time any absent or disabled judge is able  
1944 to return to his duties.

1945 D. The chief judge of the Court of Appeals may, upon his own initiative, designate a (i) retired  
1946 chief justice or retired justice of the Supreme Court of Virginia, (ii) retired chief judge or retired judge of  
1947 the Court of Appeals of Virginia, or (iii) retired or active judge of a circuit court of Virginia, with the prior  
1948 consent of such justice or judge, to perform or discharge the official duties or functions of a judge of the  
1949 Court of Appeals if there is a need to do so due to congestion in the work of the court. Nothing in this  
1950 subsection shall be construed to increase the number of judges of the Court of Appeals provided for in  
1951 subsection A of this section.

1952 E. Any retired chief justice, retired justice, retired chief judge or active or retired judge sitting on  
1953 the Court of Appeals pursuant to subsection C or D shall receive from the state treasury actual expenses  
1954 for the time he-~~or she~~ is actually engaged in holding court.

1955 F. The powers and duties herein conferred or empowered upon the chief judge of the Court of  
1956 Appeals may be exercised and performed by any judge or any committee of judges of the court designated  
1957 by the chief judge for such purpose.

1958 **Drafting note: Technical changes consistent with Va. Code § 1-216.**



1959           **§ 18.2-61. Rape.**

1960           A. If any person has sexual intercourse with a complaining witness, whether or not his~~-or her~~  
1961 spouse, or causes a complaining witness, whether or not his~~-or her~~ spouse, to engage in sexual intercourse  
1962 with any other person and such act is accomplished (i) against the complaining witness's will, by force,  
1963 threat or intimidation of or against the complaining witness or another person; or (ii) through the use of  
1964 the complaining witness's mental incapacity or physical helplessness; or (iii) with a child under age 13 as  
1965 the victim, he~~-or she~~ shall be guilty of rape.

1966           B. A violation of this section shall be punishable, in the discretion of the court or jury, by  
1967 confinement in a state correctional facility for life or for any term not less than five years; and in addition:

1968           1. For a violation of clause (iii) of subsection A where the offender is more than three years older  
1969 than the victim, if done in the commission of, or as part of the same course of conduct as, or as part of a  
1970 common scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-  
1971 90, or 18.2-91, or (iii) § 18.2-51.2, the punishment shall include a mandatory minimum term of  
1972 confinement of 25 years; or

1973           2. For a violation of clause (iii) of subsection A where it is alleged in the indictment that the  
1974 offender was 18 years of age or older at the time of the offense, the punishment shall include a mandatory  
1975 minimum term of confinement for life.

1976           The mandatory minimum terms of confinement prescribed for violations of this section shall be  
1977 served consecutively with any other sentence. If the term of confinement imposed for any violation of  
1978 clause (iii) of subsection A, where the offender is more than three years older than the victim, is for a term  
1979 less than life imprisonment, the judge shall impose, in addition to any active sentence, a suspended  
1980 sentence of no less than 40 years. This suspended sentence shall be suspended for the remainder of the  
1981 defendant's life, subject to revocation by the court.

1982           There shall be a rebuttable presumption that a juvenile over the age of 10 but less than 12, does  
1983 not possess the physical capacity to commit a violation of this section. In any case deemed appropriate by  
1984 the court, all or part of any sentence imposed for a violation under this section against a spouse may be  
1985 suspended upon the defendant's completion of counseling or therapy, if not already provided, in the

1986 manner prescribed under § 19.2-218.1 if, after consideration of the views of the complaining witness and  
1987 such other evidence as may be relevant, the court finds such action will promote maintenance of the family  
1988 unit and will be in the best interest of the complaining witness.

1989 C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case  
1990 tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the  
1991 defendant who has not previously had a proceeding against him for violation of this section dismissed  
1992 pursuant to this subsection and with the consent of the complaining witness and the attorney for the  
1993 Commonwealth, may defer further proceedings and place the defendant on probation pending completion  
1994 of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the  
1995 defendant fails to so complete such counseling or therapy, the court may make final disposition of the case  
1996 and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the  
1997 court may discharge the defendant and dismiss the proceedings against him if, after consideration of the  
1998 views of the complaining witness and such other evidence as may be relevant, the court finds such action  
1999 will promote maintenance of the family unit and be in the best interest of the complaining witness.

2000 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2001 **§ 18.2-67. Depositions of complaining witnesses in cases of criminal sexual assault and**  
2002 **attempted criminal sexual assault.**

2003 Before or during the trial for an offense or attempted offense under this article, the judge of the  
2004 court in which the case is pending, with the consent of the accused first obtained in open court, by an order  
2005 of record, may direct that the deposition of the complaining witness be taken at a time and place designated  
2006 in the order, and the judge may adjourn the taking thereof to such other time and places as he may deem  
2007 necessary. Such deposition shall be taken before a judge of a circuit court in the county or city in which  
2008 the offense was committed or the trial is had, and the judge shall rule upon all questions of evidence, and  
2009 otherwise control the taking of the same as though it were taken in open court. At the taking of such  
2010 deposition the attorney for the Commonwealth, as well as the accused and his attorneys, shall be present  
2011 and they shall have the same rights in regard to the examination of such witness as if he-~~or she~~ were  
2012 testifying in open court. No other person shall be present unless expressly permitted by the judge. Such

2013 deposition shall be read to the jury at the time such witness might have testified if such deposition had not  
2014 been taken, and shall be considered by them, and shall have the same force and effect as though such  
2015 testimony had been given orally in court. The judge may, in like manner, direct other depositions of the  
2016 complaining witness, in rebuttal or otherwise, which shall be taken and read in the manner and under the  
2017 conditions herein prescribed as to the first deposition. The cost of taking such depositions shall be paid by  
2018 the Commonwealth.

2019 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2020 **§ 18.2-67.1. Forcible sodomy.**

2021 A. An accused shall be guilty of forcible sodomy if he-~~or she~~ engages in cunnilingus, fellatio,  
2022 anilingus, or anal intercourse with a complaining witness whether or not his-~~or her~~ spouse, or causes a  
2023 complaining witness, whether or not his-~~or her~~ spouse, to engage in such acts with any other person, and

2024 1. The complaining witness is less than 13 years of age; or

2025 2. The act is accomplished against the will of the complaining witness, by force, threat or  
2026 intimidation of or against the complaining witness or another person, or through the use of the complaining  
2027 witness's mental incapacity or physical helplessness.

2028 B. Forcible sodomy is a felony punishable by confinement in a state correctional facility for life  
2029 or for any term not less than five years; and in addition:

2030 1. For a violation of subdivision A 1, where the offender is more than three years older than the  
2031 victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common  
2032 scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90, or 18.2-  
2033 91, or (iii) § 18.2-51.2, the punishment shall include a mandatory minimum term of confinement of 25  
2034 years; or

2035 2. For a violation of subdivision A 1 where it is alleged in the indictment that the offender was 18  
2036 years of age or older at the time of the offense, the punishment shall include a mandatory minimum term  
2037 of confinement for life.

2038 The mandatory minimum terms of confinement prescribed for violations of this section shall be  
2039 served consecutively with any other sentence. If the term of confinement imposed for any violation of

2040 subdivision A 1, where the offender is more than three years older than the victim, is for a term less than  
2041 life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no  
2042 less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life,  
2043 subject to revocation by the court.

2044 In any case deemed appropriate by the court, all or part of any sentence imposed for a violation  
2045 under this section against a spouse may be suspended upon the defendant's completion of counseling or  
2046 therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the  
2047 views of the complaining witness and such other evidence as may be relevant, the court finds such action  
2048 will promote maintenance of the family unit and will be in the best interest of the complaining witness.

2049 C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case  
2050 tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the  
2051 defendant who has not previously had a proceeding against him for violation of this section dismissed  
2052 pursuant to this subsection and with the consent of the complaining witness and the attorney for the  
2053 Commonwealth, may defer further proceedings and place the defendant on probation pending completion  
2054 of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the  
2055 defendant fails to so complete such counseling or therapy, the court may make final disposition of the case  
2056 and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the  
2057 court may discharge the defendant and dismiss the proceedings against him if, after consideration of the  
2058 views of the complaining witness and such other evidence as may be relevant, the court finds such action  
2059 will promote maintenance of the family unit and be in the best interest of the complaining witness.

2060 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2061 **§ 18.2-67.2. Object sexual penetration; penalty.**

2062 A. An accused shall be guilty of inanimate or animate object sexual penetration if he~~-or she~~  
2063 penetrates the labia majora or anus of a complaining witness, whether or not his~~-or her~~ spouse, other than  
2064 for a bona fide medical purpose, or causes such complaining witness to so penetrate his~~-or her~~ own body  
2065 with an object or causes a complaining witness, whether or not his~~-or her~~ spouse, to engage in such acts  
2066 with any other person or to penetrate, or to be penetrated by, an animal, and

2067 1. The complaining witness is less than 13 years of age; or

2068 2. The act is accomplished against the will of the complaining witness, by force, threat or  
2069 intimidation of or against the complaining witness or another person, or through the use of the complaining  
2070 witness's mental incapacity or physical helplessness.

2071 B. Inanimate or animate object sexual penetration is a felony punishable by confinement in the  
2072 state correctional facility for life or for any term not less than five years; and in addition:

2073 1. For a violation of subdivision A 1, where the offender is more than three years older than the  
2074 victim, if done in the commission of, or as part of the same course of conduct as, or as part of a common  
2075 scheme or plan as a violation of (i) subsection A of § 18.2-47 or § 18.2-48, (ii) § 18.2-89, 18.2-90, or 18.2-  
2076 91, or (iii) § 18.2-51.2, the punishment shall include a mandatory minimum term of confinement of 25  
2077 years; or

2078 2. For a violation of subdivision A 1 where it is alleged in the indictment that the offender was 18  
2079 years of age or older at the time of the offense, the punishment shall include a mandatory minimum term  
2080 of confinement for life.

2081 The mandatory minimum terms of confinement prescribed for violations of this section shall be  
2082 served consecutively with any other sentence. If the term of confinement imposed for any violation of  
2083 subdivision A 1, where the offender is more than three years older than the victim, is for a term less than  
2084 life imprisonment, the judge shall impose, in addition to any active sentence, a suspended sentence of no  
2085 less than 40 years. This suspended sentence shall be suspended for the remainder of the defendant's life,  
2086 subject to revocation by the court.

2087 In any case deemed appropriate by the court, all or part of any sentence imposed for a violation  
2088 under this section against a spouse may be suspended upon the defendant's completion of counseling or  
2089 therapy, if not already provided, in the manner prescribed under § 19.2-218.1 if, after consideration of the  
2090 views of the complaining witness and such other evidence as may be relevant, the court finds such action  
2091 will promote maintenance of the family unit and will be in the best interest of the complaining witness.

2092 C. Upon a finding of guilt under this section, when a spouse is the complaining witness in any case  
2093 tried by the court without a jury, the court, without entering a judgment of guilt, upon motion of the

2094 defendant who has not previously had a proceeding against him for violation of this section dismissed  
2095 pursuant to this subsection and with the consent of the complaining witness and the attorney for the  
2096 Commonwealth, may defer further proceedings and place the defendant on probation pending completion  
2097 of counseling or therapy, if not already provided, in the manner prescribed under § 19.2-218.1. If the  
2098 defendant fails to so complete such counseling or therapy, the court may make final disposition of the case  
2099 and proceed as otherwise provided. If such counseling is completed as prescribed under § 19.2-218.1, the  
2100 court may discharge the defendant and dismiss the proceedings against him if, after consideration of the  
2101 views of the complaining witness and such other evidence as may be relevant, the court finds such action  
2102 will promote maintenance of the family unit and be in the best interest of the complaining witness.

2103 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2104 **§ 18.2-67.3. Aggravated sexual battery; penalty.**

2105 A. An accused shall be guilty of aggravated sexual battery if he ~~or she~~ sexually abuses the  
2106 complaining witness, and

2107 1. The complaining witness is less than 13 years of age, or

2108 2. The act is accomplished through the use of the complaining witness's mental incapacity or  
2109 physical helplessness, or

2110 3. The offense is committed by a parent, step-parent, grandparent, or step-grandparent and the  
2111 complaining witness is at least 13 but less than 18 years of age, or

2112 4. The act is accomplished against the will of the complaining witness by force, threat or  
2113 intimidation, and

2114 a. The complaining witness is at least 13 but less than 15 years of age, or

2115 b. The accused causes serious bodily or mental injury to the complaining witness, or

2116 c. The accused uses or threatens to use a dangerous weapon.

2117 B. Aggravated sexual battery is a felony punishable by confinement in a state correctional facility  
2118 for a term of not less than one nor more than 20 years and by a fine of not more than \$100,000.

2119 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2120 **§ 18.2-67.7. Admission of evidence (Supreme Court Rule 2:412 derived from this section).**

2121 A. In prosecutions under this article, or under clause (iii) or (iv) of § 18.2-48, 18.2-370.01, or 18.2-370.1, general reputation or opinion evidence of the complaining witness's unchaste  
2122 character or prior sexual conduct shall not be admitted. Unless the complaining witness voluntarily agrees  
2123 otherwise, evidence of specific instances of his-~~or her~~ prior sexual conduct shall be admitted only if it is  
2124 relevant and is:  
2125

2126 1. Evidence offered to provide an alternative explanation for physical evidence of the offense  
2127 charged which is introduced by the prosecution, limited to evidence designed to explain the presence of  
2128 semen, pregnancy, disease, or physical injury to the complaining witness's intimate parts; or

2129 2. Evidence of sexual conduct between the complaining witness and the accused offered to support  
2130 a contention that the alleged offense was not accomplished by force, threat or intimidation or through the  
2131 use of the complaining witness's mental incapacity or physical helplessness, provided that the sexual  
2132 conduct occurred within a period of time reasonably proximate to the offense charged under the  
2133 circumstances of this case; or

2134 3. Evidence offered to rebut evidence of the complaining witness's prior sexual conduct introduced  
2135 by the prosecution.

2136 B. Nothing contained in this section shall prohibit the accused from presenting evidence relevant  
2137 to show that the complaining witness had a motive to fabricate the charge against the accused. If such  
2138 evidence relates to the past sexual conduct of the complaining witness with a person other than the  
2139 accused, it shall not be admitted and may not be referred to at any preliminary hearing or trial unless the  
2140 party offering same files a written notice generally describing the evidence prior to the introduction of any  
2141 evidence, or the opening statement of either counsel, whichever first occurs, at the preliminary hearing or  
2142 trial at which the admission of the evidence may be sought.

2143 C. Evidence described in subsections A and B of this section shall not be admitted and may not be  
2144 referred to at any preliminary hearing or trial until the court first determines the admissibility of that  
2145 evidence at an evidentiary hearing to be held before the evidence is introduced at such preliminary hearing  
2146 or trial. The court shall exclude from the evidentiary hearing all persons except the accused, the  
2147 complaining witness, other necessary witnesses, and required court personnel. If the court determines that

2148 the evidence meets the requirements of subsections A and B of this section, it shall be admissible before  
2149 the judge or jury trying the case in the ordinary course of the preliminary hearing or trial. If the court  
2150 initially determines that the evidence is inadmissible, but new information is discovered during the course  
2151 of the preliminary hearing or trial which may make such evidence admissible, the court shall determine in  
2152 an evidentiary hearing whether such evidence is admissible.

2153 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2154 **§ 18.2-216.1. Unauthorized use of name or picture of any person; punishment.**

2155 A person, firm, or corporation that knowingly uses for advertising purposes, or for the purpose of  
2156 trade, the name, portrait, or picture of any person resident in the Commonwealth, without having first  
2157 obtained the written consent of such person, or if dead, of his surviving consort, or if none, his next of kin,  
2158 or, if a minor, of his ~~or her~~ parent or guardian, as well as that of such minor, shall be deemed guilty of a  
2159 misdemeanor and be fined not less than \$50 nor more than \$1,000.

2160 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2161 **§ 18.2-355. Taking, detaining, etc., person for prostitution, etc., or consenting thereto; human**  
2162 **trafficking.**

2163 Any person who:

2164 (1) For purposes of prostitution or unlawful sexual intercourse, takes any person into, or persuades,  
2165 encourages or causes any person to enter, a bawdy place, or takes or causes such person to be taken to any  
2166 place against his ~~or her~~ will for such purposes; or

2167 (2) Takes or detains a person against his or her will with the intent to compel such person, by force,  
2168 threats, persuasions, menace or duress, to marry him ~~or her~~ or to marry any other person, or to be defiled;  
2169 or

2170 (3) Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents  
2171 to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual  
2172 intercourse; or



2173 (4) For purposes of prostitution, takes any minor into, or persuades, encourages, or causes any  
2174 minor to enter, a bawdy place, or takes or causes such person to be taken to any place for such purposes;  
2175 is guilty of pandering.

2176 A violation of subdivision (1), (2), or (3) is punishable as a Class 4 felony. A violation of  
2177 subdivision (4) is punishable as a Class 3 felony.

2178 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2179 **§ 18.2-370. Taking indecent liberties with children; penalties.**

2180 A. Any person 18 years of age or over, who, with lascivious intent, knowingly and intentionally  
2181 commits any of the following acts with any child under the age of 15 years is guilty of a Class 5 felony:

2182 (1) Expose his-~~or her~~ sexual or genital parts to any child to whom such person is not legally married  
2183 or propose that any such child expose his-~~or her~~ sexual or genital parts to such person; or

2184 (2) [Repealed.]

2185 (3) Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital  
2186 parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child;  
2187 or

2188 (4) Propose to such child the performance of an act of sexual intercourse, anal intercourse,  
2189 cunnilingus, fellatio, or anilingus or any act constituting an offense under § 18.2-361; or

2190 (5) Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other  
2191 place, for any of the purposes set forth in the preceding subdivisions of this subsection.

2192 B. Any person 18 years of age or over who, with lascivious intent, knowingly and intentionally  
2193 receives money, property, or any other remuneration for allowing, encouraging, or enticing any person  
2194 under the age of 18 years to perform in or be a subject of sexually explicit visual material as defined in §  
2195 18.2-374.1 or who knowingly encourages such person to perform in or be a subject of sexually explicit  
2196 material is guilty of a Class 5 felony.

2197 C. Any person who is convicted of a second or subsequent violation of this section is guilty of a  
2198 Class 4 felony, provided that (i) the offenses were not part of a common act, transaction or scheme; (ii)  
2199 the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or

2200 found by the jury or judge before whom the person is tried, that the accused was previously convicted of  
2201 a violation of this section.

2202 D. Any parent, step-parent, grandparent, or step-grandparent who commits a violation of either  
2203 this section or clause (v) or (vi) of subsection A of § 18.2-370.1 (i) upon his child, step-child, grandchild,  
2204 or step-grandchild who is at least 15 but less than 18 years of age is guilty of a Class 5 felony or (ii) upon  
2205 his child, step-child, grandchild, or step-grandchild less than 15 years of age is guilty of a Class 4 felony.

2206 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2207 **§ 18.2-370.01. Indecent liberties by children; penalty.**

2208 Any child over the age of thirteen years but under the age of eighteen who, with lascivious intent,  
2209 knowingly and intentionally exposes his-~~or her~~ sexual or genital parts to any other child under the age of  
2210 fourteen years who, measured by actual dates of birth, is five or more years the accused's junior, or  
2211 proposes that any such child expose his-~~or her~~ sexual or genital parts to such person, shall be guilty of a  
2212 Class 1 misdemeanor.

2213 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2214 **§ 18.2-370.1. Taking indecent liberties with child by person in custodial or supervisory**  
2215 **relationship; penalties.**

2216 A. Any person 18 years of age or older who, except as provided in § 18.2-370, maintains a custodial  
2217 or supervisory relationship over a child under the age of 18 and is not legally married to such child and  
2218 such child is not emancipated who, with lascivious intent, knowingly and intentionally (i) proposes that  
2219 any such child feel or fondle the sexual or genital parts of such person or that such person feel or handle  
2220 the sexual or genital parts of the child; or (ii) proposes to such child the performance of an act of sexual  
2221 intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act constituting an offense under §  
2222 18.2-361; or (iii) exposes his-~~or her~~ sexual or genital parts to such child; or (iv) proposes that any such  
2223 child expose his-~~or her~~ sexual or genital parts to such person; or (v) proposes to the child that the child  
2224 engage in sexual intercourse, sodomy or fondling of sexual or genital parts with another person; or (vi)  
2225 sexually abuses the child as defined in subdivision 6 of § 18.2-67.10 is guilty of a Class 6 felony.

2226 B. Any person who is convicted of a second or subsequent violation of this section is guilty of a  
2227 Class 5 felony, provided that (i) the offenses were not part of a common act, transaction or scheme; (ii)  
2228 the accused was at liberty as defined in § 53.1-151 between each conviction; and (iii) it is admitted, or  
2229 found by the jury or judge before whom the person is tried, that the accused was previously convicted of  
2230 a violation of this section.

2231 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2232 **§ 19.2-368.17. Public information program.**

2233 The Commission shall establish and conduct a public information program to assure extensive and  
2234 continuing publicity and public awareness of the provisions of this chapter. The public information  
2235 program shall include brochures, posters and public service advertisements for television, radio and print  
2236 media for dissemination to the public of information regarding the right to compensation for innocent  
2237 victims of crime, including information on the right to file a claim, the scope of coverage, and the  
2238 procedures to be utilized incident thereto.

2239 Whenever a crime which directly resulted in personal physical injury to, or death of, an individual  
2240 is reported within the time required by § 19.2-368.10, the law-enforcement agency to which the report is  
2241 made shall make reasonable efforts, where practicable, to notify the victim or other potential claimant in  
2242 writing on forms prepared by the Commission of his-~~or her~~ possible right to file a claim under this chapter.  
2243 In any event, no liability or cause of action shall arise from the failure to so notify a victim of crime or  
2244 other potential claimant.

2245 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2246 **§ 20-61. Desertion or nonsupport of spouse or children in necessitous circumstances.**

2247 Any spouse who without cause deserts or willfully neglects or refuses or fails to provide for the  
2248 support and maintenance of his-~~or her~~ spouse, and any parent who deserts or willfully neglects or refuses  
2249 or fails to provide for the support and maintenance of his-~~or her~~ child under the age of eighteen years of  
2250 age, or child of whatever age who is crippled or otherwise incapacitated from earning a living, the spouse,  
2251 child or children being then and there in necessitous circumstances, shall be guilty of a misdemeanor and  
2252 upon conviction shall be punished by a fine of not exceeding \$500, or confinement in jail not exceeding

2253 twelve months, or both, or on work release employment as provided in § 53.1-131 for a period of not less  
2254 than ninety days nor more than twelve months; or in lieu of the fine or confinement being imposed upon  
2255 conviction by the court or by verdict of a jury he ~~or she~~ may be required by the court to suffer a forfeiture  
2256 of an amount not exceeding the sum of \$1,000 and the fine or forfeiture may be directed by the court to  
2257 be paid in whole or in part to the spouse, or to the guardian, curator, custodian or trustee of the minor child  
2258 or children, or to some discreet person or responsible organization designated by the court to receive it.  
2259 This section shall not apply to the parent of a child of whatever age, if the child qualifies for and is  
2260 receiving aid under a federal or state program for aid to the permanently and totally disabled; or is an adult  
2261 and meets the visual requirements for aid to the blind; and for this purpose any state agency shall use only  
2262 the financial resources of the child of whatever age in determining eligibility; however, such parent is  
2263 subject to prosecution under this section for the desertion or nonsupport of a spouse or of another child  
2264 who is not receiving such aid.

2265 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2266 **§ 20-66. Contempt proceedings; trial in absence of defendant.**

2267 (a) If the person so summoned fails without reasonable cause to appear as herein required, he or  
2268 she may be proceeded against as for contempt of court and the court may, (1) proceed with the trial of the  
2269 case in his ~~or her~~ absence and render such judgment as to it seems right and proper, or (2) continue the  
2270 case to some future date.

2271 (b) If the trial be proceeded with in the absence of the defendant and judgment of conviction be  
2272 entered against him ~~or her~~, he ~~or she~~ may, within thirty days after the judgment of conviction is rendered,  
2273 make application to the court to have the case reopened, and after due notice to the original complainant,  
2274 for good cause, the court may reopen the case and enter such judgment or order as is right and proper.

2275 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2276 **§ 20-71.1. Attorneys' fees in proceedings under § 20-71.**

2277 In any proceeding by a spouse petitioning under § 20-71 before the juvenile and domestic relations  
2278 district court or on appeal before a court of record, to be allowed support for himself ~~or herself~~ or the  
2279 infant child or children of the defendant, the juvenile and domestic relations district court may direct the

2280 defendant, in addition to the allowance to the spouse and support and maintenance for the infant children,  
2281 to pay to the spouse's attorney, upon such terms and conditions and in such time as the court shall deem  
2282 reasonable, an attorney's fee deemed reasonable by the court for such services as said attorney before said  
2283 court. Upon appeal of the matter to a court of record, the judge of the circuit court may direct that the  
2284 defendant, in addition to the fees allowed to the spouse's attorney by the juvenile and domestic relations  
2285 district court, pay to the spouse's attorney at such time and upon such terms and conditions as the judge  
2286 deems reasonable, an attorney's fee deemed reasonable by the court for such services of said attorney  
2287 before said court of record, but in fixing said fee such court shall take into consideration the fee or fees  
2288 directed to be paid by the court from which said appeal was taken.

2289 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2290 **§ 20-72. Probation on order directing defendant to pay and enter recognizance.**

2291 Before the trial, with the consent of the defendant, or at the trial on entry of a plea of guilty, or  
2292 after conviction, instead of imposing the penalties hereinbefore provided, or in addition thereto, the judge,  
2293 in his discretion, having regard to the circumstances of the case and to the financial ability or earning  
2294 capacity of the defendant, shall have the power to make an order, directing the defendant to pay a certain  
2295 sum or a certain percentage of his-~~or her~~ earnings periodically, either directly or through the court to the  
2296 spouse or to the guardian, curator or custodian of such minor child or children, or to an organization or  
2297 individual designated by the court as trustee, and to suspend sentence and release the defendant from  
2298 custody on probation, upon his-~~or her~~ entering into a recognizance with or without surety, in such sum as  
2299 the court may order and approve.

2300 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2301 **§ 20-73. Condition of the recognizance.**

2302 The condition of the recognizance shall be such that if the defendant shall make his-~~or her~~ personal  
2303 appearance in court upon such date as may be specified by the court, or whenever, in the meantime, he-~~or~~  
2304 ~~she~~ may be ordered so to do, and shall further comply with the terms of such order, or any subsequent  
2305 modification or amendment thereof, then such recognizance shall be void, otherwise in full force and  
2306 effect.

2307 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2308 **§ 20-74. Support orders to remain in effect until annulled; modification.**

2309 Any order of support or amendment thereof entered under the provisions of this chapter shall  
2310 remain in full force and effect until annulled by the court of original jurisdiction, or the court to which an  
2311 appeal may be taken; however, such order of support or terms of probation shall be subject to change or  
2312 modification by the court from time to time, as circumstances may require, but no such change or  
2313 modification shall affect or relieve the surety of his-~~or her~~ obligation under such recognizance, provided  
2314 notice thereof be forthwith given to such surety. No support order may be retroactively modified, but may  
2315 be modified with respect to any period during which there is a pending petition for modification in any  
2316 court, but only from the date that notice of such petition has been given to the responding party.

2317 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2318 **§ 20-75. Procedure when accused outside territorial jurisdiction.**

2319 Whenever the accused is outside the territorial jurisdiction of the court, instead of requiring his-~~or~~  
2320 ~~her~~ arrest and personal appearance before the court, the court may allow the accused to accept service of  
2321 the process or warrant and enter a written plea of guilty. The court may thereupon proceed as if the accused  
2322 were present and enter such order of support as may be just and proper, requiring the accused to enter into  
2323 the recognizance hereinbefore mentioned. For the purposes of this chapter the court may authorize the  
2324 entering into of such recognizance outside the territorial jurisdiction of the court before such official of  
2325 the place where the accused or his or her surety may be and under such conditions and subject to such  
2326 stipulations and requirements as the court may direct and approve. The provisions of this chapter as to the  
2327 entering into of recognizances outside the territorial jurisdiction of the court shall likewise apply to any  
2328 renewal of any recognizance heretofore or hereafter entered into in any desertion and nonsupport case.

2329 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2330 **§ 20-78. Continuance of failure to support after completion of sentence.**

2331 Any person sentenced under §§ 20-72 to 20-79 who, after the completion of such sentence, shall  
2332 continue in his-~~or her~~ failure, without just cause, adequately to support his-~~or her~~ spouse or children, as  
2333 the case may be, may again be sentenced on the original petition, as for a new offense, in the same manner

2334 and under like conditions as herein provided, and so on from time to time, as often as such failure or  
2335 failures shall occur.

2336 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2337 **§ 20-79. Effect of divorce proceedings.**

2338 (a) In any case where an order has been entered under the provisions of this chapter, directing  
2339 either party to pay any sum or sums of money for the support of his ~~or her~~ spouse, or concerning the care,  
2340 custody or maintenance of any child, or children, the jurisdiction of the court which entered such order  
2341 shall cease and its orders become inoperative upon the entry of a decree by the court or the judge thereof  
2342 in vacation in a suit for divorce instituted in any circuit court in this Commonwealth having jurisdiction  
2343 thereof, in which decree provision is made for support and maintenance for the spouse or concerning the  
2344 care, custody or maintenance of a child or children, or concerning any matter provided in a decree in the  
2345 divorce proceedings in accordance with the provisions of § 20-103.

2346 (b) In any suit for divorce, the court in which the suit is instituted or pending, when either party to  
2347 the proceedings so requests, shall provide in its decree for the maintenance, support, care or custody of  
2348 the child or children in accordance with Chapter 6.1 (§ 20-124.1 et seq.), support and maintenance for the  
2349 spouse, if the same be sought, and counsel fees and other costs, if in the judgment of the court any or all  
2350 of the foregoing should be so decreed.

2351 (c) In any suit for divorce or suit for maintenance and support, the court may after a hearing,  
2352 pendente lite, or in any decree of divorce a mensa et thoro, decree of divorce a vinculo matrimonii, final  
2353 decree for maintenance and support, or subsequent decree in such suit, transfer to the juvenile and  
2354 domestic relations district court the enforcement of its orders pertaining to support and maintenance for  
2355 the spouse, maintenance, support, care and custody of the child or children. After the entry of a decree of  
2356 divorce a vinculo matrimonii the court may transfer to the juvenile and domestic relations district court  
2357 any other matters pertaining to support and maintenance for the spouse, maintenance, support, care and  
2358 custody of the child or children on motion by either party, and may so transfer such matters before the  
2359 entry of such decree on motion joined in by both parties. In the transfer of any matters referred to herein,  
2360 the court may, upon the motion of any party, or on its own motion, and for good cause shown, transfer

2361 any matters covered by said decree or decrees to any juvenile and domestic relations district court within  
2362 the Commonwealth that constitutes a more appropriate forum. An appeal of an order by such juvenile and  
2363 domestic relations district court which is to enforce or modify the decree in the divorce suit shall be as  
2364 provided in § 16.1-296.

2365 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2366 **§ 20-80. Violation of orders; trial; forfeiture of recognizance.**

2367 If at any time the court may be satisfied by information and due proof that the defendant has  
2368 violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original  
2369 charge, or sentence him-~~or her~~, under the original conviction, or annul suspension of sentence, and enforce  
2370 such sentence, or in its discretion may extend or renew the term of probation as the case may be. Upon  
2371 due proof that the terms of such order have been violated, the court shall in any event have the power to  
2372 declare the recognizance forfeited, the sum or sums thereon to be paid, in the discretion of the court, in  
2373 whole or in part to the defendant's spouse, or to the guardian, curator, custodian or trustee of the minor  
2374 child or children, or to an organization or individual designated by the court to receive the same.

2375 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2376 **§ 20-81. Presumptions as to desertion and abandonment.**

2377 Proof of desertion or of neglect of spouse, child or children by any person shall be prima facie  
2378 evidence that such desertion or neglect is willful; and proof that a person has left his or her spouse, or his  
2379 ~~or her~~ child or children in destitute or necessitous circumstances, or has contributed nothing to their  
2380 support for a period of thirty days prior or subsequent either or both to his-~~or her~~ departure, shall constitute  
2381 prima facie evidence of an intention to abandon such family.

2382 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2383 **§ 20-84. Extradition.**

2384 Whenever the judge of, or magistrate serving, the jurisdiction wherein such offense is alleged to  
2385 have been committed shall, after an investigation of the facts and circumstances thereof, certify that in his  
2386 opinion the charge is well founded and the case a proper one for extradition, or in any case if the cost of  
2387 extradition is borne by the parties interested in the case, the person charged with having left the



2388 Commonwealth with the intention of evading the terms of his-~~or her~~ probation or of abandoning or  
2389 deserting his-~~or her~~ spouse, or his-~~or her~~ child or children, or failing to support them, shall be apprehended  
2390 and brought back to the county or city having jurisdiction of the case in accordance with the law providing  
2391 for the apprehension and return to the Commonwealth of fugitives from justice, and upon conviction  
2392 punished as hereinabove provided.

2393 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2394 **§ 20-87. Arrest for violating directions, rules or regulations given by judge.**

2395 Whenever the chief of police or sheriff becomes satisfied that such person is violating the  
2396 directions, rules or regulations given or prescribed by the judge for his-~~or her~~ conduct, such chief of police  
2397 or sheriff shall have authority to arrest such person after a proper *capias* or warrant has been issued for  
2398 such person and forthwith carry him before the court before whom he-~~or she~~ was first brought.

2399 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2400 **§ 20-107.1. Court may decree as to maintenance and support of spouses.**

2401 A. Pursuant to any proceeding arising under subsection L of § 16.1-241 or upon the entry of a  
2402 decree providing (i) for the dissolution of a marriage, (ii) for a divorce, whether from the bond of  
2403 matrimony or from bed and board, (iii) that neither party is entitled to a divorce, or (iv) for separate  
2404 maintenance, the court may make such further decree as it shall deem expedient concerning the  
2405 maintenance and support of the spouses, notwithstanding a party's failure to prove his grounds for divorce,  
2406 provided that a claim for support has been properly pled by the party seeking support. However, the court  
2407 shall have no authority to decree maintenance and support payable by the estate of a deceased spouse.

2408 B. Any maintenance and support shall be subject to the provisions of § 20-109, and no permanent  
2409 maintenance and support shall be awarded from a spouse if there exists in such spouse's favor a ground of  
2410 divorce under the provisions of subdivision A (1) of § 20-91. However, the court may make such an award  
2411 notwithstanding the existence of such ground if the court determines from clear and convincing evidence,  
2412 that a denial of support and maintenance would constitute a manifest injustice, based upon the respective  
2413 degrees of fault during the marriage and the relative economic circumstances of the parties.

2414 C. The court, in its discretion, may decree that maintenance and support of a spouse be made in  
2415 periodic payments for a defined duration, or in periodic payments for an undefined duration, or in a lump  
2416 sum award, or in any combination thereof.

2417 D. In addition to or in lieu of an award pursuant to subsection C, the court may reserve the right  
2418 of a party to receive support in the future. In any case in which the right to support is so reserved, there  
2419 shall be a rebuttable presumption that the reservation will continue for a period equal to 50 percent of the  
2420 length of time between the date of the marriage and the date of separation. Once granted, the duration of  
2421 such a reservation shall not be subject to modification.

2422 E. The court, in determining whether to award support and maintenance for a spouse, shall consider  
2423 the circumstances and factors which contributed to the dissolution of the marriage, specifically including  
2424 adultery and any other ground for divorce under the provisions of subdivision A (3) or (6) of § 20-91 or §  
2425 20-95. In determining the nature, amount and duration of an award pursuant to this section, the court shall  
2426 consider the following:

- 2427 1. The obligations, needs and financial resources of the parties, including but not limited to income  
2428 from all pension, profit sharing or retirement plans, of whatever nature;
- 2429 2. The standard of living established during the marriage;
- 2430 3. The duration of the marriage;
- 2431 4. The age and physical and mental condition of the parties and any special circumstances of the  
2432 family;
- 2433 5. The extent to which the age, physical or mental condition or special circumstances of any child  
2434 of the parties would make it appropriate that a party not seek employment outside of the home;
- 2435 6. The contributions, monetary and nonmonetary, of each party to the well-being of the family;
- 2436 7. The property interests of the parties, both real and personal, tangible and intangible;
- 2437 8. The provisions made with regard to the marital property under § 20-107.3;
- 2438 9. The earning capacity, including the skills, education and training of the parties and the present  
2439 employment opportunities for persons possessing such earning capacity;

2440 10. The opportunity for, ability of, and the time and costs involved for a party to acquire the  
2441 appropriate education, training and employment to obtain the skills needed to enhance his-~~or her~~ earning  
2442 ability;

2443 11. The decisions regarding employment, career, economics, education and parenting  
2444 arrangements made by the parties during the marriage and their effect on present and future earning  
2445 potential, including the length of time one or both of the parties have been absent from the job market;

2446 12. The extent to which either party has contributed to the attainment of education, training, career  
2447 position or profession of the other party; and

2448 13. Such other factors, including the tax consequences to each party and the circumstances and  
2449 factors that contributed to the dissolution, specifically including any ground for divorce, as are necessary  
2450 to consider the equities between the parties.

2451 F. In contested cases in the circuit courts, any order granting, reserving or denying a request for  
2452 spousal support shall be accompanied by written findings and conclusions of the court identifying the  
2453 factors in subsection E which support the court's order. If the court awards periodic support for a defined  
2454 duration, such findings shall identify the basis for the nature, amount and duration of the award and, if  
2455 appropriate, a specification of the events and circumstances reasonably contemplated by the court which  
2456 support the award.

2457 G. For purposes of this section and § 20-109, "date of separation" means the earliest date at which  
2458 the parties are physically separated and at least one party intends such separation to be permanent provided  
2459 the separation is continuous thereafter and "defined duration" means a period of time (i) with a specific  
2460 beginning and ending date or (ii) specified in relation to the occurrence or cessation of an event or  
2461 condition other than death or termination pursuant to § 20-110.

2462 H. Where there are no minor children whom the parties have a mutual duty to support, an order  
2463 directing the payment of spousal support, including those orders confirming separation agreements,  
2464 entered on or after October 1, 1985, whether they are original orders or modifications of existing orders,  
2465 shall contain the following:

2466 1. If known, the name, date of birth and social security number of each party and, unless otherwise  
2467 ordered, each party's residential and, if different, mailing address, residential and employer telephone  
2468 number, driver's license number, and the name and address of his employer; however, when a protective  
2469 order has been issued or the court otherwise finds reason to believe that a party is at risk of physical or  
2470 emotional harm from the other party, information other than the name of the party at risk shall not be  
2471 included in the order;

2472 2. The amount of periodic spousal support expressed in fixed sums, together with the payment  
2473 interval, the date payments are due, and the date the first payment is due;

2474 3. A statement as to whether there is an order for health care coverage for a party;

2475 4. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the arrearage,  
2476 (ii) the period of time for which such arrearage is calculated, and (iii) a direction that all payments are to  
2477 be credited to current spousal support obligations first, with any payment in excess of the current  
2478 obligation applied to arrearages;

2479 5. If spousal support payments are ordered to be paid directly to the obligee, and unless the court  
2480 for good cause shown orders otherwise, the parties shall give each other and the court at least 30 days'  
2481 written notice, in advance, of any change of address and any change of telephone number within 30 days  
2482 after the change; and

2483 6. Notice that in determination of a spousal support obligation, the support obligation as it becomes  
2484 due and unpaid creates a judgment by operation of law.

2485 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2486 **§ 20-108.2. Guideline for determination of child support; quadrennial review by Child**  
2487 **Support Guidelines Review Panel; executive summary.**

2488 A. There shall be a rebuttable presumption in any judicial or administrative proceeding for child  
2489 support under this title or Title 16.1 or 63.2, including cases involving split custody or shared custody,  
2490 that the amount of the award which would result from the application of the guidelines set forth in this  
2491 section is the correct amount of child support to be awarded. In order to rebut the presumption, the court  
2492 shall make written findings in the order as set out in § 20-108.1, which findings may be incorporated by

2493 reference, that the application of the guidelines would be unjust or inappropriate in a particular case as  
2494 determined by relevant evidence pertaining to the factors set out in § 20-108.1. The Department of Social  
2495 Services shall set child support at the amount resulting from computations using the guidelines set out in  
2496 this section pursuant to the authority granted to it in Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and  
2497 subject to the provisions of § 63.2-1918.

2498 B. For purposes of application of the guideline, a basic child support obligation shall be computed  
2499 using the schedule set out below. For combined monthly gross income amounts falling between amounts  
2500 shown in the schedule, basic child support obligation amounts shall be extrapolated. However, unless one  
2501 of the following exemptions applies where the sole custody child support obligation as computed pursuant  
2502 to subdivision G 1 is less than the statutory minimum per month, there shall be a presumptive minimum  
2503 child support obligation of the statutory minimum per month payable by the payor parent. If the gross  
2504 income of the obligor is equal to or less than 150 percent of the federal poverty level promulgated by the  
2505 U.S. Department of Health and Human Services from time to time, then the court, upon hearing evidence  
2506 that there is no ability to pay the presumptive statutory minimum, may set an obligation below the  
2507 presumptive statutory minimum provided doing so does not create or reduce a support obligation to an  
2508 amount which seriously impairs the custodial parent's ability to maintain minimal adequate housing and  
2509 provide other basic necessities for the child. Exemptions from this presumptive minimum monthly child  
2510 support obligation shall include: parents unable to pay child support because they lack sufficient assets  
2511 from which to pay child support and who, in addition, are institutionalized in a psychiatric facility; are  
2512 imprisoned for life with no chance of parole; are medically verified to be totally and permanently disabled  
2513 with no evidence of potential for paying child support, including recipients of Supplemental Security  
2514 Income (SSI); or are otherwise involuntarily unable to produce income. "Number of children" means the  
2515 number of children for whom the parents share joint legal responsibility and for whom support is being  
2516 sought.

2517 SCHEDULE OF MONTHLY BASIC CHILD SUPPORT OBLIGATIONS

<b>a</b>	<b>COMBINED</b>						
<b>b</b>	<b>MONTHLY</b>						
<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
e	0-350	68	104	126	141	155	169
f	400	78	119	144	161	177	192
g	450	88	133	162	181	199	216
h	500	97	148	179	200	220	239
i	550	107	162	197	220	242	263
j	600	116	177	215	240	264	287
k	650	126	191	232	259	285	310
l	700	135	206	250	279	307	333
m	750	145	220	267	298	328	357
n	800	154	234	284	317	349	379
o	850	163	248	300	336	369	401
p	900	171	260	316	353	388	422
q	950	179	273	331	369	406	442
r	1000	187	285	346	386	425	462
s	1050	196	298	361	403	443	482
t	1100	204	310	375	419	461	501
u	1150	212	323	390	436	480	521
v	1200	220	335	405	453	498	541
w	1250	228	347	420	469	516	561
x	1300	237	360	435	486	535	581
y	1350	245	372	450	503	553	601
z	1400	253	385	465	519	571	621
aa	1450	261	397	480	536	589	641
ab	1500	269	410	495	552	608	661
ac	1550	278	422	509	569	626	680
ad	1600	286	434	524	585	644	700
ae	1650	293	446	538	601	661	718
af	1700	301	457	552	616	678	737
ag	1750	309	469	566	632	695	756
ah	1800	316	481	579	647	712	774
ai	1850	324	492	593	663	729	792
aj	1900	331	504	607	678	746	811
ak	1950	339	515	621	693	763	829
al	2000	347	527	635	709	780	848
am	2050	354	538	648	724	797	866
an	2100	362	550	662	740	814	884
ao	2150	369	561	676	755	830	903

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
ap	2200	377	573	690	770	847	921
aq	2250	385	584	703	786	864	940
ar	2300	392	596	717	801	881	958
as	2350	400	607	731	817	898	976
at	2400	407	619	745	832	915	995
au	2450	415	630	759	847	932	1013
av	2500	423	642	772	863	949	1032
aw	2550	430	653	786	878	966	1050
ax	2600	438	665	800	894	983	1068
ay	2650	445	676	814	909	1000	1087
az	2700	453	688	828	924	1017	1105
ba	2750	460	699	841	940	1034	1124
bb	2800	468	711	855	955	1051	1142
bc	2850	476	722	869	971	1068	1160
bd	2900	483	734	883	986	1084	1179
be	2950	491	745	896	1001	1101	1197
bf	3000	498	757	910	1017	1118	1216
bg	3050	506	768	924	1032	1135	1234
bh	3100	514	780	938	1047	1152	1252
bi	3150	521	791	952	1063	1169	1271
bj	3200	529	803	965	1078	1186	1289
bk	3250	536	814	979	1094	1203	1308
bl	3300	544	826	993	1109	1220	1326
bm	3350	551	837	1006	1123	1236	1343
bn	3400	559	848	1019	1138	1252	1361
bo	3450	566	859	1032	1152	1268	1378
bp	3500	574	870	1045	1167	1283	1395
bq	3550	581	881	1057	1181	1299	1412
br	3600	588	892	1070	1196	1315	1430
bs	3650	596	903	1083	1210	1331	1447
bt	3700	603	914	1096	1224	1347	1464
bu	3750	611	925	1109	1239	1363	1481
bv	3800	618	936	1122	1253	1379	1499
bw	3850	626	947	1135	1268	1395	1516
bx	3900	632	956	1146	1280	1408	1531
by	3950	638	966	1157	1293	1422	1546
bz	4000	645	975	1168	1305	1436	1561

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
ca	4050	651	985	1180	1318	1449	1575
cb	4100	658	994	1191	1330	1463	1590
cc	4150	664	1004	1202	1342	1477	1605
cd	4200	670	1013	1213	1355	1490	1620
ce	4250	677	1023	1224	1367	1504	1635
cf	4300	682	1030	1233	1377	1515	1647
cg	4350	687	1038	1242	1387	1526	1658
ch	4400	693	1046	1251	1397	1537	1670
ci	4450	698	1054	1260	1407	1548	1682
cj	4500	704	1062	1268	1417	1559	1694
ck	4550	709	1069	1277	1427	1569	1706
cl	4600	714	1077	1286	1437	1580	1718
cm	4650	720	1085	1295	1447	1591	1730
cn	4700	725	1093	1304	1457	1602	1742
co	4750	731	1100	1313	1466	1613	1753
cp	4800	736	1108	1322	1476	1624	1765
cq	4850	741	1116	1331	1486	1635	1777
cr	4900	747	1124	1339	1496	1646	1789
cs	4950	752	1131	1348	1506	1656	1800
ct	5000	755	1136	1353	1511	1662	1807
cu	5050	759	1141	1358	1516	1668	1813
cv	5100	762	1145	1362	1522	1674	1820
cw	5150	766	1150	1367	1527	1680	1826
cx	5200	769	1155	1372	1533	1686	1833
cy	5250	773	1159	1377	1538	1692	1839
cz	5300	776	1164	1382	1544	1698	1846
da	5350	780	1169	1387	1549	1704	1852
db	5400	783	1173	1392	1554	1710	1859
dc	5450	787	1178	1397	1560	1716	1865
dd	5500	790	1183	1401	1565	1722	1872
de	5550	794	1187	1406	1571	1728	1878
df	5600	797	1192	1411	1576	1734	1885
dg	5650	800	1196	1416	1582	1740	1891
dh	5700	803	1201	1421	1587	1746	1897
di	5750	806	1205	1425	1592	1751	1904
dj	5800	809	1209	1430	1598	1757	1910
dk	5850	812	1213	1435	1603	1763	1917



**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
dl	5900	815	1217	1440	1608	1769	1923
dm	5950	818	1221	1444	1613	1775	1929
dn	6000	821	1226	1449	1619	1781	1936
do	6050	823	1230	1454	1624	1787	1942
dp	6100	826	1234	1459	1629	1792	1948
dq	6150	829	1238	1464	1635	1798	1955
dr	6200	832	1242	1468	1640	1804	1961
ds	6250	835	1246	1473	1645	1810	1967
dt	6300	838	1251	1478	1651	1816	1974
du	6350	841	1255	1483	1656	1822	1980
dv	6400	844	1259	1487	1661	1827	1986
dw	6450	847	1263	1492	1667	1833	1993
dx	6500	849	1267	1497	1672	1839	1999
dy	6550	852	1271	1502	1677	1845	2005
dz	6600	855	1276	1506	1683	1851	2012
ea	6650	858	1280	1511	1688	1857	2018
eb	6700	861	1285	1517	1694	1864	2026
ec	6750	865	1291	1524	1703	1873	2036
ed	6800	869	1297	1532	1711	1882	2046
ee	6850	873	1303	1539	1719	1891	2056
ef	6900	877	1309	1547	1728	1900	2066
eg	6950	881	1315	1554	1736	1909	2076
eh	7000	885	1321	1561	1744	1919	2085
ei	7050	889	1328	1569	1752	1928	2095
ej	7100	893	1334	1576	1761	1937	2105
ek	7150	897	1340	1584	1769	1946	2115
el	7200	901	1346	1591	1777	1955	2125
em	7250	905	1352	1599	1786	1964	2135
en	7300	909	1358	1606	1794	1973	2145
eo	7350	913	1364	1613	1802	1982	2155
ep	7400	917	1370	1621	1810	1991	2165
eq	7450	921	1376	1628	1819	2001	2175
er	7500	925	1382	1636	1827	2010	2185
es	7550	929	1389	1643	1835	2019	2194
et	7600	933	1395	1650	1844	2028	2204
eu	7650	937	1401	1658	1852	2037	2214
ev	7700	941	1407	1665	1860	2046	2224

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
ew	7750	944	1411	1670	1865	2051	2230
ex	7800	946	1413	1672	1867	2054	2233
ey	7850	948	1416	1674	1870	2057	2236
ez	7900	950	1419	1676	1873	2060	2239
fa	7950	953	1421	1679	1875	2063	2242
fb	8000	955	1424	1681	1878	2065	2245
fc	8050	957	1426	1683	1880	2068	2248
fd	8100	959	1429	1685	1883	2071	2251
fe	8150	961	1432	1688	1885	2074	2254
ff	8200	963	1434	1690	1888	2076	2257
fg	8250	965	1436	1692	1890	2079	2260
fh	8300	967	1439	1694	1892	2082	2263
fi	8350	969	1441	1696	1895	2084	2266
fj	8400	971	1444	1699	1897	2087	2269
fk	8450	973	1446	1701	1899	2089	2271
fl	8500	974	1447	1702	1901	2091	2273
fm	8550	975	1449	1704	1903	2093	2276
fn	8600	976	1450	1705	1905	2096	2278
fo	8650	977	1452	1707	1907	2098	2280
fp	8700	978	1453	1709	1909	2100	2282
fq	8750	979	1455	1710	1911	2102	2284
fr	8800	980	1456	1712	1912	2104	2287
fs	8850	981	1457	1714	1914	2106	2289
ft	8900	982	1459	1715	1916	2108	2291
fu	8950	983	1460	1717	1918	2110	2293
fv	9000	984	1462	1719	1920	2112	2295
fw	9050	985	1463	1720	1922	2114	2298
fx	9100	986	1465	1722	1923	2116	2300
fy	9150	987	1466	1724	1925	2118	2302
fz	9200	991	1471	1730	1932	2125	2310
ga	9250	994	1477	1737	1940	2134	2319
gb	9300	998	1483	1743	1947	2142	2328
gc	9350	1002	1488	1750	1955	2150	2337
gd	9400	1005	1494	1757	1962	2159	2346
ge	9450	1009	1499	1764	1970	2167	2355
gf	9500	1013	1505	1771	1978	2176	2365
gg	9550	1017	1511	1778	1986	2185	2375

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
gh	9600	1021	1518	1786	1995	2194	2385
gi	9650	1025	1524	1793	2003	2203	2395
gj	9700	1029	1530	1801	2011	2212	2405
gk	9750	1033	1536	1808	2020	2222	2415
gl	9800	1037	1543	1816	2028	2231	2425
gm	9850	1041	1549	1823	2036	2240	2435
gn	9900	1046	1555	1831	2045	2249	2445
go	9950	1050	1561	1838	2053	2258	2455
gp	10000	1054	1567	1845	2061	2268	2465
gq	10050	1058	1574	1853	2070	2277	2475
gr	10100	1062	1580	1860	2078	2286	2485
gs	10150	1066	1586	1868	2086	2295	2495
gt	10200	1070	1592	1875	2095	2304	2505
gu	10250	1074	1599	1883	2103	2314	2515
gv	10300	1079	1605	1891	2112	2323	2525
gw	10350	1083	1611	1898	2121	2333	2536
gx	10400	1087	1618	1906	2129	2342	2546
gy	10450	1091	1624	1914	2138	2351	2556
gz	10500	1095	1631	1921	2146	2361	2566
ha	10550	1100	1637	1929	2155	2370	2576
hb	10600	1104	1643	1937	2163	2380	2587
hc	10650	1108	1650	1944	2172	2389	2597
hd	10700	1112	1656	1952	2180	2398	2607
he	10750	1117	1662	1960	2189	2408	2617
hf	10800	1121	1669	1967	2197	2417	2627
hg	10850	1125	1675	1975	2206	2427	2638
hh	10900	1129	1682	1983	2214	2436	2648
hi	10950	1134	1688	1990	2223	2445	2658
hj	11000	1138	1694	1998	2232	2455	2668
hk	11050	1142	1701	2005	2240	2464	2678
hl	11100	1146	1707	2013	2249	2474	2689
hm	11150	1150	1714	2021	2257	2483	2699
hn	11200	1154	1718	2026	2263	2489	2706
ho	11250	1157	1722	2030	2267	2494	2711
hp	11300	1159	1726	2034	2272	2499	2717
hq	11350	1162	1730	2038	2276	2504	2722
hr	11400	1165	1733	2042	2281	2509	2727

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
hs	11450	1168	1737	2046	2285	2514	2733
ht	11500	1171	1741	2050	2290	2519	2738
hu	11550	1173	1745	2054	2294	2524	2743
hv	11600	1176	1749	2058	2299	2529	2749
hw	11650	1179	1752	2062	2303	2534	2754
hx	11700	1182	1756	2066	2308	2538	2759
hy	11750	1185	1760	2070	2312	2543	2765
hz	11800	1187	1764	2074	2317	2548	2770
ia	11850	1190	1768	2078	2321	2553	2775
ib	11900	1193	1771	2082	2326	2558	2781
ic	11950	1196	1775	2086	2330	2563	2786
id	12000	1199	1779	2090	2335	2568	2791
ie	12050	1201	1783	2094	2339	2573	2797
if	12100	1204	1787	2098	2344	2578	2802
ig	12150	1207	1790	2102	2348	2583	2808
ih	12200	1210	1795	2107	2354	2589	2815
ii	12250	1213	1800	2113	2360	2596	2822
ij	12300	1216	1804	2118	2366	2603	2829
ik	12350	1220	1809	2124	2372	2610	2837
il	12400	1223	1814	2129	2378	2616	2844
im	12450	1226	1818	2135	2384	2623	2851
in	12500	1229	1823	2140	2391	2630	2858
io	12550	1232	1828	2146	2397	2636	2866
ip	12600	1235	1832	2151	2403	2643	2873
iq	12650	1239	1837	2157	2409	2650	2880
ir	12700	1242	1842	2162	2415	2657	2888
is	12750	1245	1846	2168	2421	2663	2895
it	12800	1248	1851	2173	2427	2670	2902
iu	12850	1251	1856	2178	2433	2677	2910
iv	12900	1254	1860	2184	2439	2683	2917
iw	12950	1257	1865	2189	2446	2690	2924
ix	13000	1261	1870	2195	2452	2697	2931
iy	13050	1264	1874	2200	2458	2704	2939
iz	13100	1267	1879	2206	2464	2710	2946
ja	13150	1270	1884	2211	2470	2717	2953
jb	13200	1273	1888	2217	2476	2724	2961
jc	13250	1276	1893	2222	2482	2730	2968

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
jd	13300	1279	1898	2228	2488	2737	2975
je	13350	1283	1902	2233	2494	2744	2983
jf	13400	1286	1907	2239	2501	2751	2990
jg	13450	1289	1912	2244	2507	2757	2997
jh	13500	1292	1916	2250	2513	2764	3005
ji	13550	1295	1921	2256	2520	2772	3013
jj	13600	1297	1925	2262	2526	2779	3021
jk	13650	1300	1930	2268	2533	2786	3029
jl	13700	1303	1935	2274	2540	2794	3037
jm	13750	1306	1939	2280	2546	2801	3045
jn	13800	1308	1944	2286	2553	2808	3053
jo	13850	1311	1948	2292	2560	2816	3061
jp	13900	1314	1953	2298	2566	2823	3069
jq	13950	1317	1957	2304	2573	2830	3077
jr	14000	1320	1962	2310	2580	2838	3085
js	14050	1322	1967	2316	2586	2845	3093
jt	14100	1325	1971	2322	2593	2852	3101
ju	14150	1328	1976	2328	2600	2860	3109
jv	14200	1331	1980	2333	2607	2867	3117
jw	14250	1334	1985	2339	2613	2875	3125
jx	14300	1336	1990	2345	2620	2882	3133
jy	14350	1339	1994	2351	2627	2889	3141
jz	14400	1342	1999	2357	2633	2897	3149
ka	14450	1345	2003	2363	2640	2904	3157
kb	14500	1347	2008	2369	2647	2911	3164
kc	14550	1350	2013	2375	2653	2919	3172
kd	14600	1353	2017	2381	2660	2926	3180
ke	14650	1356	2022	2387	2667	2933	3188
kf	14700	1359	2026	2393	2673	2941	3196
kg	14750	1361	2031	2399	2680	2948	3204
kh	14800	1364	2036	2405	2686	2955	3212
ki	14850	1368	2040	2410	2692	2961	3219
kj	14900	1371	2045	2415	2698	2967	3226
kk	14950	1375	2050	2420	2703	2974	3232
kl	15000	1378	2055	2425	2709	2980	3239
km	15050	1382	2059	2430	2714	2986	3246
kn	15100	1385	2064	2435	2720	2992	3252

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
ko	15150	1389	2069	2440	2726	2998	3259
kp	15200	1392	2074	2445	2731	3004	3266
kq	15250	1396	2078	2450	2737	3010	3272
kr	15300	1400	2083	2455	2742	3017	3279
ks	15350	1403	2088	2460	2748	3023	3286
kt	15400	1407	2093	2465	2754	3029	3292
ku	15450	1410	2098	2470	2759	3035	3299
15500	1414	2102	2475	2765	3041	3306	
kw	15550	1417	2107	2480	2770	3047	3312
kx	15600	1421	2112	2485	2776	3053	3319
ky	15650	1424	2117	2490	2781	3060	3326
kz	15700	1428	2121	2495	2787	3066	3333
la	15750	1431	2126	2500	2793	3072	3339
lb	15800	1435	2131	2505	2798	3078	3346
lc	15850	1438	2136	2510	2804	3084	3353
ld	15900	1442	2140	2515	2809	3090	3359
le	15950	1445	2145	2520	2815	3097	3366
lf	16000	1449	2150	2525	2821	3103	3373
lg	16050	1453	2155	2530	2826	3109	3379
lh	16100	1456	2159	2535	2832	3115	3386
li	16150	1458	2162	2538	2835	3119	3390
lj	16200	1459	2164	2541	2838	3122	3394
lk	16250	1461	2167	2544	2841	3125	3397
ll	16300	1462	2169	2546	2844	3128	3401
lm	16350	1464	2171	2549	2847	3132	3404
ln	16400	1465	2173	2551	2850	3135	3408
lo	16450	1466	2175	2554	2853	3138	3411
lp	16500	1468	2177	2557	2856	3141	3415
lq	16550	1469	2179	2559	2859	3144	3418
lr	16600	1471	2182	2562	2862	3148	3422
ls	16650	1472	2184	2564	2864	3151	3425
lt	16700	1473	2186	2567	2867	3154	3428
lu	16750	1475	2188	2570	2870	3157	3432
lv	16800	1476	2190	2572	2873	3160	3435
lw	16850	1477	2192	2575	2876	3164	3439
lx	16900	1479	2194	2577	2879	3167	3442
ly	16950	1480	2196	2580	2882	3170	3446

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
lz	17000	1481	2198	2582	2885	3173	3449
ma	17050	1483	2200	2585	2887	3176	3452
mb	17100	1484	2203	2588	2890	3179	3456
mc	17150	1486	2205	2590	2893	3182	3459
md	17200	1487	2207	2593	2896	3186	3463
me	17250	1488	2209	2595	2899	3189	3466
mf	17300	1490	2211	2598	2902	3192	3470
mg	17350	1491	2213	2600	2905	3195	3473
mh	17400	1492	2215	2603	2907	3198	3476
mi	17450	1494	2217	2605	2910	3201	3480
mj	17500	1495	2219	2608	2913	3204	3483
mk	17550	1497	2222	2611	2916	3208	3487
ml	17600	1498	2224	2613	2919	3211	3490
mm	17650	1499	2226	2616	2922	3214	3494
mn	17700	1501	2228	2618	2925	3217	3497
mo	17750	1502	2230	2621	2928	3220	3500
mp	17800	1503	2232	2623	2930	3223	3504
mq	17850	1505	2234	2626	2933	3227	3507
mr	17900	1506	2236	2629	2936	3230	3511
ms	17950	1507	2238	2631	2939	3233	3514
mt	18000	1509	2240	2634	2942	3236	3518
mu	18050	1510	2243	2636	2945	3239	3521
mv	18100	1512	2245	2639	2948	3242	3524
mw	18150	1513	2247	2641	2950	3245	3528
mx	18200	1514	2249	2644	2953	3249	3531
my	18250	1516	2251	2647	2956	3252	3535
mz	18300	1517	2253	2649	2959	3255	3538
na	18350	1520	2256	2652	2963	3259	3542
nb	18400	1522	2259	2655	2966	3263	3547
nc	18450	1524	2262	2658	2970	3266	3551
nd	18500	1526	2265	2662	2973	3270	3555
ne	18550	1528	2268	2665	2976	3274	3559
nf	18600	1530	2271	2668	2980	3278	3563
ng	18650	1532	2274	2671	2983	3282	3567
nh	18700	1535	2277	2674	2987	3285	3571
ni	18750	1537	2280	2677	2990	3289	3575
nj	18800	1539	2283	2680	2994	3293	3579

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
nk	18850	1541	2285	2683	2997	3297	3584
nl	18900	1543	2288	2686	3000	3301	3588
nm	18950	1545	2291	2689	3004	3304	3592
nn	19000	1547	2294	2692	3007	3308	3596
no	19050	1550	2297	2695	3011	3312	3600
np	19100	1552	2300	2698	3014	3316	3604
nq	19150	1554	2303	2702	3018	3319	3608
nr	19200	1556	2306	2705	3021	3323	3612
ns	19250	1558	2309	2708	3025	3327	3616
nt	19300	1560	2312	2711	3028	3331	3621
nu	19350	1563	2315	2714	3031	3335	3625
nv	19400	1565	2318	2717	3035	3338	3629
nw	19450	1567	2320	2720	3038	3342	3633
nx	19500	1569	2323	2723	3042	3346	3637
ny	19550	1571	2326	2726	3045	3350	3641
nz	19600	1573	2329	2729	3049	3353	3645
oa	19650	1575	2332	2732	3052	3357	3649
ob	19700	1578	2335	2735	3055	3361	3653
oc	19750	1580	2338	2738	3059	3365	3658
od	19800	1582	2341	2742	3062	3369	3662
oe	19850	1584	2344	2745	3066	3372	3666
of	19900	1586	2347	2748	3069	3376	3670
og	19950	1588	2350	2751	3073	3380	3674
oh	20000	1591	2353	2754	3076	3384	3678
oi	20050	1593	2355	2757	3080	3387	3682
oj	20100	1595	2358	2760	3083	3391	3686
ok	20150	1597	2361	2763	3086	3395	3690
ol	20200	1599	2364	2766	3090	3399	3695
om	20250	1601	2367	2769	3093	3403	3699
on	20300	1603	2370	2772	3097	3406	3703
oo	20350	1606	2373	2775	3100	3410	3707
op	20400	1608	2376	2778	3104	3414	3711
oq	20450	1610	2379	2782	3107	3418	3715
or	20500	1612	2382	2785	3110	3421	3719
os	20550	1614	2385	2788	3114	3425	3723
ot	20600	1616	2388	2791	3117	3429	3727
ou	20650	1619	2390	2794	3121	3433	3731



**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
ov	20700	1621	2393	2797	3124	3437	3736
ow	20750	1623	2396	2800	3128	3440	3740
ox	20800	1625	2399	2803	3131	3444	3744
oy	20850	1627	2402	2806	3135	3448	3748
oz	20900	1629	2405	2809	3138	3452	3752
pa	20950	1631	2408	2812	3141	3456	3756
pb	21000	1634	2411	2815	3145	3459	3760
pc	21050	1636	2414	2818	3148	3463	3764
pd	21100	1638	2417	2822	3152	3467	3768
pe	21150	1640	2420	2825	3155	3471	3773
pf	21200	1642	2423	2828	3159	3474	3777
pg	21250	1644	2425	2831	3162	3478	3781
ph	21300	1647	2428	2834	3165	3482	3785
pi	21350	1649	2431	2837	3169	3486	3789
pj	21400	1651	2434	2840	3172	3490	3793
pk	21450	1653	2437	2843	3176	3493	3797
pl	21500	1655	2440	2846	3179	3497	3801
pm	21550	1657	2443	2849	3183	3501	3805
pn	21600	1659	2446	2853	3187	3506	3811
po	21650	1661	2449	2857	3191	3510	3816
pp	21700	1663	2452	2861	3195	3515	3821
pq	21750	1665	2455	2865	3200	3520	3826
pr	21800	1667	2458	2868	3204	3524	3831
ps	21850	1668	2461	2872	3208	3529	3836
pt	21900	1670	2464	2876	3213	3534	3841
pu	21950	1672	2467	2880	3217	3539	3846
pv	22000	1674	2470	2884	3221	3543	3852
pw	22050	1676	2473	2888	3225	3548	3857
px	22100	1678	2476	2891	3230	3553	3862
py	22150	1680	2479	2895	3234	3557	3867
pz	22200	1681	2482	2899	3238	3562	3872
qa	22250	1683	2485	2903	3243	3567	3877
qb	22300	1685	2488	2907	3247	3571	3882
qc	22350	1687	2491	2911	3251	3576	3887
qd	22400	1689	2494	2914	3255	3581	3892
qe	22450	1691	2497	2918	3260	3586	3898
qf	22500	1692	2500	2922	3264	3590	3903

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
qg	22550	1694	2503	2926	3268	3595	3908
qh	22600	1696	2506	2930	3272	3600	3913
qi	22650	1698	2509	2934	3277	3604	3918
qj	22700	1700	2512	2937	3281	3609	3923
qk	22750	1702	2515	2941	3285	3614	3928
ql	22800	1704	2518	2945	3290	3619	3933
qm	22850	1705	2521	2949	3294	3623	3938
qn	22900	1707	2524	2953	3298	3628	3944
qo	22950	1709	2527	2957	3302	3633	3949
qp	23000	1711	2530	2960	3307	3637	3954
qq	23050	1713	2533	2964	3311	3642	3959
qr	23100	1715	2536	2968	3315	3647	3964
qs	23150	1717	2539	2972	3320	3651	3969
qt	23200	1718	2542	2976	3324	3656	3974
qu	23250	1720	2545	2979	3328	3661	3979
qv	23300	1722	2548	2983	3332	3666	3984
qw	23350	1724	2551	2987	3337	3670	3990
qx	23400	1726	2554	2991	3341	3675	3995
qy	23450	1728	2557	2995	3345	3680	4000
qz	23500	1730	2560	2999	3349	3684	4005
ra	23550	1731	2563	3002	3354	3689	4010
rb	23600	1733	2566	3006	3358	3694	4015
rc	23650	1735	2569	3010	3362	3699	4020
rd	23700	1737	2572	3014	3367	3703	4025
re	23750	1739	2575	3018	3371	3708	4031
rf	23800	1741	2578	3022	3375	3713	4036
rg	23850	1742	2581	3025	3379	3717	4041
rh	23900	1744	2584	3029	3384	3722	4046
ri	23950	1746	2587	3033	3388	3727	4051
rj	24000	1748	2590	3037	3392	3731	4056
rk	24050	1750	2593	3041	3397	3736	4061
rl	24100	1752	2596	3045	3401	3741	4066
rm	24150	1754	2599	3048	3405	3746	4071
rn	24200	1755	2602	3052	3409	3750	4077
ro	24250	1757	2605	3056	3414	3755	4082
rp	24300	1759	2608	3060	3418	3760	4087
rq	24350	1761	2611	3064	3422	3764	4092

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
rr	24400	1763	2614	3068	3426	3769	4097
rs	24450	1765	2617	3071	3431	3774	4102
rt	24500	1767	2620	3075	3435	3779	4107
ru	24550	1768	2623	3079	3439	3783	4112
rv	24600	1770	2626	3083	3444	3788	4117
rw	24650	1772	2629	3087	3448	3793	4123
rx	24700	1774	2632	3091	3452	3797	4128
ry	24750	1776	2635	3094	3456	3802	4133
rz	24800	1778	2638	3098	3461	3807	4138
sa	24850	1780	2641	3102	3465	3811	4143
sb	24900	1781	2644	3106	3469	3816	4148
sc	24950	1783	2647	3110	3474	3821	4153
sd	25000	1785	2650	3114	3478	3826	4158
se	25050	1787	2653	3117	3482	3830	4163
sf	25100	1789	2656	3121	3486	3835	4169
sg	25150	1791	2659	3125	3491	3840	4174
sh	25200	1792	2662	3129	3495	3844	4179
si	25250	1794	2665	3133	3499	3849	4184
sj	25300	1796	2668	3136	3503	3854	4189
sk	25350	1798	2671	3140	3508	3858	4194
sl	25400	1800	2674	3144	3512	3863	4199
sm	25450	1802	2677	3148	3516	3868	4204
sn	25500	1804	2680	3152	3521	3873	4210
so	25550	1805	2682	3156	3525	3877	4215
sp	25600	1807	2685	3159	3529	3882	4220
sq	25650	1809	2688	3163	3533	3887	4225
sr	25700	1811	2691	3167	3538	3891	4230
ss	25750	1813	2694	3171	3542	3896	4235
st	25800	1815	2697	3175	3546	3901	4240
su	25850	1817	2700	3179	3550	3906	4245
sv	25900	1818	2703	3182	3555	3910	4250
sw	25950	1820	2706	3186	3559	3915	4256
sx	26000	1822	2709	3190	3563	3920	4261
sy	26050	1824	2712	3194	3568	3924	4266
sz	26100	1826	2715	3198	3572	3929	4271
ta	26150	1828	2718	3202	3576	3934	4276
tb	26200	1830	2721	3205	3580	3938	4281

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
tc	26250	1831	2724	3209	3585	3943	4286
td	26300	1833	2727	3213	3589	3948	4291
te	26350	1835	2730	3217	3593	3953	4296
tf	26400	1837	2733	3221	3598	3957	4302
tg	26450	1839	2736	3225	3602	3962	4307
th	26500	1841	2739	3228	3606	3967	4312
ti	26550	1842	2742	3232	3610	3971	4317
tj	26600	1844	2745	3236	3615	3976	4322
tk	26650	1846	2748	3240	3619	3981	4327
tl	26700	1848	2751	3244	3623	3986	4332
tm	26750	1850	2754	3248	3627	3990	4337
tn	26800	1852	2757	3251	3632	3995	4342
to	26850	1854	2760	3255	3636	4000	4348
tp	26900	1855	2763	3259	3640	4004	4353
tq	26950	1857	2766	3263	3645	4009	4358
tr	27000	1859	2769	3267	3649	4014	4363
ts	27050	1861	2772	3270	3653	4018	4368
tt	27100	1863	2775	3274	3657	4023	4373
tu	27150	1865	2778	3278	3662	4028	4378
tv	27200	1867	2781	3282	3666	4033	4383
tw	27250	1868	2784	3286	3670	4037	4389
tx	27300	1870	2787	3290	3675	4042	4394
ty	27350	1872	2790	3293	3679	4047	4399
tz	27400	1874	2793	3297	3683	4051	4404
ua	27450	1876	2796	3301	3687	4056	4409
ub	27500	1878	2799	3305	3692	4061	4414
uc	27550	1880	2802	3309	3696	4066	4419
ud	27600	1881	2805	3313	3700	4070	4424
ue	27650	1883	2808	3316	3704	4075	4429
uf	27700	1885	2811	3320	3709	4080	4435
ug	27750	1887	2814	3324	3713	4084	4440
uh	27800	1889	2817	3328	3717	4089	4445
ui	27850	1891	2820	3332	3722	4094	4450
uj	27900	1892	2823	3336	3726	4098	4455
uk	27950	1894	2826	3339	3730	4103	4460
ul	28000	1896	2829	3343	3734	4108	4465
um	28050	1898	2832	3347	3739	4113	4470

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
un	28100	1899	2833	3348	3740	4114	4472
uo	28150	1900	2834	3349	3741	4115	4473
up	28200	1900	2835	3349	3741	4115	4473
uq	28250	1901	2836	3350	3742	4116	4474
ur	28300	1902	2836	3350	3742	4116	4474
us	28350	1902	2837	3351	3743	4117	4475
ut	28400	1903	2838	3351	3743	4117	4476
uu	28450	1904	2838	3351	3744	4118	4476
uv	28500	1904	2839	3352	3744	4118	4477
uw	28550	1905	2840	3352	3745	4119	4477
ux	28600	1906	2840	3353	3745	4120	4478
uy	28650	1906	2841	3353	3745	4120	4478
uz	28700	1907	2842	3354	3746	4121	4479
va	28750	1908	2842	3354	3746	4121	4480
vb	28800	1908	2843	3354	3747	4122	4480
vc	28850	1909	2844	3355	3747	4122	4481
vd	28900	1909	2844	3355	3748	4123	4481
ve	28950	1910	2845	3356	3748	4123	4482
vf	29000	1911	2846	3356	3749	4124	4483
vg	29050	1911	2846	3357	3749	4124	4483
vh	29100	1912	2847	3357	3750	4125	4484
vi	29150	1913	2848	3358	3750	4125	4484
vj	29200	1913	2848	3358	3751	4126	4485
vk	29250	1914	2849	3358	3751	4126	4485
vl	29300	1915	2850	3359	3752	4127	4486
vm	29350	1915	2850	3359	3752	4128	4487
vn	29400	1916	2851	3360	3753	4128	4487
vo	29450	1917	2852	3360	3753	4129	4488
vp	29500	1917	2852	3361	3754	4129	4488
vq	29550	1918	2853	3361	3754	4130	4489
vr	29600	1919	2854	3361	3755	4130	4490
vs	29650	1919	2855	3362	3755	4131	4490
vt	29700	1920	2855	3362	3756	4131	4491
vu	29750	1921	2856	3363	3756	4132	4491
vv	29800	1921	2857	3363	3757	4132	4492
vw	29850	1922	2857	3364	3757	4133	4492
vx	29900	1923	2858	3364	3758	4133	4493

**a COMBINED****b MONTHLY**

<b>c GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
vy 29950	1923	2859	3365	3758	4134	4494
vz 30000	1924	2859	3365	3759	4135	4494
wa 30050	1925	2860	3365	3759	4135	4495
wb 30100	1925	2861	3366	3760	4136	4495
wc 30150	1926	2861	3366	3760	4136	4496
wd 30200	1926	2862	3367	3761	4137	4497
we 30250	1927	2863	3367	3761	4137	4497
wf 30300	1928	2863	3368	3762	4138	4498
wg 30350	1928	2864	3368	3762	4138	4498
wh 30400	1929	2865	3368	3763	4139	4499
wi 30450	1930	2865	3369	3763	4139	4499
wj 30500	1930	2866	3369	3764	4140	4500
wk 30550	1931	2867	3370	3764	4140	4501
wl 30600	1932	2867	3370	3765	4141	4501
wm 30650	1932	2868	3371	3765	4141	4502
wn 30700	1933	2869	3371	3765	4142	4502
wo 30750	1934	2869	3371	3766	4143	4503
wp 30800	1934	2870	3372	3766	4143	4504
wq 30850	1935	2871	3372	3767	4144	4504
wr 30900	1936	2871	3373	3767	4144	4505
ws 30950	1936	2872	3373	3768	4145	4505
wt 31000	1937	2873	3374	3768	4145	4506
wu 31050	1938	2874	3374	3769	4146	4506
wv 31100	1938	2874	3375	3769	4146	4507
ww 31150	1939	2875	3375	3770	4147	4508
wx 31200	1940	2876	3375	3770	4147	4508
wy 31250	1940	2876	3376	3771	4148	4509
wz 31300	1941	2877	3376	3771	4148	4509
xa 31350	1942	2878	3377	3772	4149	4510
xb 31400	1942	2878	3377	3772	4150	4511
xc 31450	1943	2879	3378	3773	4150	4511
xd 31500	1943	2880	3378	3773	4151	4512
xe 31550	1944	2880	3378	3774	4151	4512
xf 31600	1945	2881	3379	3774	4152	4513
xg 31650	1945	2882	3379	3775	4152	4513
xh 31700	1946	2882	3380	3775	4153	4514
xi 31750	1947	2883	3380	3776	4153	4515

**a COMBINED****b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
xj	31800	1947	2884	3381	3776	4154	4515
xk	31850	1948	2884	3381	3777	4154	4516
xl	31900	1949	2885	3382	3777	4155	4516
xm	31950	1949	2886	3382	3778	4155	4517
xn	32000	1950	2886	3382	3778	4156	4518
xo	32050	1951	2887	3383	3779	4156	4518
xp	32100	1951	2888	3383	3779	4157	4519
xq	32150	1952	2888	3384	3780	4158	4519
xr	32200	1953	2889	3384	3780	4158	4520
xs	32250	1953	2890	3385	3781	4159	4520
xt	32300	1954	2890	3385	3781	4159	4521
xu	32350	1955	2891	3385	3782	4160	4522
xv	32400	1955	2892	3386	3782	4160	4522
xw	32450	1956	2893	3386	3783	4161	4523
xx	32500	1957	2893	3387	3783	4161	4523
xy	32550	1957	2894	3387	3784	4162	4524
xz	32600	1958	2895	3388	3784	4162	4525
ya	32650	1959	2895	3388	3784	4163	4525
yb	32700	1959	2896	3389	3785	4163	4526
yc	32750	1960	2897	3389	3785	4164	4526
yd	32800	1960	2897	3389	3786	4165	4527
ye	32850	1961	2898	3390	3786	4165	4527
yf	32900	1962	2899	3390	3787	4166	4528
yg	32950	1962	2899	3391	3787	4166	4529
yh	33000	1963	2900	3391	3788	4167	4529
yi	33050	1964	2901	3392	3788	4167	4530
yj	33100	1964	2901	3392	3789	4168	4530
yk	33150	1965	2902	3392	3789	4168	4531
yl	33200	1966	2903	3393	3790	4169	4532
ym	33250	1966	2903	3393	3790	4169	4532
yn	33300	1967	2904	3394	3791	4170	4533
yo	33350	1968	2905	3394	3791	4170	4533
yp	33400	1968	2905	3395	3792	4171	4534
yq	33450	1969	2906	3395	3792	4172	4534
yr	33500	1970	2907	3395	3793	4172	4535
ys	33550	1970	2907	3396	3793	4173	4536
yt	33600	1971	2908	3396	3794	4173	4536

**a COMBINED**

**b MONTHLY**

<b>c</b>	<b>GROSS</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>d</b>	<b>INCOME</b>	<b>CHILD</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
yu	33650	1972	2909	3397	3794	4174	4537
yv	33700	1972	2909	3397	3795	4174	4537
yw	33750	1973	2910	3398	3795	4175	4538
yx	33800	1974	2911	3398	3796	4175	4539
yy	33850	1974	2912	3399	3796	4176	4539
yz	33900	1975	2912	3399	3797	4176	4540
za	33950	1976	2913	3399	3797	4177	4540
zb	34000	1976	2914	3400	3798	4177	4541
zc	34050	1977	2914	3400	3798	4178	4541
zd	34100	1977	2915	3401	3799	4178	4542
ze	34150	1978	2916	3401	3799	4179	4543
zf	34200	1979	2916	3402	3800	4179	4543
zg	34250	1979	2917	3402	3800	4180	4544
zh	34300	1980	2917	3402	3800	4181	4544
zi	34350	1981	2918	3403	3801	4181	4545
zj	34400	1981	2919	3403	3801	4182	4545
zk	34450	1982	2919	3404	3802	4182	4546
zl	34500	1983	2920	3404	3802	4183	4546
zm	34550	1983	2921	3405	3803	4183	4547
zn	34600	1984	2921	3405	3803	4184	4548
zo	34650	1984	2922	3405	3804	4184	4548
zp	34700	1985	2923	3406	3804	4185	4549
zq	34750	1986	2923	3406	3805	4185	4549
zr	34800	1986	2924	3407	3805	4186	4550
zs	34850	1987	2925	3407	3806	4186	4550
zt	34900	1988	2925	3407	3806	4187	4551
zu	34950	1988	2926	3408	3807	4187	4552
zv	35000	1989	2927	3408	3807	4188	4552

**2518** For gross monthly incomes above \$35,000, add the amount of child support for \$35,000 to the  
**2519** following percentages of gross income above \$35,000.

<b>a</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
<b>b</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>	<b>CHILDREN</b>
<b>c</b>	2.6%	3.4%	3.8%	4.2%	4.6%	5.0%

**2520** C. For purposes of this section, "gross income" means all income from all sources, and shall  
**2521** include, but not be limited to, income from salaries, wages, commissions, royalties, bonuses, dividends,



2522 severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits except as  
2523 listed below, workers' compensation benefits, unemployment insurance benefits, disability insurance  
2524 benefits, veterans' benefits, spousal support, rental income, gifts, prizes or awards.

2525 If a parent's gross income includes disability insurance benefits, it shall also include any amounts  
2526 paid to or for the child who is the subject of the order and derived by the child from the parent's entitlement  
2527 to disability insurance benefits. To the extent that such derivative benefits are included in a parent's gross  
2528 income, that parent shall be entitled to a credit against his ~~or her~~ ongoing basic child support obligation  
2529 for any such amounts, and, if the amount of the credit exceeds the parent's basic child support obligations,  
2530 the credit may be used to reduce arrearages.

2531 Gross income shall be subject to deduction of reasonable business expenses for persons with  
2532 income from self-employment, a partnership, or a closely held business. "Gross income" shall not include:

- 2533 1. Benefits from public assistance and social services programs as defined in § 63.2-100;
- 2534 2. Federal supplemental security income benefits;
- 2535 3. Child support received; or
- 2536 4. Income received by the payor from secondary employment income not previously included in  
2537 "gross income," where the payor obtained the income to discharge a child support arrearage established  
2538 by a court or administrative order and the payor is paying the arrearage pursuant to the order. "Secondary  
2539 employment income" includes but is not limited to income from an additional job, from self-employment,  
2540 or from overtime employment. The cessation of such secondary income upon the payment of the arrearage  
2541 shall not be the basis for a material change in circumstances upon which a modification of child support  
2542 may be based.

2543 For purposes of this subsection: (i) spousal support received shall be included in gross income and  
2544 spousal support paid shall be deducted from gross income when paid pursuant to an order or written  
2545 agreement and (ii) one-half of any self-employment tax paid shall be deducted from gross income.

2546 Where there is an existing court or administrative order or written agreement relating to the child  
2547 or children of a party to the proceeding, who are not the child or children who are the subject of the present  
2548 proceeding, then there is a presumption that there shall be deducted from the gross income of the party

2549 subject to such order or written agreement, the amount that the party is actually paying for the support of  
2550 a child or children pursuant to such order or agreement.

2551 Where a party to the proceeding has a natural or adopted child or children in the party's household  
2552 or primary physical custody, and the child or children are not the subject of the present proceeding, there  
2553 is a presumption that there shall be deducted from the gross income of that party the amount as shown on  
2554 the Schedule of Monthly Basic Child Support Obligations contained in subsection B that represents that  
2555 party's support obligation based solely on that party's income as being the total income available for the  
2556 natural or adopted child or children in the party's household or primary physical custody, who are not the  
2557 subject of the present proceeding. Provided, however, that the existence of a party's financial responsibility  
2558 for such a child or children shall not of itself constitute a material change in circumstances for modifying  
2559 a previous order of child support in any modification proceeding. Any adjustment to gross income under  
2560 this subsection shall not create or reduce a support obligation to an amount which seriously impairs the  
2561 custodial parent's ability to maintain minimal adequate housing and provide other basic necessities for the  
2562 child, as determined by the court.

2563 In cases in which retroactive liability for support is being determined, the court or administrative  
2564 agency may use the gross monthly income of the parties averaged over the period of retroactivity.

2565 D. Except for good cause shown or the agreement of the parties, in addition to any other child  
2566 support obligations established pursuant to this section, any child support order shall provide that the  
2567 parents pay in proportion to their gross incomes, as used for calculating the monthly support obligation,  
2568 any reasonable and necessary unreimbursed medical or dental expenses. The method of payment of those  
2569 expenses shall be contained in the support order. Each parent shall pay his respective share of expenses as  
2570 those expenses are incurred. Any amount paid under this subsection shall not be adjusted by, nor added  
2571 to, the child support calculated in accordance with subsection G. For the purposes of this section, medical  
2572 or dental expenses shall include but not be limited to eyeglasses, prescription medication, prosthetics,  
2573 orthodontics, and mental health or developmental disabilities services, including but not limited to services  
2574 provided by a social worker, psychologist, psychiatrist, counselor, or therapist.

2575 E. The costs for health care coverage as defined in § 63.2-1900, vision care coverage, and dental  
2576 care coverage for the child or children who are the subject of the child support order that are being paid  
2577 by a parent or that parent's spouse shall be added to the basic child support obligation. To determine the  
2578 cost to be added to the basic child support obligation, the cost per person shall be applied to the child or  
2579 children who are subject of the child support order. If the per child cost is provided by the insurer, that is  
2580 the cost per person. Otherwise, to determine the cost per person, the cost of individual coverage for the  
2581 policy holder shall be subtracted from the total cost of the coverage, and the remaining amount shall be  
2582 divided by the number of remaining covered persons.

2583 F. Any child-care costs incurred on behalf of the child or children due to employment of the  
2584 custodial parent shall be added to the basic child support obligation. Child-care costs shall not exceed the  
2585 amount required to provide quality care from a licensed source. When requested by the noncustodial  
2586 parent, the court may require the custodial parent to present documentation to verify the costs incurred for  
2587 child care under this subsection. Where appropriate, the court shall consider the willingness and  
2588 availability of the noncustodial parent to provide child care personally in determining whether child-care  
2589 costs are necessary or excessive. Upon the request of either party, and upon a showing of the tax savings  
2590 a party derives from child-care cost deductions or credits, the court shall factor actual tax consequences  
2591 into its calculation of the child-care costs to be added to the basic child support obligation.

2592 G. 1. Sole custody support. The sole custody total monthly child support obligation shall be  
2593 established by adding (i) the monthly basic child support obligation, as determined from the schedule  
2594 contained in subsection B, (ii) costs for health care coverage to the extent allowable by subsection E, and  
2595 (iii) work-related child-care costs and taking into consideration all the factors set forth in subsection B of  
2596 § 20-108.1. The total monthly child support obligation shall be divided between the parents in the same  
2597 proportion as their monthly gross incomes bear to their monthly combined gross income. The monthly  
2598 obligation of each parent shall be computed by multiplying each parent's percentage of the parents'  
2599 monthly combined gross income by the total monthly child support obligation.

2600 However, the monthly obligation of the noncustodial parent shall be reduced by the cost for health  
2601 care coverage to the extent allowable by subsection E when paid directly by the noncustodial parent or

2602 that parent's spouse. Unreimbursed medical and dental expenses shall be calculated and allocated in  
2603 accordance with subsection D.

2604 2. Split custody support. In cases involving split custody, the amount of child support to be paid  
2605 shall be the difference between the amounts owed by each parent as a noncustodial parent, computed in  
2606 accordance with subdivision 1, with the noncustodial parent owing the larger amount paying the difference  
2607 to the other parent. Unreimbursed medical and dental expenses shall be calculated and allocated in  
2608 accordance with subsection D.

2609 For the purpose of this section and § 20-108.1, split custody shall be limited to those situations  
2610 where each parent has physical custody of a child or children born of the parents, born of either parent  
2611 and adopted by the other parent or adopted by both parents. For the purposes of calculating a child support  
2612 obligation where split custody exists, a separate family unit exists for each parent, and child support for  
2613 that family unit shall be calculated upon the number of children in that family unit who are born of the  
2614 parents, born of either parent and adopted by the other parent or adopted by both parents. Where split  
2615 custody exists, a parent is a custodial parent to the children in that parent's family unit and is a noncustodial  
2616 parent to the children in the other parent's family unit.

2617 3. Shared custody support.

2618 (a) Where a party has custody or visitation of a child or children for more than 90 days of the year,  
2619 as such days are defined in subdivision G 3 (c), a shared custody child support amount based on the ratio  
2620 in which the parents share the custody and visitation of any child or children shall be calculated in  
2621 accordance with this subdivision. The presumptive support to be paid shall be the shared custody support  
2622 amount, unless a party affirmatively shows that the sole custody support amount calculated as provided  
2623 in subdivision G 1 is less than the shared custody support amount. If so, the lesser amount shall be the  
2624 support to be paid. For the purposes of this subsection, the following shall apply:

2625 (i) Income share. "Income share" means a parent's percentage of the combined monthly gross  
2626 income of both parents. The income share of a parent is that parent's gross income divided by the combined  
2627 gross incomes of the parties.

2628 (ii) Custody share. "Custody share" means the number of days that a parent has physical custody,  
2629 whether by sole custody, joint legal or joint residential custody, or visitation, of a shared child per year  
2630 divided by the number of days in the year. The actual or anticipated "custody share" of the parent who has  
2631 or will have fewer days of physical custody shall be calculated for a one-year period. The "custody share"  
2632 of the other parent shall be presumed to be the number of days in the year less the number of days  
2633 calculated as the first parent's "custody share." For purposes of this calculation, the year may begin on  
2634 such date as is determined in the discretion of the court, and the day may begin at such time as is  
2635 determined in the discretion of the court. For purposes of this calculation, a day shall be as defined in  
2636 subdivision G 3 (c).

2637 (iii) Shared support need. "Shared support need" means the presumptive guideline amount of  
2638 needed support for the shared child or children calculated pursuant to subsection B of this section, for the  
2639 combined gross income of the parties and the number of shared children, multiplied by 1.4.

2640 (iv) Sole custody support. "Sole custody support" means the support amount determined in  
2641 accordance with subdivision G 1.

2642 (b) Support to be paid. The shared support need of the shared child or children shall be calculated  
2643 pursuant to subdivision G 3 (a)(iii). This amount shall then be multiplied by the other parent's custody  
2644 share. To that sum for each parent shall be added the other parent's or that parent's spouse's cost of health  
2645 care coverage to the extent allowable by subsection E, plus the other parent's work-related child-care costs  
2646 to the extent allowable by subsection F. This total for each parent shall be multiplied by that parent's  
2647 income share. The support amounts thereby calculated that each parent owes the other shall be subtracted  
2648 one from the other and the difference shall be the shared custody support one parent owes to the other,  
2649 with the payor parent being the one whose shared support is the larger. Unreimbursed medical and dental  
2650 expenses shall be calculated and allocated in accordance with subsection D.

2651 (c) Definition of a day. For the purposes of this section, "day" means a period of 24 hours; however,  
2652 where the parent who has the fewer number of overnight periods during the year has an overnight period  
2653 with a child, but has physical custody of the shared child for less than 24 hours during such overnight

2654 period, there is a presumption that each parent shall be allocated one-half of a day of custody for that  
2655 period.

2656 (d) Minimum standards. Any calculation under this subdivision shall not create or reduce a support  
2657 obligation to an amount which seriously impairs the custodial parent's ability to maintain minimal  
2658 adequate housing and provide other basic necessities for the child. If the gross income of either party is  
2659 equal to or less than 150 percent of the federal poverty level promulgated by the U.S. Department of  
2660 Health and Human Services from time to time, then the shared custody support calculated pursuant to this  
2661 subsection shall not be the presumptively correct support and the court may consider whether the sole  
2662 custody support or the shared custody support is more just and appropriate.

2663 (e) Support modification. When there has been an award of child support based on the shared  
2664 custody formula and one parent consistently fails to exercise custody or visitation in accordance with the  
2665 parent's custody share upon which the award was based, there shall be a rebuttable presumption that the  
2666 support award should be modified.

2667 (f) In the event that the shared custody support calculation indicates that the net support is to be  
2668 paid to the parent who would not be the parent receiving support pursuant to the sole custody calculation,  
2669 then the shared support shall be deemed to be the lesser support.

2670 H. The Secretary of Health and Human Resources shall ensure that the guideline set out in this  
2671 section is reviewed by October 31, 2001, and every four years thereafter, by the Child Support Guidelines  
2672 Review Panel, consisting of 15 members comprised of four legislative members and 11 nonlegislative  
2673 citizen members. Members shall be appointed as follows: three members of the House Committee for  
2674 Courts of Justice, upon the recommendation of the chairman of such committee, to be appointed by the  
2675 Speaker of the House of Delegates in accordance with the principles of proportional representation  
2676 contained in the Rules of the House of Delegates; one member of the Senate Committee for Courts of  
2677 Justice, upon the recommendation of the chairman of such committee, to be appointed by the Senate  
2678 Committee on Rules; and one representative of a juvenile and domestic relations district court, one  
2679 representative of a circuit court, one representative of the Department of Social Services' Division of Child  
2680 Support Enforcement, three members of the Virginia State Bar, two custodial parents, two noncustodial

2681 parents, and one child advocate, upon the recommendation of the Secretary of Health and Human  
2682 Resources, to be appointed by the Governor. The Panel shall determine the adequacy of the guideline for  
2683 the determination of appropriate awards for the support of children by considering current research and  
2684 data on the cost of and expenditures necessary for rearing children, and any other resources it deems  
2685 relevant to such review. The Panel shall report its findings to the General Assembly as provided in the  
2686 procedures of the Division of Legislative Automated Systems for the processing of legislative documents  
2687 and reports before the General Assembly next convenes following such review.

2688 Legislative members shall serve terms coincident with their terms of office. Nonlegislative citizen  
2689 members shall serve at the pleasure of the Governor. All members may be reappointed. Appointments to  
2690 fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall  
2691 be filled in the same manner as the original appointments.

2692 Legislative members shall receive such compensation as provided in § 30-19.12, and  
2693 nonlegislative citizen members shall receive such compensation for the performance of their duties as  
2694 provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses  
2695 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs  
2696 of compensation and expenses of the members shall be provided by the Department of Social Services.

2697 The Department of Social Services shall provide staff support to the Panel. All agencies of the  
2698 Commonwealth shall provide assistance to the Panel, upon request.

2699 The chairman of the Panel shall submit to the Governor and the General Assembly a quadrennial  
2700 executive summary of the interim activity and work of the Panel no later than the first day of 2006 regular  
2701 session of the General Assembly and every four years thereafter. The executive summary shall be  
2702 submitted as provided in the procedures of the Division of Legislative Automated Systems for the  
2703 processing of legislative documents and reports and shall be posted on the General Assembly's website.

2704 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2705 **§ 22.1-203. Daily observance of one minute of silence.**

2706 In order that the right of every pupil to the free exercise of religion be guaranteed within the schools  
2707 and that the freedom of each individual pupil be subject to the least possible pressure from the

2708 Commonwealth either to engage in, or to refrain from, religious observation on school grounds, the school  
2709 board of each school division shall establish the daily observance of one minute of silence in each  
2710 classroom of the division.

2711 During such one-minute period of silence, the teacher responsible for each classroom shall take  
2712 care that all pupils remain seated and silent and make no distracting display to the end that each pupil may,  
2713 in the exercise of his-~~or her~~ individual choice, meditate, pray, or engage in any other silent activity which  
2714 does not interfere with, distract, or impede other pupils in the like exercise of individual choice.

2715 The Office of the Attorney General shall intervene and shall provide legal defense of this law.

2716 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2717 **§ 22.1-287. Limitations on access to records.**

2718 A. No teacher, principal or employee of any public school nor any school board member shall  
2719 permit access to any records concerning any particular pupil enrolled in the school in any class to any  
2720 person except under judicial process unless the person is one of the following:

2721 1. Either parent of such pupil or such pupil; provided that a school board may require that such  
2722 pupil, if he be less than 18 years of age, as a condition precedent to access to such records, furnish written  
2723 consent of his-~~or her~~ parent for such access;

2724 2. A person designated in writing by such pupil if the pupil is 18 years of age or older or by either  
2725 parent of such pupil if the pupil is less than 18 years of age;

2726 3. The principal, or someone designated by him, of a school where the pupil attends, has attended,  
2727 or intends to enroll;

2728 4. The current teachers of such pupil;

2729 5. State or local law-enforcement or correctional personnel, including a law-enforcement officer,  
2730 probation officer, parole officer or administrator, or a member of a parole board, seeking information in  
2731 the course of his duties;

2732 6. The Superintendent of Public Instruction, a member of his staff, the division superintendent of  
2733 schools where the pupil attends, has attended, or intends to enroll or a member of his staff;



2734 7. An officer or employee of a county or city agency responsible for protective services to children,  
2735 as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

2736 B. A parent or pupil entitled to see the records pursuant to subdivision A 1 shall have access to all  
2737 records relating to such pupil maintained by the school except as otherwise provided by law and need only  
2738 appear in person during regular hours of the school day and request to see such records. No material  
2739 concerning such pupil shall be edited or withheld except as otherwise provided by law, and the parent or  
2740 pupil shall be entitled to read such material personally.

2741 C. The restrictions imposed by this section shall not apply to the giving of information by school  
2742 personnel concerning participation in athletics and other school activities, the winning of scholastic or  
2743 other honors and awards, and other like information.

2744 D. Notwithstanding the restrictions imposed by this section:

2745 1. A division superintendent of schools may, in his discretion, provide information to the staff of  
2746 an institution of higher education or educational research and development organization or laboratory if  
2747 such information is necessary to a research project or study conducted, sponsored, or approved by the  
2748 institution of higher education or educational research and development organization or laboratory and if  
2749 no pupil will be identified by name in the information provided for research;

2750 2. The name and address of a pupil, the record of a pupil's daily attendance, a pupil's scholastic  
2751 record in the form of grades received in school subjects, the names of a pupil's parents, a pupil's date and  
2752 place of birth, and the names and addresses of other schools a pupil has attended may be released to an  
2753 officer or employee of the United States government seeking this information in the course of his duties  
2754 when the pupil is a veteran of military service with the United States, an orphan or dependent of such  
2755 veteran, or an alien;

2756 3. The record of a pupil's daily attendance shall be open for inspection and reproduction to an  
2757 employee of a local department of social services who needs the record to determine the eligibility of the  
2758 pupil's family for public assistance and social services;

2759 4. The principal or his designee may disclose identifying information from a pupil's scholastic  
2760 record for the purpose of furthering the ability of the juvenile justice system to effectively serve the pupil

2761 prior to adjudication. In addition to those agencies or personnel identified in subdivisions A 5 and 7, the  
2762 principal or his designee may disclose identifying information from a pupil's scholastic record to attorneys  
2763 for the Commonwealth, court services units, juvenile detention centers or group homes, mental and  
2764 medical health agencies, state and local children and family service agencies, and the Department of  
2765 Juvenile Justice and to the staff of such agencies. Prior to disclosure of any such scholastic records, the  
2766 persons to whom the records are to be disclosed shall certify in writing to the principal or his designee  
2767 that the information will not be disclosed to any other party, except as provided under state law, without  
2768 the prior written consent of the parent of the pupil or by such pupil if the pupil is 18 years of age or older.

2769 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2770 **§ 22.1-288.2. Receipt, dissemination and maintenance of records of certain law-enforcement**  
2771 **information.**

2772 A. A division superintendent shall disseminate the notice or information regarding an adjudication  
2773 of delinquency or conviction for an offense listed in subsection G of § 16.1-260, contained in a notice  
2774 received by him pursuant to § 16.1-305.1 to school personnel responsible for the management of student  
2775 records and to other relevant school personnel, including, but not limited to, the principal of the school in  
2776 which the student is enrolled. The principal shall further disseminate such information to licensed  
2777 instructional personnel and other school personnel who (i) provide direct educational or support services  
2778 to the student and (ii) have a legitimate educational interest in such information.

2779 B. A parent, guardian or other person having control or charge of a student in a public school and,  
2780 with consent of a parent or in compliance with a court order, the court in which the disposition was  
2781 rendered, shall be notified in writing of any disciplinary action taken with regard to any incident upon  
2782 which the adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260  
2783 was based and the reasons therefor. The parent or guardian shall also be notified of his-~~or her~~ right to  
2784 review, and to request an amendment of, the student's scholastic record, in accordance with regulations of  
2785 the Board of Education governing the management of scholastic records.

2786 Every notice of adjudication of delinquency or conviction for an offense listed in subsection G of  
2787 § 16.1-260 received by a superintendent, and information contained in the notice, which is not a

2788 disciplinary record as defined in Board of Education regulations, shall be maintained by him and by any  
2789 others to whom he disseminates it, separately from all other records concerning the student. However, if  
2790 the school administrators or the school board takes disciplinary action against a student based upon an  
2791 incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in  
2792 subsection G of § 16.1-260, the notice shall become a part of the student's disciplinary record.

2793 C. When a superintendent receives notice of the filing of a petition from the intake officer in  
2794 accordance with § 16.1-260, or upon request of a court services unit for information made in conjunction  
2795 with the preparation of a social history report pursuant to § 16.1-273, the superintendent shall provide  
2796 information regarding the student's educational and attendance status to the intake officer or court services  
2797 unit, as the case may be. Whenever a division superintendent receives notice of a student's commitment  
2798 to the Department of Juvenile Justice, the superintendent or his designee shall participate in the  
2799 development of a reenrollment plan as provided in § 16.1-293.

2800 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2801 **§ 22.1-294. Probationary terms of service for principals, assistant principals, and**  
2802 **supervisors; evaluation; reassigning principal, assistant principal, or supervisor to teaching**  
2803 **position.**

2804 A. A person employed as a principal, assistant principal, or supervisor, including a person who has  
2805 previously achieved continuing contract status as a teacher, shall serve a probationary term of three years  
2806 in such position in the same school division before acquiring continuing contract status as principal,  
2807 assistant principal, or supervisor. With such funds as may be appropriated by the General Assembly for  
2808 such purpose, school boards shall provide each probationary principal, except probationary principals who  
2809 have prior successful experience as principals, as determined by the local school board in a school division,  
2810 a mentor, as described in guidelines developed by the Board, during the first year of the probationary  
2811 period, to assist such probationary principal in achieving excellence in administration.

2812 B. Each local school board shall adopt for use by the division superintendent clearly defined  
2813 criteria for a performance evaluation process for principals, assistant principals, and supervisors that are  
2814 consistent with the performance standards set forth in the Guidelines for Uniform Performance Standards

2815 and Evaluation Criteria for Teachers, Principals, and Superintendents as provided in § 22.1-253.13:5 and  
2816 that includes, among other things, an assessment of such administrators' skills and knowledge; student  
2817 academic progress and school gains in student learning; and effectiveness in addressing school safety and  
2818 enforcing student discipline. The division superintendent shall implement such performance evaluation  
2819 process in making employment recommendations to the school board pursuant to § 22.1-293. Principals  
2820 and assistant principals who have achieved continuing contract status shall be formally evaluated at least  
2821 once every three years and evaluated informally at least once each year that they are not formally  
2822 evaluated. Probationary principals and assistant principals shall be evaluated each school year. The  
2823 division superintendent shall consider such evaluations, among other things, in making recommendations  
2824 to the school board regarding the nonrenewal of the probationary contract of any principal or assistant  
2825 principal.

2826 C. Continuing contract status acquired by a principal, assistant principal, or supervisor shall not be  
2827 construed (i) as prohibiting a school board from reassigning such principal, assistant principal, or  
2828 supervisor to a teaching position if notice of reassignment is given by the school board by June 15 of any  
2829 year or (ii) as entitling any such principal, assistant principal, or supervisor to the salary paid him as  
2830 principal, assistant principal, or supervisor in the case of any such reassignment to a teaching position.

2831 D. No such salary reduction and reassignment, however, shall be made without first providing  
2832 such principal, assistant principal, or supervisor with written notice of the reason for such reduction and  
2833 reassignment and an opportunity to present his-~~or her~~ position at an informal meeting with the division  
2834 superintendent, the division superintendent's designee, or the school board. Before recommending such  
2835 reassignment, the division superintendent shall consider, among other things, the performance evaluations  
2836 for such principal, assistant principal, or supervisor. The principal, assistant principal, or supervisor shall  
2837 elect whether such meeting shall be with the division superintendent, the division superintendent's  
2838 designee, or the school board. The school board, division superintendent, or the division superintendent's  
2839 designee shall determine what processes are to be followed at the meeting. The decision to reassign and  
2840 reduce salary shall be at the sole discretion of the school board.

2841 The intent of this section is to provide an opportunity for a principal, assistant principal, or  
2842 supervisor to discuss the reasons for such salary reduction and reassignment with the division  
2843 superintendent, his designee, or the school board, and the provisions of this section are meant to be  
2844 procedural only. Nothing contained herein shall be taken to require cause, as defined in § 22.1-307, for  
2845 the salary reduction and reassignment of a principal, assistant principal, or supervisor.

2846 E. As used in this section, "supervisor" means a person who holds an instructional supervisory  
2847 position as specified in the regulations of the Board of Education and who is required to hold a license as  
2848 prescribed by the Board of Education.

2849 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2850 **§ 22.1-305. Nonrenewal of contract of probationary teacher.**

2851 A. Before a division superintendent recommends to the school board nonrenewal of the contract  
2852 of a teacher who has not achieved continuing contract status, the division superintendent shall consider,  
2853 among other things, the performance evaluations for such teacher required by § 22.1-303 and shall notify  
2854 the teacher of the proposed recommendation. Upon written request of the teacher within five working days  
2855 after receipt of such notice, the division superintendent or his designee shall orally provide the specific  
2856 reasons, if any, for such recommendation, along with supporting documentation, including such  
2857 performance evaluations, to the teacher and, if requested by the teacher, to his ~~or her~~ representative. Within  
2858 10 days after receiving such reasons, the teacher may request, by notification in writing to the division  
2859 superintendent, a conference before the division superintendent. Upon such request, the division  
2860 superintendent shall set a date for the conference, which shall be within 30 days of the request, and shall  
2861 give the teacher at least 15 days' notice of the time and place of the conference.

2862 B. The conference shall be before the division superintendent or his designee. No such designee  
2863 shall have recommended to the division superintendent the nonrenewal of the teacher's contract. The  
2864 teacher and the person or persons who recommended the nonrenewal of the teacher's contract to the  
2865 division superintendent, or a representative of either or both, shall be allowed to participate in the  
2866 conference, but no such representative shall be an attorney.

2867 C. If the conference is before a designee of the division superintendent, the designee shall  
2868 communicate his recommendations to the division superintendent and to the teacher.

2869 D. The division superintendent shall notify the teacher, in writing, of his intention with respect to  
2870 the recommendation within 10 days after the conference.

2871 E. In any case in which a teacher requests reasons for the recommendation as provided in this  
2872 section, written notice of nonrenewal of the contract by the school board must be given either within 10  
2873 days after the time for requesting a conference has expired and the teacher has not made a timely request  
2874 for a conference or, if a conference is requested, within 30 days after the division superintendent notifies  
2875 the teacher of his intention with respect to the recommendation and the provisions of § 22.1-304 requiring  
2876 such notice on or before June 15 shall not be applicable.

2877 F. The conference shall be confidential and no written or oral communication of such conference  
2878 shall be made to anyone other than the school board, in executive session, and employees of the school  
2879 division having an interest therein; however, both the teacher and the division superintendent, upon  
2880 request, may provide the reasons for the nonrenewal to a potential employer of the teacher.

2881 G. The provisions of this section shall be inapplicable when a decrease in enrollment or the  
2882 abolition of a particular subject or reduction in the number of classes offered in a particular subject causes  
2883 a reduction in the number of teachers; however, a statement to that effect shall be placed in the personnel  
2884 file of each teacher whose contract is nonrenewed for any such reason.

2885 H. The intent of this section is to provide an opportunity for a probationary teacher to discuss the  
2886 reasons for nonrenewal with the division superintendent or his designee, and the provisions of this section  
2887 are meant to be procedural only. Nothing contained herein shall be taken to require cause, as defined in §  
2888 22.1-307, for the nonrenewal of the contract of a teacher who has not achieved continuing contract status  
2889 nor shall the failure of the school board or the division superintendent to comply with any time requirement  
2890 herein constitute a basis for continued employment of the teacher.

2891 **Drafting note: Technical change consistent with Va. Code § 1-216.**

2892 **§ 22.1-315. Grounds and procedure for suspension.**

2893 A. A teacher or other public school employee, whether full-time or part-time, permanent, or  
2894 temporary, may be suspended for good and just cause when the safety or welfare of the school division or  
2895 the students therein is threatened or when the teacher or school employee has been charged by summons,  
2896 warrant, indictment or information with the commission of a felony; a misdemeanor involving (i) sexual  
2897 assault as established in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (ii) obscenity and related  
2898 offenses as established in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, (iii) drugs as established  
2899 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (iv) moral turpitude, or (v) the physical or  
2900 sexual abuse or neglect of a child; or an equivalent offense in another state. Except when a teacher or  
2901 school employee is suspended because of being charged by summons, warrant, indictment or information  
2902 with the commission of one of the above-listed criminal offenses, a division superintendent or appropriate  
2903 central office designee shall not suspend a teacher or school employee for longer than sixty days and shall  
2904 not suspend a teacher or school employee for a period in excess of five days unless such teacher or school  
2905 employee is advised in writing of the reason for the suspension and afforded an opportunity for a hearing  
2906 before the school board in accordance with §§ 22.1-311 and 22.1-313, if applicable. Any teacher or other  
2907 school employee so suspended shall continue to receive his-~~or her~~ then applicable salary unless and until  
2908 the school board, after a hearing, determines otherwise. No teacher or school employee shall be suspended  
2909 solely on the basis of his-~~or her~~ refusal to submit to a polygraph examination requested by the school  
2910 board.

2911 B. Any school employee suspended because of being charged by summons, warrant, information  
2912 or indictment with one of the offenses listed in subsection A may be suspended with or without pay. In  
2913 the event any school employee is suspended without pay, an amount equal to his-~~or her~~ salary while on  
2914 suspended status shall be placed in an interest-bearing demand escrow account. Upon being found not  
2915 guilty of one of the offenses listed in subsection A or upon the dismissal or nolle prosequi of the charge,  
2916 such school employee shall be reinstated with all unpaid salary and accrued interest from the escrow  
2917 account, less any earnings received by the school employee during the period of suspension, but in no  
2918 event shall such payment exceed one year's salary.

2919 C. In the event any school employee is found guilty by an appropriate court of one of the offenses  
2920 listed in subsection A and, after all available appeals have been exhausted and such conviction is upheld,  
2921 all funds in the escrow account shall be repaid to the school board.

2922 D. No school employee shall have his-~~or her~~ insurance benefits suspended or terminated because  
2923 of such suspension in accordance with this section.

2924 E. Nothing in this section shall be construed to limit the authority of a school board to dismiss or  
2925 place on probation a teacher or school employee pursuant to Article 3 (§ 22.1-306 et seq.) of this chapter.

2926 F. For the purposes of this section, the placing of a school employee on probation pursuant to the  
2927 terms and conditions of § 18.2-251 shall be deemed a finding of guilt.

2928 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

2929 **§ 22.1-360. Interstate Compact on Educational Opportunity for Military Children.**

2930 The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into  
2931 law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

2932 Article I. Purpose.

2933 It is the purpose of this compact to remove barriers to educational success imposed on children of  
2934 military families because of frequent moves and deployment of their parents by:

2935 A. Facilitating the timely enrollment of children of military families and ensuring that they are not  
2936 placed at a disadvantage due to difficulty in the transfer of education records from the previous school  
2937 district(s) or variations in entrance/age requirements.

2938 B. Facilitating the student placement process through which children of military families are not  
2939 disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content,  
2940 or assessment.

2941 C. Facilitating the qualification and eligibility for enrollment, educational programs, and  
2942 participation in extracurricular academic, athletic, and social activities.

2943 D. Facilitating the on-time graduation of children of military families.

2944 E. Providing for the promulgation and enforcement of administrative rules implementing the  
2945 provisions of this compact.



2946 F. Providing for the uniform collection and sharing of information between and among member  
2947 states, schools, and military families under this compact.

2948 G. Promoting coordination between this compact and other compacts affecting military children.

2949 H. Promoting flexibility and cooperation between the educational system, parents, and the student  
2950 in order to achieve educational success for the student.

2951 Article II. Definitions.

2952 As used in this compact, unless the context clearly requires a different construction:

2953 "Active duty" means full-time duty status in the active uniformed service of the United States,  
2954 including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§  
2955 1209 and 1211.

2956 "Children of military families" means school-aged children, enrolled in kindergarten through 12th  
2957 grade, in the household of an active duty member.

2958 "Compact commissioner" means the voting representative of each compacting state appointed  
2959 pursuant to Article VIII of this compact.

2960 "Deployment" means the period one month prior to the service members' departure from their  
2961 home station on military orders through six months after return to their home station.

2962 "Educational records" means those official records, files, and data directly related to a student and  
2963 maintained by the school or local education agency, including but not limited to records encompassing all  
2964 the material kept in the student's cumulative folder such as general identifying data, records of attendance  
2965 and of academic work completed, records of achievement and results of evaluative tests, health data,  
2966 disciplinary status, test protocols, and individualized education programs.

2967 "Extracurricular activities" means a voluntary activity sponsored by the school or local education  
2968 agency or an organization sanctioned by the local education agency. Extracurricular activities include but  
2969 are not limited to preparation for and involvement in public performances, contests, athletic competitions,  
2970 demonstrations, displays, and club activities.

2971 "Interstate Commission on Educational Opportunity for Military Children" means the commission  
2972 that is created under Article IX of this compact, which is generally referred to as the Interstate  
2973 Commission.

2974 "Local education agency" means a public authority legally constituted by the state as an  
2975 administrative agency to provide control of and direction for kindergarten through 12th grade public  
2976 educational institutions.

2977 "Member state" means a state that has enacted this compact.

2978 "Military installation" means a base, camp, post, station, yard, center, homeport facility for any  
2979 ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility,  
2980 which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto  
2981 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S.  
2982 territory. Such term does not include any facility used primarily for civil works, rivers and harbors  
2983 projects, or flood control projects.

2984 "Nonmember state" means a state that has not enacted this compact.

2985 "Receiving state" means the state to which a child of a military family is sent, brought, or caused  
2986 to be sent or brought.

2987 "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article  
2988 XII of this compact that is of general applicability; implements, interprets, or prescribes a policy or  
2989 provision of the compact, or an organizational, procedural, or practice requirement of the Interstate  
2990 Commission and has the force and effect of statutory law in a member state if approved by the legislature  
2991 of the member state.

2992 "Sending state" means the state from which a child of a military family is sent, brought, or caused  
2993 to be sent or brought.

2994 "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto  
2995 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S.  
2996 territory.

3097 "Student" means the child of a military family for whom the local education agency receives public  
3098 funding and who is formally enrolled in kindergarten through 12th grade.

3099 "Transition" means: (i) the formal and physical process of transferring from school to school or  
3000 (ii) the period of time in which a student moves from one school in the sending state to another school in  
3001 the receiving state.

3002 "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as  
3003 the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health  
3004 Services.

3005 "Veteran" means a person who served in the active military, naval, or air service and who was  
3006 discharged or released there from under conditions other than dishonorable.

3007 Article III. Applicability.

3008 A. Except as otherwise provided in subsection B, this compact shall apply to the children of:

3009 1. Active duty members of the uniformed services as defined in this compact, including members  
3010 of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;

3011 2. Members or veterans of the uniformed services who are severely injured and medically  
3012 discharged or retired for a period of one year after medical discharge or retirement; and

3013 3. Members of the uniformed services who die on active duty or as a result of injuries sustained  
3014 on active duty for a period of one year after death.

3015 B. The provisions of this interstate compact shall only apply to local education agencies as defined  
3016 in this compact.

3017 C. The provisions of this compact shall not apply to the children of:

3018 1. Inactive members of the National Guard and Military Reserves;

3019 2. Members of the uniformed services now retired, except as provided in subsection A;

3020 3. Veterans of the uniformed services, except as provided in subsection A; and

3021 4. Other U.S. Department of Defense personnel and other federal agency civilian and contract  
3022 employees not defined as active duty members of the uniformed services.

3023 Article IV. Educational Records and Enrollment.

3024           A. Unofficial or "hand-carried" education records. In the event that official education records  
3025 cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending  
3026 state shall prepare and furnish to the parent a complete set of unofficial educational records containing  
3027 uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education  
3028 records by a school in the receiving state, the school shall enroll and appropriately place the student based  
3029 on the information provided in the unofficial records pending validation by the official records, as quickly  
3030 as possible.

3031           B. Official education records/transcripts. Simultaneous with the enrollment and conditional  
3032 placement of the student, the school in the receiving state shall request the student's official education  
3033 records from the school in the sending state. Upon receipt of this request, the school in the sending state  
3034 will process and furnish the official education records to the school in the receiving state within 10 days  
3035 or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

3036           C. Immunizations. Compacting states shall give 30 days from the date of enrollment or within such  
3037 time as is reasonably determined under the rules promulgated by the Interstate Commission for students  
3038 to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial  
3039 vaccinations must be obtained within 30 days or within such time as is reasonably determined under the  
3040 rules promulgated by the Interstate Commission.

3041           D. Kindergarten and first grade entrance age. Students shall be allowed to continue their  
3042 enrollment at the grade level in the receiving state commensurate with their grade level (including  
3043 kindergarten) from a local education agency in the sending state at the time of transition, regardless of  
3044 minimum age. A student who has satisfactorily completed the prerequisite grade level in the local  
3045 education agency in the sending state shall be eligible for enrollment in the next highest grade level in the  
3046 receiving state, regardless of minimum age. A student transferring after the start of the school year in the  
3047 receiving state shall enter the school in the receiving state on their validated level from a local education  
3048 agency in the sending state.

3049           Article V. Placement and Attendance.

3050           A. Course placement. When the student transfers before or during the school year, the receiving  
3051 state school shall initially honor placement of the student in educational courses based on the student's  
3052 enrollment in the sending state school and/or educational assessments conducted at the school in the  
3053 sending state if the courses are offered. Course placement includes, but is not limited to, honors,  
3054 International Baccalaureate, advanced placement, vocational, technical, and career pathways courses.  
3055 Continuing the student's academic program from the previous school and promoting placement in  
3056 academically and career challenging courses should be paramount when considering placement. This does  
3057 not preclude the school in the receiving state from performing subsequent evaluations to ensure  
3058 appropriate placement and continued enrollment of the student in the course(s).

3059           B. Educational program placement. The receiving state school shall initially honor placement of  
3060 the student in educational programs based on current educational assessments conducted at the school in  
3061 the sending state or participation/placement in like programs in the sending state. Such programs include,  
3062 but are not limited to, (i) gifted and talented programs and (ii) English as a second language (ESL)  
3063 programs. This does not preclude the school in the receiving state from performing subsequent evaluations  
3064 to ensure appropriate placement of the student.

3065           C. Special education services. In compliance with the federal requirements of the Individuals with  
3066 Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the receiving state shall initially provide  
3067 comparable services to a student with disabilities based on his-~~or her~~ current Individualized Education  
3068 Program (IEP) and in compliance with the requirements of § 504 of the Rehabilitation Act, 29 U.S.C. §  
3069 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, and the receiving  
3070 state shall make reasonable accommodations and modifications to address the needs of incoming students  
3071 with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to  
3072 education. This does not preclude the school in the receiving state from performing subsequent evaluations  
3073 to ensure appropriate placement of the student.

3074           D. Placement flexibility. Local education agency administrative officials shall have flexibility in  
3075 waiving course/program prerequisites or other preconditions for placement in courses/programs offered  
3076 under the jurisdiction of the local education agency.

3077 E. Absence as related to deployment activities. A student whose parent or legal guardian is an  
3078 active duty member of the uniformed services, as defined by the compact, and has been called to duty for,  
3079 is on leave from, or has immediately returned from deployment to a combat zone or combat support  
3080 posting, shall be granted additional excused absences at the discretion of the local education agency  
3081 superintendent to visit with his-~~or her~~ parent or legal guardian relative to such leave or deployment of the  
3082 parent or guardian.

3083 Article VI. Eligibility.

3084 A. Eligibility for enrollment.

3085 1. Children of military families shall be eligible for enrollment in the public schools of Virginia  
3086 provided that the documents required by §§ 22.1-3.1 and 22.1-3.2 are provided and subject to the authority  
3087 of a local education agency to exclude such children from attendance pursuant to § 22.1-277.2 or if such  
3088 children have been found guilty or adjudicated delinquent for any offense listed in subsection G of § 16.1-  
3089 260 or any substantially similar offense under the laws of any state, the District of Columbia, or the United  
3090 States or its territories;

3091 2. Special power of attorney, relative to the guardianship of a child of a military family, and  
3092 executed under Title 10, United States Code, § 1044b, shall be sufficient for the purposes of enrollment  
3093 and all other actions requiring parental participation and consent;

3094 3. A local education agency shall be prohibited from charging local tuition to a military child  
3095 placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a  
3096 jurisdiction other than that of the custodial parent; and

3097 4. A military child, placed in the care of a noncustodial parent or other person standing in loco  
3098 parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school  
3099 in which he-~~or she~~ was enrolled while residing with the custodial parent.

3100 B. Eligibility for extracurricular participation. State and local education agencies shall facilitate  
3101 the opportunity for military children's inclusion in extracurricular activities, regardless of application  
3102 deadlines, to the extent they are otherwise qualified.

3103 Article VII. Graduation.

3104 In order to facilitate the on-time graduation of children of military families, states and local  
3105 education agencies shall incorporate the following procedures:

3106 A. Waiver requirements. Local education agency administrative officials shall waive specific  
3107 courses required for graduation if similar coursework has been satisfactorily completed in another local  
3108 education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a  
3109 student who would qualify to graduate from the sending school, the local education agency shall provide  
3110 an alternative means of acquiring required coursework so that graduation may occur on time.

3111 B. Exit exams. States shall accept: (i) exit or end-of-course exams required for graduation from  
3112 the sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing acceptable to  
3113 the receiving state, in lieu of testing requirements for graduation in the receiving state. In the event the  
3114 above alternatives cannot be accommodated by the receiving state, then the provisions of subsection C of  
3115 this Article shall apply. Within 12 months of the effective date of this compact, the Interstate Commission  
3116 shall adopt a rule addressing the acceptance of exit exams.

3117 C. Transfers during senior year. Should a military student transferring in his ~~or her~~ senior year be  
3118 ineligible to graduate from the receiving local education agency after all alternatives have been considered,  
3119 the sending local education agency, with the cooperation of the receiving local education agency, shall  
3120 ensure the receipt of a diploma from the sending local education agency, if the student meets the  
3121 graduation requirements of the sending local education agency. In the event that one of the states in  
3122 question is not a member of this compact, the member state shall use best efforts to facilitate the on-time  
3123 graduation of the student in accordance with subsections A and B of this Article.

3124 Article VIII. State Coordination.

3125 A. Each member state shall, through the creation of a State Council or use of an existing body or  
3126 board, provide for the coordination among its agencies of government, local education agencies, and  
3127 military installations concerning the state's participation in, and compliance with, this compact and  
3128 Interstate Commission activities. While each member state may determine the membership of its own  
3129 State Council, its membership must include at least: (i) the state superintendent of education, (ii) the  
3130 superintendent of a school district with a high concentration of military children, (iii) one representative

3131 from a military installation, and (iv) one representative each from the legislative and executive branches  
3132 of government, and other offices and stakeholder groups the State Council deems appropriate. A member  
3133 state that does not have a school district deemed to contain a high concentration of military children may  
3134 appoint a superintendent from another school district to represent local education agencies on the State  
3135 Council.

3136 B. Each member state shall employ a military family education liaison to assist military families  
3137 and the state in facilitating the implementation of this compact.

3138 C. The Governor of each member state shall appoint or designate a compact commissioner  
3139 responsible for the administration and management of the state's participation in the compact and who is  
3140 empowered to establish statewide policy related to matters governed by this compact.

3141 D. The compact commissioner and the military family education liaison described herein shall be  
3142 ex officio members of the State Council, unless either is already a full voting member of the State Council.

3143 Article IX. Interstate Commission on Educational Opportunity for Military Children.

3144 The member states hereby create the Interstate Commission on Educational Opportunity for  
3145 Military Children. The activities of the Interstate Commission are the formation of public policy and are  
3146 a discretionary state function. The Interstate Commission shall:

3147 A. Be a body corporate and joint agency of the member states and shall have all the responsibilities,  
3148 powers, and duties set forth herein and such additional powers as may be conferred upon it by a subsequent  
3149 concurrent action of the respective legislatures of the member states in accordance with the terms of this  
3150 compact.

3151 B. Consist of one Interstate Commission voting representative from each member state who shall  
3152 be that state's compact commissioner and who is empowered to establish statewide policy related to  
3153 matters governed by this compact.

3154 1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote;

3155 2. A majority of the total member states shall constitute a quorum for the transaction of business,  
3156 unless a larger quorum is required by the bylaws of the Interstate Commission;



3157 3. A representative shall not delegate a vote to another member state. In the event the compact  
3158 commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council  
3159 may delegate voting authority to another person from the state for a specified meeting; and

3160 4. The bylaws may provide for meetings of the Interstate Commission to be conducted by  
3161 telecommunication or electronic communication.

3162 C. Consist of ex officio, nonvoting representatives who are members of interested organizations.  
3163 Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the  
3164 representative organizations of military family advocates, local education agency officials, parent and  
3165 teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate  
3166 Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the  
3167 education of children of military members.

3168 D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon  
3169 the request of a simple majority of the member states, shall call additional meetings.

3170 E. Establish an executive committee, whose members shall include the officers of the Interstate  
3171 Commission and such other members of the Interstate Commission as determined by the bylaws. Members  
3172 of the executive committee shall serve a one-year term. Members of the executive committee shall be  
3173 entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate  
3174 Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in  
3175 session. The executive committee shall oversee the day-to-day activities of the administration of the  
3176 compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules,  
3177 and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex officio,  
3178 nonvoting member of the executive committee.

3179 F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate  
3180 Commission shall make its information and official records available to the public for inspection or  
3181 copying. The Interstate Commission may exempt from disclosure information or official records to the  
3182 extent they would adversely affect personal privacy rights or proprietary interests.

3183 G. Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall  
3184 be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate  
3185 Commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds  
3186 vote that an open meeting would be likely to:

- 3187 1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
- 3188 2. Disclose matters specifically exempted from disclosure by federal and state statute;
- 3189 3. Disclose trade secrets or commercial or financial information that is privileged or confidential;
- 3190 4. Involve accusing a person of a crime or formally censuring a person;
- 3191 5. Disclose information of a personal nature where disclosure would constitute a clearly  
3192 unwarranted invasion of personal privacy;
- 3193 6. Disclose investigative records compiled for law-enforcement purposes; or
- 3194 7. Specifically relate to the Interstate Commission's participation in a civil action or other legal  
3195 proceeding.

3196 H. For a meeting, or portion of a meeting, closed pursuant to the provisions of subsection G, the  
3197 Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall  
3198 reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall  
3199 fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary  
3200 of actions taken, and the reasons therefore, including a description of the views expressed and the record  
3201 of a roll call vote. All documents considered in connection with an action shall be identified in such  
3202 minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a  
3203 majority vote of the Interstate Commission.

3204 I. The Interstate Commission shall collect standardized data concerning the educational transition  
3205 of the children of military families under this compact as directed through its rules, which shall specify  
3206 the data to be collected, the means of collection and data exchange, and reporting requirements. Such  
3207 methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to  
3208 current technology and coordinate its information functions with the appropriate custodian of records as  
3209 identified in the bylaws and rules.

3210 J. The Interstate Commission shall create a process that permits military officials, education  
3211 officials, and parents to inform the Interstate Commission if and when there are alleged violations of the  
3212 compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed  
3213 by the state or local education agency. This section shall not be construed to create a private right of action  
3214 against the Interstate Commission, any member state, or any local education agency.

3215 Article X. Powers and Duties of the Interstate Commission.

3216 The Interstate Commission shall have the following powers:

3217 A. To provide for dispute resolution among member states.

3218 B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations  
3219 as enumerated in this compact. The rules shall have the force and effect of regulations adopted under the  
3220 Administrative Process Act (§ 2.2-4000 et seq.), and shall be binding in the compact states to the extent  
3221 and in the manner provided in this compact.

3222 C. To issue, upon request of a member state, advisory opinions concerning the meaning or  
3223 interpretation of the interstate compact, its bylaws, rules, and actions.

3224 D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate  
3225 Commission, and the bylaws, using all necessary and proper means, including but not limited to the use  
3226 of judicial process. Any action to enforce compliance with the compact provisions by the Interstate  
3227 Commission shall be brought against a member state only.

3228 E. To establish and maintain offices, which shall be located within one or more of the member  
3229 states.

3230 F. To purchase and maintain insurance and bonds.

3231 G. To borrow, accept, hire, or contract for services of personnel.

3232 H. To establish and appoint committees, including but not limited to an executive committee as  
3233 required by Article IX, subsection E, which shall have the power to act on behalf of the Interstate  
3234 Commission in carrying out its powers and duties hereunder.

3235 I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their  
3236 compensation, define their duties, and determine their qualifications and to establish the Interstate

3237 Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and  
3238 qualifications of personnel.

3239 J. To accept any and all donations and grants of money, equipment, supplies, materials, and  
3240 services and to receive, utilize, and dispose of them.

3241 K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve,  
3242 or use any property, real, personal, or mixed.

3243 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
3244 property, real, personal, or mixed.

3245 M. To establish a budget and make expenditures.

3246 N. To adopt a seal and bylaws governing the management and operation of the Interstate  
3247 Commission.

3248 O. To report annually to the legislatures, governors, judiciary, and state councils of the member  
3249 states concerning the activities of the Interstate Commission during the preceding year. Such reports shall  
3250 also include any recommendations that may have been adopted by the Interstate Commission.

3251 P. To coordinate education, training, and public awareness regarding the compact, its  
3252 implementation, and operation for officials and parents involved in such activity.

3253 Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

3254 R. To maintain corporate books and records in accordance with the bylaws.

3255 S. To perform such functions as may be necessary or appropriate to achieve the purposes of this  
3256 compact.

3257 T. To provide for the uniform collection and sharing of information between and among member  
3258 states, schools, and military families under this compact.

3259 Article XI. Organization and Operation of the Interstate Commission.

3260 A. The Interstate Commission shall, by a majority of the members present and voting, within 12  
3261 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be  
3262 necessary or appropriate to carry out the purposes of the compact, including but not limited to:

3263 1. Establishing the fiscal year of the Interstate Commission;

3264 2. Establishing an executive committee and such other committees as may be necessary;

3265 3. Providing for the establishment of committees and for governing any general or specific

3266 delegation of authority or function of the Interstate Commission;

3267 4. Providing reasonable procedures for calling and conducting meetings of the Interstate

3268 Commission and ensuring reasonable notice of each such meeting;

3269 5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

3270 6. Providing a mechanism for concluding the operations of the Interstate Commission and the

3271 return of surplus funds that may exist upon the termination of the compact after the payment and reserving

3272 of all of its debts and obligations; and

3273 7. Providing "start-up" rules for initial administration of the compact.

3274 B. The Interstate Commission shall, by a majority of the members, elect annually from among its

3275 members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and

3276 duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability,

3277 the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected

3278 shall serve without compensation or remuneration from the Interstate Commission provided that, subject

3279 to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and

3280 expenses incurred by them in the performance of their responsibilities as officers of the Interstate

3281 Commission.

3282 C. Executive Committee, officers, and personnel.

3283 1. The executive committee shall have such authority and duties as may be set forth in the bylaws,

3284 including but not limited to: (i) managing the affairs of the Interstate Commission in a manner consistent

3285 with the bylaws and purposes of the Interstate Commission; (ii) overseeing an organizational structure

3286 within and appropriate procedures for the Interstate Commission to provide for the creation of rules,

3287 operating procedures, and administrative and technical support functions; and (iii) planning,

3288 implementing, and coordinating communications and activities with other state, federal, and local

3289 government organizations in order to advance the goals of the Interstate Commission.

3290           2. The executive committee may, subject to the approval of the Interstate Commission, appoint or  
3291 retain an executive director for such period, upon such terms and conditions, and for such compensation  
3292 as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the  
3293 Interstate Commission, but shall not be a member of the Interstate Commission. The executive director  
3294 shall hire and supervise such other persons as may be authorized by the Interstate Commission.

3295           D. The Interstate Commission's executive director and its employees shall be immune from suit  
3296 and liability, either personally or in their official capacity, for a claim for damage to or loss of property or  
3297 personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error,  
3298 or omission that occurred, or that such person had a reasonable basis for believing occurred, within the  
3299 scope of Interstate Commission employment, duties, or responsibilities, provided that such person shall  
3300 not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or  
3301 willful and wanton misconduct of such person.

3302           1. The liability of the Interstate Commission's executive director and employees or the Interstate  
3303 Commission representatives, acting within the scope of their employment or duties for acts, errors, or  
3304 omissions occurring within such person's state, may not exceed the limits of liability set forth under the  
3305 constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is  
3306 considered to be an instrumentality of the states for the purposes of any such action. Nothing in this  
3307 subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or  
3308 liability caused by the intentional or willful and wanton misconduct of such person.

3309           2. The Interstate Commission shall defend the executive director and its employees and, subject to  
3310 the approval of the Attorney General or other appropriate legal counsel of the member state represented  
3311 by an Interstate Commission representative, shall defend such Interstate Commission representative in  
3312 any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that  
3313 occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the  
3314 defendant had a reasonable basis for believing occurred within the scope of Interstate Commission  
3315 employment, duties, or responsibilities provided that the actual or alleged act, error, or omission did not  
3316 result from intentional or willful and wanton misconduct on the part of such person.

3317 3. To the extent not covered by the state involved, member state, or the Interstate Commission, the  
3318 representatives or employees of the Interstate Commission shall be held harmless in the amount of a  
3319 settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of  
3320 an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission  
3321 employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred  
3322 within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual  
3323 or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the  
3324 part of such persons.

3325 Article XII. Rulemaking Functions of the Interstate Commission.

3326 A. Rulemaking authority. The Interstate Commission shall promulgate reasonable rules in order  
3327 to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the  
3328 event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope  
3329 of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate  
3330 Commission shall be invalid and have no force or effect.

3331 B. Rulemaking procedure. Rules shall be made pursuant to a rulemaking process that substantially  
3332 conforms to the "Model State Administrative Procedure Act," of 1981, Uniform Laws Annotated, Vol.  
3333 15, p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

3334 C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial  
3335 review of the rule provided that the filing of such a petition shall not stay or otherwise prevent the rule  
3336 from becoming effective unless the court finds that the petitioner has a substantial likelihood of success.  
3337 The court shall give deference to the actions of the Interstate Commission consistent with applicable law  
3338 and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate  
3339 Commission's authority.

3340 D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute  
3341 or resolution in the same manner used to adopt the compact, then such rule shall have no further force and  
3342 effect in any compacting state.

3343 Article XIII. Oversight, Enforcement, and Dispute Resolution.

3344 A. Oversight.

3345 1. The executive, legislative, and judicial branches of state government in each member state shall  
3346 enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's  
3347 purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have  
3348 standing as regulations adopted under the Administrative Process Act (§ 2.2-4000 et seq.);

3349 2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative  
3350 proceeding in a member state pertaining to the subject matter of this compact that may affect the powers,  
3351 responsibilities, or actions of the Interstate Commission; and

3352 3. The Interstate Commission shall be entitled to receive all service of process in any such  
3353 proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide  
3354 service of process to the Interstate Commission shall render a judgment or order void as to the Interstate  
3355 Commission, this compact, or promulgated rules.

3356 B. Default, technical assistance, suspension, and termination.

3357 If the Interstate Commission determines that a member state has defaulted in the performance of  
3358 its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate  
3359 Commission shall:

3360 1. Provide written notice to the defaulting state and other member states of the nature of the default,  
3361 the means of curing the default, and any action taken by the Interstate Commission. The Interstate  
3362 Commission shall specify the conditions by which the defaulting state must cure its default;

3363 2. Provide remedial training and specific technical assistance regarding the default;

3364 3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the  
3365 compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits  
3366 conferred by this compact shall be terminated from the effective date of termination. A cure of the default  
3367 does not relieve the offending state of obligations or liabilities incurred during the period of the default;

3368 4. Suspension or termination of membership in the compact shall be imposed only after all other  
3369 means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given



3370 by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's  
3371 legislature, and each of the member states;

3372 5. The state that has been suspended or terminated is responsible for all assessments, obligations,  
3373 and liabilities incurred through the effective date of suspension or termination, including obligations the  
3374 performance of which extends beyond the effective date of suspension or termination;

3375 6. The Interstate Commission shall not bear any costs relating to any state that has been found to  
3376 be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed  
3377 upon in writing between the Interstate Commission and the defaulting state; and

3378 7. The defaulting state may appeal the action of the Interstate Commission by petitioning the  
3379 United States District Court for the District of Columbia or the federal district where the Interstate  
3380 Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation  
3381 including reasonable attorney's fees.

3382 C. Dispute resolution.

3383 1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes  
3384 that are subject to the compact and that may arise among member states and between member and  
3385 nonmember states.

3386 2. The Interstate Commission shall promulgate a rule providing for mediation for disputes as  
3387 appropriate.

3388 Article XIV. Financing of the Interstate Commission.

3389 A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of  
3390 its establishment, organization, and ongoing activities.

3391 B. The Interstate Commission may levy on and collect an annual assessment from each member  
3392 state to cover the cost of the operations and activities of the Interstate Commission and its staff, which  
3393 must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each  
3394 year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined  
3395 by the Interstate Commission, which shall promulgate a rule binding upon all member states.

3396 C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds  
3397 adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member  
3398 states, except by and with the authority of the member state.

3399 D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The  
3400 receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting  
3401 procedures established under its bylaws. However, all receipts and disbursements of funds handled by the  
3402 Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report  
3403 of the audit shall be included in and become part of the annual report of the Interstate Commission.

3404 Article XV. Member States, Effective Date, and Amendment.

3405 A. Any state is eligible to become a member state.

3406 B. The compact shall become effective and binding upon legislative enactment of the compact into  
3407 law by no less than 10 of the states. Thereafter it shall become effective and binding as to any other  
3408 member state upon enactment of the compact into law by that state. The Governors of nonmember states  
3409 or their designees shall be invited to participate in the activities of the Interstate Commission on a  
3410 nonvoting basis prior to adoption of the compact by all states.

3411 C. The Interstate Commission may propose amendments to the compact for enactment by the  
3412 member states. No amendment shall become effective and binding upon the Interstate Commission and  
3413 the member states unless and until it is enacted into law by unanimous consent of the member states.

3414 Article XVI. Withdrawal and Dissolution.

3415 A. Withdrawal.

3416 1. Once effective, the compact shall continue in force and remain binding upon each and every  
3417 member state, provided that a member state may withdraw from the compact specifically by repealing the  
3418 statute that enacted the compact into law.

3419 2. Withdrawal from this compact shall be by the enactment of a statute repealing the same.

3420 3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in  
3421 writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate

3422 Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60  
3423 days of its receipt thereof.

3424 4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred  
3425 through the effective date of withdrawal, including obligations the performance of which extends beyond  
3426 the effective date of withdrawal.

3427 5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state  
3428 reenacting the compact or upon such later date as determined by the Interstate Commission.

3429 B. Dissolution of compact.

3430 1. This compact shall dissolve effective upon the date of the withdrawal or default of the member  
3431 state that reduces the membership in the compact to one member state.

3432 2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no  
3433 further force or effect and the business and affairs of the Interstate Commission shall be concluded and  
3434 surplus funds shall be distributed in accordance with the bylaws.

3435 Article XVII. Severability and Construction.

3436 A. The provisions of this compact shall be severable and if any phrase, clause, sentence, or  
3437 provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

3438 B. The provisions of this compact shall be liberally construed to effectuate its purposes.

3439 C. Nothing in this compact shall be construed to prohibit the applicability of other interstate  
3440 compacts to which the states are members.

3441 Article XVIII. Binding Effect of Compact and Other Laws.

3442 A. Other laws.

3443 1. Nothing herein prevents the enforcement of any other law of a member state that is not  
3444 inconsistent with this compact.

3445 2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

3446 B. Binding effect of the compact.

3447 1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by  
3448 the Interstate Commission, are binding upon the member states.

3449 2. All agreements between the Interstate Commission and the member states are binding in  
3450 accordance with their terms.

3451 3. In the event any provision of this compact exceeds the constitutional limits imposed on the  
3452 legislature of any member state, such provision shall be ineffective to the extent of the conflict with the  
3453 constitutional provision in question in that member state.

3454 **Drafting note: Technical changes consistent with Va. Code § 1-216. Non-substantive**  
3455 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
3456 **of the compact. As the opening paragraph of this section provides, the compact is effective among**  
3457 **jurisdictions that adopt its provisions "in the form substantially" as adopted in Virginia. See**  
3458 ***Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting**  
3459 **that compacts "constitute an agreement between the Commonwealth of Virginia and other states,**  
3460 **territories and the United States, who join in a compact *by enacting substantially the same***  
3461 ***provisions*". Cf. *Sassoon v. Synchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the**  
3462 **enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained**  
3463 **differences, but were "substantively identical").**

3464 **§ 27-40. Support of dependent children of firemen.**

3465 The governing bodies of cities of the first class may, by ordinance adopted by a recorded vote of  
3466 a majority of the members elected to each branch, if there be more than one branch, appropriate money  
3467 out of the public funds to aid in the support of dependent children of members of the fire departments of  
3468 such cities who may have lost their lives through injuries received or illness incurred while in the  
3469 performance of their duties as members of such fire departments; such aid to continue in the case of each  
3470 such child until he ~~or she~~ shall have attained the age of sixteen years, and the payment of same to be made  
3471 monthly to the lawful guardian of such dependent children and in such amounts as the governing body of  
3472 such city may deem wise and just.

3473 **Drafting note: Technical change consistent with Va. Code § 1-216.**

3474 **§ 29.1-301. Exemptions from license requirements.**

3475 A. No license shall be required of landowners, their spouses, their children and grandchildren and  
3476 the spouses of such children and grandchildren, or the landowner's parents, resident or nonresident, to  
3477 hunt, trap and fish within the boundaries of their own lands and inland waters or while within such  
3478 boundaries or upon any private permanent extension therefrom, to fish in any abutting public waters.

3479 B. No license shall be required of any stockholder owning 50 percent or more of the stock of any  
3480 domestic corporation owning land in this Commonwealth, his ~~or her~~ spouse and children and minor  
3481 grandchildren, resident or nonresident, to hunt, trap and fish within the boundaries of lands and inland  
3482 waters owned by the domestic corporation.

3483 C. No license shall be required of bona fide tenants, renters or lessees to hunt, trap or fish within  
3484 the boundaries of the lands or waters on which they reside or while within such boundaries or upon any  
3485 private permanent extension therefrom, to fish in any abutting public waters if such individuals have the  
3486 written consent of the landlord upon their person. A guest of the owner of a private fish pond shall not be  
3487 required to have a fishing license to fish in such pond.

3488 D. No license shall be required of resident persons under 16 years old to fish.

3489 D1. No license shall be required of resident persons under 12 years old to hunt, provided such  
3490 person is accompanied and directly supervised by an adult who has, on his person, a valid Virginia hunting  
3491 license as described in subsection B of § 29.1-300.1.

3492 E. No license shall be required of a resident person 65 years of age or over to hunt or trap on private  
3493 property in the county or city in which he resides. An annual license at a fee of \$1 shall be required of a  
3494 resident person 65 years of age or older to fish in any inland waters of the Commonwealth, which shall be  
3495 in addition to a license to fish for trout as specified in subsection B of § 29.1-310 or a special lifetime trout  
3496 fishing license as specified in § 29.1-302.4. A resident 65 years of age or older may, upon proof of age  
3497 satisfactory to the Department and the payment of a \$1 fee, apply for and receive from any authorized  
3498 agent of the Department a nontransferable annual license permitting such person to hunt or an annual  
3499 license permitting such person to trap in all cities and counties of the Commonwealth. Any lifetime license  
3500 issued pursuant to this article prior to July 1, 1988, shall remain valid for the lifetime of the person to

3501 whom it was issued. Any license issued pursuant to this section includes any damage stamp required  
3502 pursuant to Article 3 (§ 29.1-352 et seq.) of this chapter.

3503 F. No license to fish, except for trout as provided in § 29.1-302.4 or subsection B of § 29.1-310,  
3504 shall be required of nonresident persons under 12 years of age when accompanied by a person possessing  
3505 a valid license to fish in Virginia.

3506 G. No license shall be required to trap rabbits with box traps.

3507 H. No license shall be required of resident persons under 16 years of age to trap when accompanied  
3508 by any person 18 years of age or older who possesses a valid state license to trap in this Commonwealth.

3509 I. No license to hunt, trap or fish shall be required of any Indian who habitually resides on an  
3510 Indian reservation or of a member of the Virginia recognized tribes who resides in the Commonwealth;  
3511 however, such Indian must have on his person an identification card or paper signed by the chief of his  
3512 tribe, a valid tribal identification card, written confirmation through a central tribal registry, or certification  
3513 from a tribal office. Such card, paper, confirmation, or certification shall set forth that the person named  
3514 is an actual resident upon such reservation or member of the recognized tribes in the Commonwealth, and  
3515 such card, paper, confirmation or certification shall create a presumption of residence, which may be  
3516 rebutted by proof of actual residence elsewhere.

3517 J. No license to fish shall be required of legally blind persons.

3518 K. No fishing license shall be required in any inland waters of the Commonwealth on free fishing  
3519 days. The Board shall designate no more than three free fishing days in any calendar year.

3520 L. No license to fish, except for trout as provided in § 29.1-302.4 or subsection B of § 29.1-310,  
3521 in Laurel Lake and Beaver Pond at Breaks Interstate Park shall be required of a resident of the State of  
3522 Kentucky who (i) possesses a valid license to fish in Kentucky or (ii) is exempt under Kentucky law from  
3523 the requirement of possessing a valid fishing license.

3524 M. No license to fish, except for trout as provided in subsection B of § 29.1-310, shall be required  
3525 of a member of the armed forces of the United States, on active duty, who is a resident of the  
3526 Commonwealth while such person is on official leave, provided that person presents a copy of his leave  
3527 papers upon request.

3528 N. No license to hunt or fish shall be required of any person who is not hunting or fishing but is  
3529 aiding a disabled person to hunt or fish when such disabled person possesses a valid Virginia hunting or  
3530 fishing license under § 29.1-302, 29.1-302.1, or 29.1-302.2.

3531 **Drafting note: Technical change consistent with Va. Code § 1-216.**

3532 **§ 29.1-530.5. Wildlife Violator Compact.**

3533 ARTICLE I

3534 Findings, Declaration of Policy, and Purpose

3535 (a) The participating states find that:

3536 (1) Wildlife resources are managed in trust by the respective states for the benefit of all residents  
3537 and visitors;

3538 (2) The protection of the wildlife resources of a state is materially affected by the degree of  
3539 compliance with state statutes, laws, regulations, rules, and ordinances relating to the management of those  
3540 resources;

3541 (3) The preservation, protection, management, and restoration of wildlife contributes  
3542 immeasurably to the aesthetic, recreational, and economic aspects of such natural resources;

3543 (4) Wildlife resources are valuable without regard to political boundaries; therefore, every person  
3544 should be required to comply with wildlife preservation, protection, management, and restoration statutes,  
3545 laws, rules, regulations, and ordinances of the participating states as a condition precedent to the  
3546 continuance or issuance of any license to hunt, fish, trap, or possess wildlife;

3547 (5) Violation of wildlife laws interferes with the management of wildlife resources and may  
3548 endanger the safety of persons and property;

3549 (6) The mobility of many wildlife law violators necessitates the maintenance of channels of  
3550 communication among the various states;

3551 (7) In most instances, a person who is cited for a wildlife violation in a state other than the person's  
3552 home state:

3553 (i) Is required to post collateral or a bond to secure an appearance for a trial at a later date;

3554 (ii) Is taken into custody until the collateral or bond is posted; or

3555 (iii) Is taken directly to court for an immediate appearance;

3556 (8) The purpose of the enforcement practices set forth in paragraph (7) of this subsection is to  
3557 ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue  
3558 on the person's way after receiving the citation, could return to the person's home state and disregard any  
3559 duty under the terms of the citation;

3560 (9) In most instances, a person receiving a wildlife citation in the person's home state is permitted  
3561 to accept the citation from the officer at the scene of the violation and immediately continue on the person's  
3562 way after agreeing or being instructed to comply with the terms of the citation;

3563 (10) The practices described in paragraph (7) of this subsection cause unnecessary inconvenience  
3564 and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand  
3565 trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made;  
3566 and

3567 (11) The enforcement practices described in paragraph (7) of this subsection consume an undue  
3568 amount of law-enforcement time.

3569 (b) It is the policy of the participating states to:

3570 (1) Promote compliance with the statutes, laws, regulations, rules, and ordinances relating to  
3571 management of wildlife resources in their respective states;

3572 (2) Recognize a suspension of wildlife license privileges of any person whose license privileges  
3573 have been suspended by a participating state and treat that suspension as if it had occurred in each  
3574 respective state;

3575 (3) Allow a violator, except as provided in Article III, subsection (b) of this compact, to accept a  
3576 wildlife citation and, without delay, proceed on the person's way, regardless of the violator's home state,  
3577 if that state is a party to this compact;

3578 (4) Report to the appropriate participating state, as provided in the compact manual, any conviction  
3579 recorded against a person whose home state was not the issuing state;

3580 (5) Allow the home state to recognize and treat convictions recorded against its residents, which  
3581 convictions occurred in a participating state, as though they had occurred in the home state;



3582 (6) Extend cooperation to its fullest extent among the participating states for enforcing compliance  
3583 with the terms of a wildlife citation issued in one participating state to a resident of another participating  
3584 state;

3585 (7) Maximize the effective use of law-enforcement personnel and information; and

3586 (8) Assist court systems in the efficient disposition of wildlife violations.

3587 (c) The purpose of this compact is to:

3588 (1) Provide a means through which participating states may join in a reciprocal program to  
3589 effectuate the policies enumerated in subsection (b) of this article in a uniform and orderly manner; and

3590 (2) Provide for the fair and impartial treatment of wildlife violators operating within participating  
3591 states in recognition of the violator's right to due process and the sovereign status of a participating state.

## 3592 ARTICLE II

### 3593 Definitions

3594 As used in this compact, unless the context requires otherwise, the following words have the  
3595 meanings indicated:

3596 (a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty  
3597 assessment, or other official document issued to a person by a wildlife officer or other law-enforcement  
3598 officer for a wildlife violation that contains an order requiring the person to respond.

3599 (b) "Collateral" means any cash or other security deposited to secure an appearance for trial in  
3600 connection with the issuance by a wildlife officer or other law-enforcement officer of a citation for a  
3601 wildlife violation.

3602 (c) "Compliance" with respect to a citation means the act of answering a citation through an  
3603 appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.

3604 (d) "Conviction" means a conviction that results in suspension or revocation of a license, including  
3605 any court conviction, for an offense related to the preservation, protection, management, or restoration of  
3606 wildlife that is prohibited by state statute, law, regulation, rule, or ordinance. The term also includes the  
3607 forfeiture of any bail, bond, or other security deposited to secure the appearance of a person charged with

3608 having committed the offense, the payment of a penalty assessment, a plea of nolo contendere, or the  
3609 imposition of a deferred or suspended sentence by the court.

3610 (e) "Court" means a court of law, including magistrate's court and the justice of the peace court.

3611 (f) "Home state" means the state of primary residence of a person.

3612 (g) "Issuing state" means the participating state that issues a wildlife citation to the violator.

3613 (h) "License" means a license, permit, or other public document that conveys to the person to  
3614 whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law,  
3615 regulation, rule, or ordinance of a participating state.

3616 (i) "Licensing authority" means the governmental unit in each participating state that is authorized  
3617 by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

3618 (j) "Participating state" means a state that enacts legislation to become a member of this Wildlife  
3619 Violator Compact.

3620 (k) "Personal recognizance" means an agreement by a person made at the time of issuance of the  
3621 wildlife citation that such person will comply with the terms of the citation.

3622 (l) "State" means any state, territory, or possession of the United States, the District of Columbia,  
3623 the Commonwealth of Puerto Rico, the provinces of Canada, and other countries.

3624 (m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges,  
3625 including the privilege to apply for, purchase, or exercise the benefits conferred by a license.

3626 (n) "Terms of the citation" means the conditions and options expressly stated upon the citation.

3627 (o) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish,  
3628 reptiles, amphibians, mollusks, and crustaceans, that are defined as "wildlife" and are protected or  
3629 otherwise regulated by statute, law, rule, regulation, or ordinance in a participating state. Species included  
3630 in the definition of "wildlife" vary from state to state and the determination of whether a species is  
3631 "wildlife" for the purposes of this Compact shall be based on the law of the issuing state.

3632 (p) "Wildlife law" means a statute, law, regulation, rule, or ordinance developed and enacted for  
3633 the management of wildlife resources and the uses thereof.

3634 (q) "Wildlife officer" means any individual authorized by a participating state to issue a citation  
3635 for a wildlife violation.

3636 (r) "Wildlife violation" means any cited violation of a statute, law, regulation, rule, or ordinance  
3637 developed and enacted for the management of wildlife resources and the uses thereof.

### 3638 ARTICLE III

#### 3639 Procedures for Issuing State

3640 (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any  
3641 person whose primary residence is in a participating state in the same manner as though the person were  
3642 a resident of the issuing state and shall not require such person to post collateral to secure appearance,  
3643 subject to the exceptions noted in subsection (b) of this article, if the officer receives the recognizance of  
3644 such person that he will comply with the terms of the citation.

3645 (b) Personal recognizance is acceptable if not prohibited by local law; by policy, procedure, or  
3646 regulation of the issuing agency; or by the compact manual and if the violator provides adequate proof of  
3647 identification to the wildlife officer.

3648 (c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the  
3649 appropriate official shall report the conviction or failure to comply to the licensing authority of the  
3650 participating state in which the wildlife citation was issued. The report shall be made in accordance with  
3651 procedures specified by the issuing state and must contain information as specified in the compact manual  
3652 as minimum requirements for effective processing by the home state.

3653 (d) Upon receiving the report of conviction or noncompliance pursuant to subsection (c) of this  
3654 article, the licensing authority of the issuing state shall transmit to the licensing authority of the home state  
3655 of the violator the information in the form and content prescribed in the compact manual.

### 3656 ARTICLE IV

#### 3657 Procedure for Home State

3658 (a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure  
3659 of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify  
3660 the violator and shall initiate a suspension action in accordance with the home state's suspension

3661 procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance  
3662 with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing  
3663 authority. Due process safeguards shall be accorded to the violator.

3664 (b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the  
3665 licensing authority of the home state shall enter such conviction in its records and shall treat such  
3666 conviction as though the conviction had occurred in the home state for the purposes of the suspension of  
3667 license privileges.

3668 (c) The licensing authority of the home state shall maintain a record of actions taken and shall  
3669 make reports to issuing states as provided in the compact manual.

## 3670 ARTICLE V

### 3671 Reciprocal Recognition of Suspension

3672 (a) All participating states shall recognize the suspension of license privileges of a person by a  
3673 participating state as though the violation resulting in the suspension had occurred in their state and could  
3674 have been the basis for suspension of license privileges in their state.

3675 (b) Each participating state shall communicate suspension information to other participating states  
3676 in a form and content prescribed in the compact manual.

## 3677 ARTICLE VI

### 3678 Applicability of Other Laws

3679 Except as expressly required by provisions of this compact, nothing in this compact may be  
3680 construed to affect the right of a participating state to apply any of its laws relating to license privileges to  
3681 any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement  
3682 between a participating state and a nonparticipating state concerning the enforcement of wildlife laws.

## 3683 ARTICLE VII

### 3684 Compact Administrator Procedures

3685 (a) For the purpose of administering the provisions of this compact and to serve as a governing  
3686 body for the resolution of all matters relating to the operation of this compact, a Board of Compact  
3687 Administrators is established. The board shall be composed of one representative from each of the

3688 participating states to be known as the compact administrator. The compact administrator shall be  
3689 appointed by the head of the licensing authority of each participating state and shall serve and be subject  
3690 to removal in accordance with the laws of the state he ~~or she~~ represents. A compact administrator may  
3691 provide for an alternate for the discharge of his ~~or her~~ duties and the performance of his ~~or her~~ functions  
3692 as a board member. An alternate is not entitled to serve unless written notification of the alternate's identity  
3693 has been given to the board.

3694 (b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action  
3695 of the board shall be binding unless taken at a meeting at which a majority of the total number of the  
3696 board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority  
3697 of the participating states are represented.

3698 (c) The board shall elect annually from its membership a chairman and vice chairman.

3699 (d) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws  
3700 of a participating state for the conduct of its business and shall have the power to amend and rescind its  
3701 bylaws.

3702 (e) The board may accept for any of its purposes and functions under this compact any and all  
3703 donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise,  
3704 from any state, the United States, or any governmental unit, and may receive, utilize, and dispose of those  
3705 grants and donations.

3706 (f) The board may contract with, or accept services or personnel from, any governmental or  
3707 intergovernmental unit, individual, firm, or corporation, or any private nonprofit organization or  
3708 institution.

3709 (g) The board shall formulate all necessary procedures and develop uniform forms and documents  
3710 for administering the provisions of this compact. All procedures and forms adopted pursuant to board  
3711 action shall be contained in a compact manual.

## 3712 ARTICLE VIII

### 3713 Entry into Compact and Withdrawal

3714 (a) This compact shall become effective at such time as it is adopted in substantially similar form  
3715 by two or more states.

3716 (b) Entry into the compact shall be made by resolution of ratification executed by the authorized  
3717 officials of the applying state and submitted to the chairman of the board. The resolution shall substantially  
3718 be in the form and content as provided in the compact manual and shall include the following:

3719 (1) A citation of the authority from which the state is empowered to become a party to this compact;

3720 (2) An agreement of compliance with the terms and provisions of this compact; and

3721 (3) An agreement that compact entry is with all states participating in the compact and with all  
3722 additional states legally becoming a party to the compact.

3723 (c) The effective date of entry shall be specified by the applying state, but may not be less than 60  
3724 days after notice has been given by the chairman of the Board of Compact Administrators or by the  
3725 secretariat of the board to each participating state that the resolution from the applying state has been  
3726 received.

3727 (d) A participating state may withdraw from this compact by official written notice to each  
3728 participating state, but withdrawal shall not become effective until 90 days after the notice of withdrawal  
3729 is given. The notice shall be directed to the compact administrator of each member state. The withdrawal  
3730 of any state does not affect the validity of this compact as to the remaining participating states.

## 3731 ARTICLE IX

### 3732 Amendments to the Compact

3733 (a) This Compact may be amended from time to time. Amendments shall be presented in resolution  
3734 form to the chairman of the Board of Compact Administrators and shall be initiated by one or more  
3735 participating states.

3736 (b) Adoption of an amendment shall require endorsement by all participating states and shall  
3737 become effective 30 days after the date of the last endorsement.

3738 (c) Failure of a participating state to respond to the compact chairman within 120 days after receipt  
3739 of a proposed amendment shall constitute endorsement of the proposed amendment.

## 3740 ARTICLE X

3741 Construction and Severability

3742 This compact shall be liberally construed so as to effectuate the purposes stated herein. The  
3743 provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this  
3744 compact is declared to be contrary to the constitution of a participating state or of the United States, or if  
3745 the applicability thereof to any government, unit, individual, or circumstance is held invalid, the validity  
3746 of the remainder of this compact shall not be affected thereby. If this compact is held contrary to the  
3747 constitution of a participating state, the compact shall remain in full force and effect as to the remaining  
3748 states and in full force and effect as to the participating state affected as to all severable matters.

3749 ARTICLE XI

3750 Title

3751 This compact shall be known as the "Wildlife Violator Compact."

3752 **Drafting note: Technical changes consistent with Va. Code § 1-216. Non-substantive**  
3753 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
3754 **of the compact. As Article VIII of this section provides, the compact is effective among jurisdictions**  
3755 **that adopt its provisions "in substantially similar form" as adopted in Virginia. *See Delgado v.***  
3756 ***Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting that compacts**  
3757 **"constitute an agreement between the Commonwealth of Virginia and other states, territories and**  
3758 **the United States, who join in a compact *by enacting substantially the same provisions*"). *Cf. Sassoon***  
3759 ***v. Stynchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the enacted versions of the**  
3760 **Interstate Agreement on Detainers under federal and Georgia law contained differences, but were**  
3761 **"substantively identical").**

3762 § 32.1-138. Enumeration; posting of policies; staff training; responsibilities devolving on  
3763 guardians, etc.; exceptions; certification of compliance.

3764 A. The governing body of a nursing home facility required to be licensed under the provisions of  
3765 Article 1 (§ 32.1-123 et seq.) of this chapter, through the administrator of such facility, shall cause to be  
3766 promulgated policies and procedures to ensure that, at the minimum, each patient admitted to such facility:

- 3767 1. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time  
3768 of admission and during his stay, of his rights and of all rules and regulations governing patient conduct  
3769 and responsibilities;
- 3770 2. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time  
3771 of admission and during his stay, of services available in the facility, the terms of such services, and related  
3772 charges, including any charges for services not covered under Titles XVIII or XIX of the United States  
3773 Social Security Act or not covered by the facility's basic per diem rate;
- 3774 3. Is fully informed in summary form of the findings concerning the facility in federal Centers for  
3775 Medicare & Medicaid Services surveys and investigations, if any;
- 3776 4. Is fully informed by a physician, physician assistant, or nurse practitioner of his medical  
3777 condition unless medically contraindicated as documented by a physician, physician assistant, or nurse  
3778 practitioner in his medical record and is afforded the opportunity to participate in the planning of his  
3779 medical treatment and to refuse to participate in experimental research;
- 3780 5. Is transferred or discharged only for medical reasons, or for his welfare or that of other patients,  
3781 or for nonpayment for his stay except as prohibited by Titles XVIII or XIX of the United States Social  
3782 Security Act, and is given reasonable advance notice as provided in § 32.1-138.1 to ensure orderly transfer  
3783 or discharge, and such actions are documented in his medical record;
- 3784 6. Is encouraged and assisted, throughout the period of his stay, to exercise his rights as a patient  
3785 and as a citizen and to this end may voice grievances and recommend changes in policies and services to  
3786 facility staff and to outside representatives of his choice, free from restraint, interference, coercion,  
3787 discrimination, or reprisal;
- 3788 7. May manage his personal financial affairs, or may have access to records of financial  
3789 transactions made on his behalf at least once a month and is given at least a quarterly accounting of  
3790 financial transactions made on his behalf should the facility accept his written delegation of this  
3791 responsibility to the facility for any period of time in conformance with state law;



3792 8. Is free from mental and physical abuse and free from chemical and, except in emergencies,  
3793 physical restraints except as authorized in writing by a physician for a specified and limited period of time  
3794 or when necessary to protect the patient from injury to himself or to others;

3795 9. Is assured confidential treatment of his personal and medical records and may approve or refuse  
3796 their release to any individual outside the facility, except in case of his transfer to another health care  
3797 institution or as required by law or third-party payment contract;

3798 10. Is treated with consideration, respect, and full recognition of his dignity and individuality,  
3799 including privacy in treatment and in care for his personal needs;

3800 11. Is not required to perform services for the facility that are not included for therapeutic purposes  
3801 in his plan of care;

3802 12. May associate and communicate privately with persons of his choice and send and receive his  
3803 personal mail unopened, unless medically contraindicated as documented by his physician in his medical  
3804 record;

3805 13. May meet with and participate in activities of social, religious and community groups at his  
3806 discretion, unless medically contraindicated as documented by his physician, physician assistant, or nurse  
3807 practitioner in his medical record;

3808 14. May retain and use his personal clothing and possessions as space permits unless to do so  
3809 would infringe upon rights of other patients and unless medically contraindicated as documented by his  
3810 physician, physician assistant, or nurse practitioner in his medical record;

3811 15. If married, is assured privacy for visits by his ~~or her~~ spouse and if both are inpatients in the  
3812 facility, is permitted to share a room with such spouse unless medically contraindicated as documented by  
3813 the attending physician, physician assistant, or nurse practitioner in the medical record; and

3814 16. Is fully informed, as evidenced by the written acknowledgment of the resident or his legal  
3815 representative, prior to or at the time of admission and during his stay, that he should exercise whatever  
3816 due diligence he deems necessary with respect to information on any sexual offenders registered pursuant  
3817 to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including how to obtain such information. Upon request, the  
3818 nursing home facility shall assist the resident, prospective resident, or the legal representative of the

3819 resident or prospective resident in accessing this information and provide the resident, prospective  
3820 resident, or the legal representative of the resident or prospective resident with printed copies of the  
3821 requested information.

3822 B. All established policies and procedures regarding the rights and responsibilities of patients shall  
3823 be printed in at least 12-point type and posted conspicuously in a public place in all nursing home facilities  
3824 required to be licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of this chapter. These policies  
3825 and procedures shall include the name and telephone number of the complaint coordinator in the Division  
3826 of Licensure and Certification of the Virginia Department of Health, the Adult Protective Services' toll-  
3827 free telephone number, as well as the toll-free telephone number for the Virginia Long-Term Care  
3828 Ombudsman Program and any substate ombudsman program serving the area. Copies of such policies and  
3829 procedures shall be given to patients upon admittance to the facility and made available to patients  
3830 currently in residence, to any guardians, responsible party as defined in regulation, next of kin, or  
3831 sponsoring agency or agencies, and to the public.

3832 C. The provisions of this section shall not be construed to restrict any right that any patient in  
3833 residence has under law.

3834 D. Each facility shall provide appropriate staff training to implement each patient's rights included  
3835 in subsection A hereof.

3836 E. All rights and responsibilities specified in subsection A hereof and § 32.1-138.1 as they pertain  
3837 to (i) a patient adjudicated incapacitated in accordance with state law, (ii) a patient who is found, by his  
3838 physician, to be medically incapable of understanding these rights, or (iii) a patient who is unable to  
3839 communicate with others shall devolve to such patient's guardian, responsible party as defined in  
3840 regulation, next of kin, sponsoring agency or agencies, or representative payee, except when the facility  
3841 itself is representative payee, selected pursuant to section 205(j) of Title II of the United States Social  
3842 Security Act. The persons to whom such rights and responsibilities have devolved shall be deemed to have  
3843 legal authority to act on the patient's behalf with respect to the matters specified in this section.

3844 F. Nothing in this section shall be construed to prescribe, regulate, or control the remedial care and  
3845 treatment or nursing service provided to any patient in a nursing institution to which the provisions of §  
3846 32.1-128 are applicable.

3847 G. It shall be the responsibility of the Commissioner to insure that the provisions of this section  
3848 and the provisions of § 32.1-138.1 are observed and implemented by nursing home facilities. Each nursing  
3849 home facility to which this section and § 32.1-138.1 are applicable shall certify to the Commissioner that  
3850 it is in compliance with the provisions of this section and the provisions of § 32.1-138.1 as a condition to  
3851 the issuance or renewal of the license required by Article 1 (§ 32.1-123 et seq.) of this chapter.

3852 **Drafting note: Technical change consistent with Va. Code § 1-216.**

3853 **§ 32.1-371. (Contingent expiration date -- see note) Recognition of Emergency Medical**  
3854 **Services Personnel Licensure Interstate Compact.**

3855 The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact is  
3856 hereby enacted into law and entered into with all jurisdictions legally joining therein in the form  
3857 substantially as follows:

3858 SECTION 1. PURPOSE

3859 In order to protect the public through verification of competency and ensure accountability for  
3860 patient-care-related activities, all states license emergency medical services (EMS) personnel, such as  
3861 emergency medical technicians (EMTs), advanced EMTs, and paramedics. This compact is intended to  
3862 facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their  
3863 EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate  
3864 legal recognition to EMS personnel licensed in a member state. This compact recognizes that states have  
3865 a vested interest in protecting the public's health and safety through their licensing and regulation of EMS  
3866 personnel and that such state regulation shared among the member states will best protect public health  
3867 and safety. This compact is designed to achieve the following purposes and objectives:

- 3868 1. Increase public access to EMS personnel;
- 3869 2. Enhance the states' ability to protect the public's health and safety, especially patient safety;
- 3870 3. Encourage the cooperation of member states in the areas of EMS licensure and regulation;

3871 4. Support licensing of military members who are separating from an active duty tour and licensing  
3872 of their spouses;

3873 5. Facilitate the exchange of information between member states regarding EMS personnel  
3874 licensure, adverse action, and significant investigatory information;

3875 6. Promote compliance with the laws governing EMS personnel practice in each member state;  
3876 and

3877 7. Invest all member states with the authority to hold EMS personnel accountable through the  
3878 mutual recognition of member state licenses.

## 3879 SECTION 2. DEFINITIONS

3880 In this compact:

3881 A. "Advanced Emergency Medical Technician (AEMT)" means an individual licensed with  
3882 cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education  
3883 Standards and National EMS Scope of Practice Model.

3884 B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a  
3885 state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state  
3886 court, including, but not limited to, actions against an individual's license such as revocation, suspension,  
3887 probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice,  
3888 letters of reprimand or admonition, fines, criminal convictions, and state court judgments enforcing  
3889 adverse actions by the state EMS authority.

3890 C. "Alternative program" means a voluntary, non-disciplinary substance abuse recovery program  
3891 approved by a state EMS authority.

3892 D. "Certification" means the successful verification of entry-level cognitive and psychomotor  
3893 competency using a reliable, validated, and legally defensible examination.

3894 E. "Commission" means the national administrative body of which all states that have enacted the  
3895 compact are members.

3896 F. "Emergency medical technician (EMT)" means an individual licensed with cognitive  
3897 knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards  
3898 and National EMS Scope of Practice Model.

3899 G. "Home state" means a member state where an individual is licensed to practice emergency  
3900 medical services.

3901 H. "License" means the authorization by a state for an individual to practice as an EMT, AEMT,  
3902 or paramedic or at a level in between EMT and paramedic.

3903 I. "Medical director" means a physician licensed in a member state who is accountable for the care  
3904 delivered by EMS personnel.

3905 J. "Member state" means a state that has enacted this compact.

3906 K. "Privilege to practice" means an individual's authority to deliver emergency medical services  
3907 in remote states as authorized under this compact.

3908 L. "Paramedic" means an individual licensed with cognitive knowledge and a scope of practice  
3909 that corresponds to that level in the National EMS Education Standards and National EMS Scope of  
3910 Practice Model.

3911 M. "Remote state" means a member state in which an individual is not licensed.

3912 N. "Restricted" means the outcome of an adverse action that limits a license or the privilege to  
3913 practice.

3914 O. "Rule" means a written statement by the interstate Commission promulgated pursuant to Section  
3915 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or  
3916 provision of the compact; or is an organizational, procedural, or practice requirement of the Commission  
3917 and has the force and effect of statutory law in a member state and includes the amendment, repeal, or  
3918 suspension of an existing rule.

3919 P. "Scope of practice" means defined parameters of various duties or services that may be provided  
3920 by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to  
3921 represent the limits of services an individual may perform.

3922 Q. "Significant investigatory information" means:

3923 1. Investigative information that a state EMS authority, after a preliminary inquiry that includes  
3924 notification and an opportunity to respond if required by state law, has reason to believe, if proved true,  
3925 would result in the imposition of an adverse action on a license or privilege to practice; or

3926 2. Investigative information that indicates that the individual represents an immediate threat to  
3927 public health and safety regardless of whether the individual has been notified and had an opportunity to  
3928 respond.

3929 R. "State" means any state, commonwealth, district, or territory of the United States.

3930 S. "State EMS authority" means the board, office, or other agency with the legislative mandate to  
3931 license EMS personnel.

### 3932 SECTION 3. HOME STATE LICENSURE

3933 A. Any member state in which an individual holds a current license shall be deemed a home state  
3934 for purposes of this compact.

3935 B. Any member state may require an individual to obtain and retain a license to be authorized to  
3936 practice in the member state under circumstances not authorized by the privilege to practice under the  
3937 terms of this compact.

3938 C. A home state's license authorizes an individual to practice in a remote state under the privilege  
3939 to practice only if the home state:

3940 1. Currently requires the use of the National Registry of Emergency Medical Technicians  
3941 (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

3942 2. Has a mechanism in place for receiving and investigating complaints about individuals;

3943 3. Notifies the Commission, in compliance with the terms herein, of any adverse action or  
3944 significant investigatory information regarding an individual;

3945 4. No later than five years after activation of the compact, requires a criminal background check  
3946 of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data  
3947 checks compliant with the requirements of the Federal Bureau of Investigation with the exception of  
3948 federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202 and submit  
3949 documentation of such as promulgated in the rules of the Commission; and

3950 5. Complies with the rules of the Commission.

3951 SECTION 4. COMPACT PRIVILEGE TO PRACTICE

3952 A. Member states shall recognize the privilege to practice of an individual licensed in another  
3953 member state that is in conformance with Section 3.

3954 B. To exercise the privilege to practice under the terms and provisions of this compact, an  
3955 individual must:

3956 1. Be at least 18 years of age;

3957 2. Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state  
3958 recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3959 3. Practice under the supervision of a medical director.

3960 C. An individual providing patient care in a remote state under the privilege to practice shall  
3961 function within the scope of practice authorized by the home state unless and until modified by an  
3962 appropriate authority in the remote state as may be defined in the rules of the Commission.

3963 D. Except as provided in Section 4 subsection C, an individual practicing in a remote state will be  
3964 subject to the remote state's authority and laws. A remote state may, in accordance with due process and  
3965 that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and  
3966 may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes  
3967 action, it shall promptly notify the home state and the Commission.

3968 E. If an individual's license in any home state is restricted or suspended, the individual shall not  
3969 be eligible to practice in a remote state under the privilege to practice until the individual's home state  
3970 license is restored.

3971 F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked,  
3972 the individual shall not be eligible to practice in any remote state until the individual's privilege to practice  
3973 is restored.

3974 SECTION 5. CONDITIONS OF PRACTICE IN A REMOTE STATE

3975 An individual may practice in a remote state under a privilege to practice only in the performance  
3976 of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the  
3977 Commission, and under the following circumstances:

3978 1. The individual originates a patient transport in a home state and transports the patient to a remote  
3979 state;

3980 2. The individual originates in the home state and enters a remote state to pick up a patient and  
3981 provide care and transport of the patient to the home state;

3982 3. The individual enters a remote state to provide patient care and/or transport within that remote  
3983 state;

3984 4. The individual enters a remote state to pick up a patient and provide care and transport to a third  
3985 member state;

3986 5. Other conditions as determined by rules promulgated by the Commission.

3987 SECTION 6. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE  
3988 COMPACT

3989 Upon a member state's governor's declaration of a state of emergency or disaster that activates the  
3990 Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall  
3991 apply and to the extent any terms or provisions of this compact conflict with EMAC, the terms of EMAC  
3992 shall prevail with respect to any individual practicing in the remote state in response to such declaration.

3993 SECTION 7. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY  
3994 MILITARY, AND THEIR SPOUSES

3995 A. Member states shall consider a veteran, active military service member, and member of the  
3996 National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a  
3997 current valid and unrestricted NREMT certification at or above the level of the state license being sought  
3998 as satisfying the minimum training and examination requirements for such licensure.

3999 B. Member states shall expedite the processing of licensure applications submitted by veterans,  
4000 active military service members, and members of the National Guard and Reserves separating from an  
4001 active duty tour, and their spouses.



4002 C. All individuals functioning with a privilege to practice under this Section remain subject to the  
4003 adverse actions provisions of Section 8.

4004 SECTION 8. ADVERSE ACTIONS

4005 A. A home state shall have exclusive power to impose adverse action against an individual's license  
4006 issued by the home state.

4007 B. If an individual's license in any home state is restricted or suspended, the individual shall not  
4008 be eligible to practice in a remote state under the privilege to practice until the individual's home state  
4009 license is restored.

4010 1. All home state adverse action orders shall include a statement that the individual's compact  
4011 privileges are inactive. The order may allow the individual to practice in remote states with prior written  
4012 authorization from both the home state and remote state's EMS authority.

4013 2. An individual currently subject to adverse action in the home state shall not practice in any  
4014 remote state without prior written authorization from both the home state and remote state's EMS  
4015 authority.

4016 C. A member state shall report adverse actions and any occurrences that the individual's compact  
4017 privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the  
4018 Commission.

4019 D. A remote state may take adverse action on an individual's privilege to practice within that state.

4020 E. Any member state may take adverse action against an individual's privilege to practice in that  
4021 state based on the factual findings of another member state, so long as each state follows its own  
4022 procedures for imposing such adverse action.

4023 F. A home state's EMS authority shall investigate and take appropriate action with respect to  
4024 reported conduct in a remote state as it would if such conduct had occurred within the home state. In such  
4025 cases, the home state's law shall control in determining the appropriate adverse action.

4026 G. Nothing in this compact shall override a member state's decision that participation in an  
4027 alternative program may be used in lieu of adverse action and that such participation shall remain  
4028 nonpublic if required by the member state's laws. Member states must require individuals who enter any

4029 alternative programs to agree not to practice in any other member state during the term of the alternative  
4030 program without prior authorization from such other member state.

4031 SECTION 9. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS  
4032 AUTHORITY

4033 A member state's EMS authority, in addition to any other powers granted under state law, is  
4034 authorized under this compact to:

4035 1. Issue subpoenas for both hearings and investigations that require the attendance and testimony  
4036 of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the  
4037 attendance and testimony of witnesses, and/or the production of evidence from another member state,  
4038 shall be enforced in the remote state by any court of competent jurisdiction, according to that court's  
4039 practice and procedure in considering subpoenas issued in its own proceedings. The issuing state's EMS  
4040 authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service  
4041 statutes of the state where the witnesses and/or evidence are located; and

4042 2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in  
4043 the state.

4044 SECTION 10. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS  
4045 PERSONNEL PRACTICE

4046 A. The compact states hereby create and establish a joint public agency known as the Interstate  
4047 Commission for EMS Personnel Practice.

4048 1. The Commission is a body politic and an instrumentality of the compact states.

4049 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely  
4050 and exclusively in a court of competent jurisdiction where the principal office of the Commission is  
4051 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents  
4052 to participate in alternative dispute resolution proceedings.

4053 3. Nothing in this compact shall be construed to be a waiver of sovereign immunity.

4054 B. Membership, Voting, and Meetings.

4055 1. Each member state shall have and be limited to one (1) delegate. The responsible official of the  
4056 state EMS authority or his designee shall be the delegate to this compact for each member state. Any  
4057 delegate may be removed or suspended from office as provided by the law of the state from which the  
4058 delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the  
4059 laws of the member state in which the vacancy exists. In the event that more than one board, office, or  
4060 other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists,  
4061 the governor of the state will determine which entity will be responsible for assigning the delegate.

4062 2. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and  
4063 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the  
4064 Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws  
4065 may provide for delegates' participation in meetings by telephone or other means of communication.

4066 3. The Commission shall meet at least once during each calendar year. Additional meetings shall  
4067 be held as set forth in the bylaws.

4068 4. All meetings shall be open to the public, and public notice of meetings shall be given in the  
4069 same manner as required under the rulemaking provisions in Section 12.

4070 5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

4071 a. Noncompliance of a member state with its obligations under the compact;

4072 b. The employment, compensation, discipline or other personnel matters, practices or procedures  
4073 related to specific employees or other matters related to the Commission's internal personnel practices and  
4074 procedures;

4075 c. Current, threatened, or reasonably anticipated litigation;

4076 d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

4077 e. Accusing any person of a crime or formally censuring any person;

4078 f. Disclosure of trade secrets or commercial or financial information that is privileged or  
4079 confidential;

4080 g. Disclosure of information of a personal nature where disclosure would constitute a clearly  
4081 unwarranted invasion of personal privacy;

4082 h. Disclosure of investigatory records compiled for law-enforcement purposes;

4083 i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for  
4084 use of the Commission or other committee charged with responsibility of investigation or determination  
4085 of compliance issues pursuant to the compact; or

4086 j. Matters specifically exempted from disclosure by federal or member state statute.

4087 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal  
4088 counsel or designee shall certify that the meeting may be closed and shall reference each relevant  
4089 exempting provision. The Commission shall keep minutes that fully and clearly describe all matters  
4090 discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons  
4091 therefor, including a description of the views expressed. All documents considered in connection with an  
4092 action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain  
4093 under seal, subject to release by a majority vote of the Commission or order of a court of competent  
4094 jurisdiction.

4095 C. The Commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to  
4096 govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers  
4097 of the compact, including but not limited to:

4098 1. Establishing the fiscal year of the Commission;

4099 2. Providing reasonable standards and procedures:

4100 a. For the establishment and meetings of other committees; and

4101 b. Governing any general or specific delegation of any authority or function of the Commission;

4102 3. Providing reasonable procedures for calling and conducting meetings of the Commission,  
4103 ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such  
4104 meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the  
4105 privacy of individuals, and proprietary information, including trade secrets. The Commission may meet  
4106 in closed session only after a majority of the membership votes to close a meeting in whole or in part. As  
4107 soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing  
4108 the vote of each member with no proxy votes allowed;

4109 4. Establishing the titles, duties and authority, and reasonable procedures for the election of the  
4110 officers of the Commission;

4111 5. Providing reasonable standards and procedures for the establishment of the personnel policies  
4112 and programs of the Commission. Notwithstanding any civil service or other similar laws of any member  
4113 state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

4114 6. Promulgating a code of ethics to address permissible and prohibited activities of Commission  
4115 members and employees;

4116 7. Providing a mechanism for winding up the operations of the Commission and the equitable  
4117 disposition of any surplus funds that may exist after the termination of the compact after the payment  
4118 and/or reserving of all of its debts and obligations;

4119 8. Publishing its bylaws and filing a copy thereof, and a copy of any amendment thereto, with the  
4120 appropriate agency or officer in each of the member states, if any;

4121 9. Maintaining its financial records in accordance with the bylaws; and

4122 10. Meeting and taking such actions as are consistent with the provisions of this compact and the  
4123 bylaws.

4124 D. The Commission shall have the following powers:

4125 1. To promulgate uniform rules to facilitate and coordinate implementation and administration of  
4126 this compact. The rules shall have the force and effect of law and shall be binding in all member states;

4127 2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided  
4128 that the standing of any state EMS authority or other regulatory body responsible for EMS personnel  
4129 licensure to sue or be sued under applicable law shall not be affected;

4130 3. To purchase and maintain insurance and bonds;

4131 4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees  
4132 of a member state;

4133 5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such  
4134 individuals appropriate authority to carry out the purposes of the compact, and to establish the

4135 Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel,  
4136 and other related personnel matters;

4137 6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials,  
4138 and services and to receive, utilize, and dispose of the same, provided that at all times the Commission  
4139 shall strive to avoid any appearance of impropriety and/or conflict of interest;

4140 7. To lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve,  
4141 or use any property, real, personal, or mixed, provided that at all times the Commission shall strive to  
4142 avoid any appearance of impropriety;

4143 8. To sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
4144 property, real, personal, or mixed;

4145 9. To establish a budget and make expenditures;

4146 10. To borrow money;

4147 11. To appoint committees, including advisory committees composed of members, state regulators,  
4148 state legislators or their representatives, and consumer representatives and such other interested persons  
4149 as may be designated in this compact and the bylaws;

4150 12. To provide and receive information from, and cooperate with, law-enforcement agencies;

4151 13. To adopt and use an official seal; and

4152 14. To perform such other functions as may be necessary or appropriate to achieve the purposes  
4153 of this compact consistent with the state regulation of EMS personnel licensure and practice.

4154 E. Financing of the Commission.

4155 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its  
4156 establishment, organization, and ongoing activities.

4157 2. The Commission may accept any and all appropriate revenue sources, donations, and grants of  
4158 money, equipment, supplies, materials, and services.

4159 3. The Commission may levy on and collect an annual assessment from each member state or  
4160 impose fees on other parties to cover the cost of the operations and activities of the Commission and its  
4161 staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which

4162 revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated  
4163 based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon  
4164 all member states.

4165 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to  
4166 meet the same; nor shall the Commission pledge the credit of any of the member states, except by and  
4167 with the authority of the member state.

4168 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts  
4169 and disbursements of the Commission shall be subject to the audit and accounting procedures established  
4170 under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be  
4171 audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in  
4172 and become part of the annual report of the Commission.

4173 F. Qualified Immunity, Defense, and Indemnification.

4174 1. The members, officers, executive director, employees, and representatives of the Commission  
4175 shall be immune from suit and liability, either personally or in their official capacity, for any claim for  
4176 damage to or loss of property or personal injury or other civil liability caused by or arising out of any  
4177 actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made  
4178 had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or  
4179 responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from  
4180 suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton  
4181 misconduct of that person.

4182 2. The Commission shall defend any member, officer, executive director, employee, or  
4183 representative of the Commission in any civil action seeking to impose liability arising out of any actual  
4184 or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or  
4185 responsibilities or that the person against whom the claim is made had a reasonable basis for believing  
4186 occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing  
4187 herein shall be construed to prohibit that person from retaining his-~~or her~~ own counsel, and provided

4188 further that the actual or alleged act, error, or omission did not result from that person's intentional or  
4189 willful or wanton misconduct.

4190 3. The Commission shall indemnify and hold harmless any member, officer, executive director,  
4191 employee, or representative of the Commission for the amount of any settlement or judgment obtained  
4192 against that person arising out of any actual or alleged act, error, or omission that occurred within the  
4193 scope of Commission employment, duties, or responsibilities or that such person had a reasonable basis  
4194 for believing occurred within the scope of Commission employment, duties, or responsibilities, provided  
4195 that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton  
4196 misconduct of that person.

4197 SECTION 11. COORDINATED DATABASE

4198 A. The Commission shall provide for the development and maintenance of a coordinated database  
4199 and reporting system containing licensure, adverse action, and significant investigatory information on all  
4200 licensed individuals in member states.

4201 B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a  
4202 uniform data set to the coordinated database on all individuals to whom this compact is applicable as  
4203 required by the rules of the Commission, including:

- 4204 1. Identifying information;
- 4205 2. Licensure data;
- 4206 3. Significant investigatory information;
- 4207 4. Adverse actions against an individual's license;
- 4208 5. An indicator that an individual's privilege to practice is restricted, suspended, or revoked;
- 4209 6. Nonconfidential information related to alternative program participation;
- 4210 7. Any denial of application for licensure and the reason(s) for such denial; and
- 4211 8. Other information that may facilitate the administration of this compact, as determined by the  
4212 rules of the Commission.

4213 C. The coordinated database administrator shall promptly notify all member states of any adverse  
4214 action taken against, or significant investigative information on, any individual in a member state.



4215 D. Member states contributing information to the coordinated database may designate information  
4216 that may not be shared with the public without the express permission of the contributing state.

4217 E. Any information submitted to the coordinated database that is subsequently required to be  
4218 expunged by the laws of the member state contributing the information shall be removed from the  
4219 coordinated database.

#### 4220 SECTION 12. RULEMAKING

4221 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this  
4222 Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date  
4223 specified in each rule or amendment.

4224 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or  
4225 resolution in the same manner used to adopt the compact, then such rule shall have no further force and  
4226 effect in any member state.

4227 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the  
4228 Commission.

4229 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty  
4230 (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission  
4231 shall file a Notice of Proposed Rulemaking:

- 4232 1. On the website of the Commission; and  
4233 2. On the website of each member state EMS authority or the publication in which each state would  
4234 otherwise publish proposed rules.

4235 E. The Notice of Proposed Rulemaking shall include:

- 4236 1. The proposed time, date, and location of the meeting in which the rule will be considered and  
4237 voted upon;  
4238 2. The text of the proposed rule or amendment and the reason for the proposed rule;  
4239 3. A request for comments on the proposed rule from any interested person; and  
4240 4. The manner in which interested persons may submit notice to the Commission of their intention  
4241 to attend the public hearing and any written comments.

4242 F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data,  
4243 facts, opinions, and arguments, which shall be made available to the public.

4244 G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or  
4245 amendment if a hearing is requested by:

- 4246 1. At least twenty-five (25) persons;
- 4247 2. A governmental subdivision or agency; or
- 4248 3. An association having at least twenty-five (25) members.

4249 H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place,  
4250 time, and date of the scheduled public hearing.

4251 1. All persons wishing to be heard at the hearing shall notify the executive director of the  
4252 Commission or other designated member in writing of their desire to appear and testify at the hearing not  
4253 less than five (5) business days before the scheduled date of the hearing.

4254 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair  
4255 and reasonable opportunity to comment orally or in writing.

4256 3. No transcript of the hearing is required, unless a written request for a transcript is made, in which  
4257 case the person requesting the transcript shall bear the cost of producing the transcript. A recording may  
4258 be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall  
4259 not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4260 4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules  
4261 may be grouped for the convenience of the Commission at hearings required by this section.

4262 I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date  
4263 if the hearing was not held, the Commission shall consider all written and oral comments received.

4264 J. The Commission shall, by majority vote of all members, take final action on the proposed rule  
4265 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text  
4266 of the rule.

4267 K. If no written notice of intent to attend the public hearing by interested parties is received, the  
4268 Commission may proceed with promulgation of the proposed rule without a public hearing.

4269 L. Upon determination that an emergency exists, the Commission may consider and adopt an  
4270 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual  
4271 rulemaking procedures provided in the compact and in this section shall be retroactively applied to the  
4272 rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the  
4273 rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in  
4274 order to:

- 4275 1. Meet an imminent threat to public health, safety, or welfare;
- 4276 2. Prevent a loss of Commission or member state funds;
- 4277 3. Meet a deadline for the promulgation of an administrative rule that is established by federal law  
4278 or rule; or
- 4279 4. Protect public health and safety.

4280 M. The Commission or an authorized committee of the Commission may direct revisions to a  
4281 previously adopted rule or amendment for purposes of correcting typographical errors, errors in format,  
4282 errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website  
4283 of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30)  
4284 days after posting. The revision may be challenged only on grounds that the revision results in a material  
4285 change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior  
4286 to the end of the notice period. If no challenge is made, the revision will take effect without further action.  
4287 If the revision is challenged, the revision may not take effect without the approval of the Commission.

#### 4288 SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

##### 4289 A. Oversight.

- 4290 1. The executive, legislative, and judicial branches of state government in each member state shall  
4291 enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes  
4292 and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as  
4293 statutory law.

4294 2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative  
4295 proceeding in a member state pertaining to the subject matter of this compact which may affect the powers,  
4296 responsibilities, or actions of the Commission.

4297 3. The Commission shall be entitled to receive service of process in any such proceeding and shall  
4298 have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to  
4299 the Commission shall render a judgment or order void as to the Commission, this compact, or promulgated  
4300 rules.

4301 B. Default, Technical Assistance, and Termination.

4302 1. If the Commission determines that a member state has defaulted in the performance of its  
4303 obligations or responsibilities under this compact or the promulgated rules, the Commission shall:

4304 a. Provide written notice to the defaulting state and other member states of the nature of the default,  
4305 the proposed means of curing the default, and/or any other action to be taken by the Commission; and

4306 b. Provide remedial training and specific technical assistance regarding the default.

4307 2. If a state in default fails to cure the default, the defaulting state may be terminated from the  
4308 compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits  
4309 conferred by this compact may be terminated on the effective date of termination. A cure of the default  
4310 does not relieve the offending state of obligations or liabilities incurred during the period of default.

4311 3. Termination of membership in the compact shall be imposed only after all other means of  
4312 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the  
4313 Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and  
4314 each of the member states.

4315 4. A state that has been terminated from the compact is responsible for all assessments, obligations,  
4316 and liabilities incurred through the effective date of termination, including obligations that extend beyond  
4317 the effective date of termination.

4318 5. The Commission shall not bear any costs related to a state that is found to be in default or that  
4319 has been terminated from the compact, unless agreed upon in writing between the Commission and the  
4320 defaulting state.

4321           6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District  
4322 Court for the District of Columbia or the federal district where the Commission has its principal offices.  
4323 The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

4324           C. Dispute Resolution.

4325           1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the  
4326 compact that arise among member states and between member and nonmember states.

4327           2. The Commission shall promulgate a rule providing for both mediation and binding dispute  
4328 resolution for disputes as appropriate.

4329           D. Enforcement.

4330           1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and  
4331 rules of this compact.

4332           2. By majority vote, the Commission may initiate legal action in the United States District Court  
4333 for the District of Columbia or the federal district where the Commission has its principal offices against  
4334 a member state in default to enforce compliance with the provisions of the compact and its promulgated  
4335 rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial  
4336 enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including  
4337 reasonable attorney fees.

4338           3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission  
4339 may pursue any other remedies available under federal or state law.

4340           SECTION 14. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR  
4341 EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

4342           A. The compact shall come into effect on the date on which the compact statute is enacted into law  
4343 in the tenth member state. The provisions, which become effective at that time, shall be limited to the  
4344 powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the  
4345 Commission shall meet and exercise rulemaking powers necessary to the implementation and  
4346 administration of the compact.

4347 B. Any state that joins the compact subsequent to the Commission's initial adoption of the rules  
4348 shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any  
4349 rule that has been previously adopted by the Commission shall have the full force and effect of law on the  
4350 day the compact becomes law in that state.

4351 C. Any member state may withdraw from this compact by enacting a statute repealing the same.

4352 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the  
4353 repealing statute.

4354 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority  
4355 to comply with the investigative and adverse action reporting requirements of this act prior to the effective  
4356 date of withdrawal.

4357 D. Nothing contained in this compact shall be construed to invalidate or prevent any EMS  
4358 personnel licensure agreement or other cooperative arrangement between a member state and a  
4359 nonmember state that does not conflict with the provisions of this compact.

4360 E. This compact may be amended by the member states. No amendment to this compact shall  
4361 become effective and binding upon any member state until it is enacted into the laws of all member states.

#### 4362 SECTION 15. CONSTRUCTION AND SEVERABILITY

4363 This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact  
4364 shall be held contrary to the constitution of any member state thereto, the compact shall remain in full  
4365 force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules  
4366 related to licensure of EMS agencies.

4367 **Drafting note: Technical change consistent with Va. Code § 1-216. Non-substantive**  
4368 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
4369 **of the compact. As the opening paragraph of this section provides, the compact is effective among**  
4370 **jurisdictions that adopt its provisions "in the form substantially" as adopted in Virginia. See**  
4371 ***Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting**  
4372 **that compacts "constitute an agreement between the Commonwealth of Virginia and other states,**  
4373 **territories and the United States, who join in a compact by enacting substantially the same**

4374 *provisions*"). *Cf. Sassoon v. Stynchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the  
4375 enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained  
4376 differences, but were "substantively identical").

4377 **§ 33.2-3100. Washington Metropolitan Area Transit Authority Compact of 1966.**

4378 § 3. Whereas, Maryland, Virginia and the District of Columbia heretofore have entered into the  
4379 Washington Metropolitan Area Transit Regulation Compact (Virginia--Ch. 627, 1958 Acts of Assembly;  
4380 Maryland--Ch. 613, Acts of General Assembly 1959; District of Columbia--Resolution of the Board of  
4381 Commissioners adopted December 22, 1960), with the consent of the Congress (J.R., September 15, 1960,  
4382 P.L., 86-794, 74 Stat. 1031, as amended by 76 Stat. 764), as a first step toward the improvement of transit  
4383 service in the metropolitan area of Washington, D.C.;

4384 Whereas, in said Compact each of the Signatories pledged to each of the other signatory parties  
4385 faithful cooperation in the solution and control of transit and traffic problems within said metropolitan  
4386 area and, in order to effect such purposes, agreed to enact any necessary legislation to achieve the  
4387 objectives of the Compact to the mutual benefit of the citizens living within said metropolitan area and  
4388 for the advancement of the interests of the Signatories;

4389 Whereas, it has been established by a decade of studies that a regional system of improved and  
4390 expanded transit facilities, including grade-separated rail facilities in congested areas, is essential in said  
4391 metropolitan area for the satisfactory movement of people and goods, the alleviation of present and future  
4392 traffic congestion, the economic welfare and vitality of all parts of the area, the effectiveness of the  
4393 departments and agencies of the federal government located within the area, the orderly growth and  
4394 development of the District of Columbia and the Maryland and Virginia portions of the area, the comfort  
4395 and convenience of the residents of and visitors to the area, and the preservation of the beauty and dignity  
4396 of the Nation's Capital;

4397 Whereas, the Congress has authorized Maryland, Virginia and the District of Columbia to  
4398 negotiate a Compact for the establishment of an organization empowered to provide necessary transit  
4399 facilities (P.L. 86-669, 74 Stat. 537) and in said legislation declared the policy, inter alia, that the  
4400 development and administration of such transit facilities requires (1) cooperation among the federal, state

4401 and local government of the area, (2) financial participation by the federal government in the creation of  
4402 major facilities that are beyond the financial capacity or borrowing powers of the private carriers, the  
4403 District of Columbia and the local governments of the area, and (3) coordination of transit facilities with  
4404 other public facilities and with the use of land, public and private;

4405         Whereas, private transit companies should be utilized to the extent practicable in providing the  
4406 regional transit facilities and services, consistent with the requirements of the public interest that the  
4407 publicly and privately owned facilities be operated as a coordinated regional system without unnecessary  
4408 duplicating services;

4409         Whereas, adequate provision should be made for the protection of transit labor in the development  
4410 and operation of the regional system;

4411         Whereas, adequate provisions should be made to eliminate any requirement of additional  
4412 authentication of manual signature of bonds guaranteed by the United States of America; and

4413         Whereas, it is hereby determined that an Authority to be created by interstate compact between the  
4414 District of Columbia, the State of Maryland and the Commonwealth of Virginia, is the most suitable form  
4415 of organization to achieve the stated objectives;

4416         Now, therefore, the District of Columbia, the State of Maryland and the Commonwealth of  
4417 Virginia, hereinafter referred to as Signatories, do hereby amend the Washington Metropolitan Area  
4418 Transit Regulation Compact by adding thereto Title III, as hereinafter set forth, and do hereby covenant  
4419 and agree substantially, as follows:

4420         Title III

4421         Article I Definitions

4422         Definitions

4423         1. As used in this Title, the following words and terms shall have the following meanings, unless  
4424 the context clearly requires a different meaning:

4425             (a) "Board" means the Board of Directors of the Washington Metropolitan Area Transit Authority;

4426             (b) "Director" means a member of the Board of Directors of the Washington Metropolitan Area  
4427 Transit Authority;



4428 (c) "Private transit companies" and "private carriers" means corporations, persons, firms or  
4429 associations rendering transit service within the Zone pursuant to a certificate of public convenience and  
4430 necessity issued by the Washington Metropolitan Area Transit Commission or by a franchise granted by  
4431 the United States or any Signatory party to this Title;

4432 (d) "Signatory" means the State of Maryland, the Commonwealth of Virginia and the District of  
4433 Columbia;

4434 (e) "State" includes District of Columbia;

4435 (f) "Transit facilities" means all real and personal property located in the Zone, necessary or useful  
4436 in rendering transit service between points within the Zone, by means of rail, bus, water or air and any  
4437 other mode of travel, including, without limitation, tracks, rights-of-way, bridges, tunnels, subways,  
4438 rolling stock for rail, motor vehicle, marine and air transportation, stations, terminals and ports, areas for  
4439 parking and all equipment, fixtures, buildings and structures and services incidental to or required in  
4440 connection with the performance of transit service;

4441 (g) "Transit services" means the transportation of persons and their packages and baggage by  
4442 means of transit facilities between points within the Zone including the transportation of newspapers,  
4443 express and mail between such points, and charter service which originates within the Zone but does not  
4444 include taxicab service or individual-ticket-sales sightseeing operations;

4445 (h) "Transit Zone" or "Zone" means the Washington Metropolitan Area Transit Zone created and  
4446 described in Section 3 as well as any additional area that may be added pursuant to Section 83(a) of this  
4447 Compact; and

4448 (i) "WMATC" means Washington Metropolitan Area Transit Commission.

4449 Article II Purpose and Functions

4450 Purpose

4451 2. The purpose of this Title is to create a regional instrumentality, as a common agency of each  
4452 Signatory party, empowered, in the manner hereinafter set forth, (1) to plan, develop, finance and cause  
4453 to be operated improved transit facilities, in coordination with transportation and general development  
4454 planning for the Zone, as part of a balanced regional system of transportation, utilizing to their best

4455 advantage the various modes of transportation, (2) to coordinate the operation of the public and privately  
4456 owned or controlled transit facilities, to the fullest extent practicable, into a unified regional transit system  
4457 without unnecessary duplicating service, and (3) to serve such other regional purposes and to perform  
4458 such other regional functions as the Signatories may authorize by appropriate legislation.

4459 Article III Organization and Area

4460 Washington Metropolitan Area Transit Zone

4461 3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace  
4462 the District of Columbia, the Cities of Alexandria, Falls Church and Fairfax and the Counties of Arlington,  
4463 Fairfax and Loudoun and political subdivisions of the Commonwealth of Virginia located within those  
4464 counties, and the counties of Montgomery and Prince George's in the State of Maryland and political  
4465 subdivisions of the State of Maryland located in said counties.

4466 Washington Metropolitan Area Transit Authority

4467 4. There is hereby created, as an instrumentality and agency of each of the Signatory parties hereto,  
4468 the Washington Metropolitan Area Transit Authority which shall be a body corporate and politic, and  
4469 which shall have the powers and duties granted herein and such additional powers as may hereafter be  
4470 conferred upon it pursuant to law.

4471 Board Membership

4472 5. (a) The Authority shall be governed by a Board of eight Directors consisting of two Directors  
4473 for each Signatory and two for the federal government (one of whom shall be a regular passenger and  
4474 customer of the bus or rail service of the Authority). For Virginia, the Directors shall be appointed by the  
4475 Northern Virginia Transportation Commission; for the District of Columbia by the Council of the District  
4476 of Columbia; for Maryland, by the Washington Suburban Transit Commission; and for the federal  
4477 government, by the Secretary of the United States Department of Transportation. For Virginia and  
4478 Maryland, the Directors shall be appointed from among the members of the appointing body, except as  
4479 otherwise provided herein, and shall serve for a term coincident with their term on the appointing body.  
4480 A Director for a Signatory may be removed or suspended from office only as provided by the law of the  
4481 Signatory from which he was appointed. The nonfederal appointing authorities shall also appoint an

4482 alternate for each Director. In addition, the Secretary of the United States Department of Transportation  
4483 shall also appoint two nonvoting members who shall serve as the alternates for the federal Directors. An  
4484 alternate Director may act only in the absence of the Director for whom he has been appointed an alternate,  
4485 except that, in the case of the District of Columbia where only one Director and his alternate are present,  
4486 such alternate may act on behalf of the absent Director. Each alternate, including the federal nonvoting  
4487 Directors, shall serve at the pleasure of the appointing authority. In the event of a vacancy in the office of  
4488 Director or alternate, it shall be filled in the same manner as an original appointment.

4489 (b) Before entering upon the duties of his office each Director and alternate director shall take and  
4490 subscribe to the following oath (or affirmation) of office or any such other oath or affirmation, if any, as  
4491 the Constitution or laws of the Government he represents shall provide:

4492 "I, \_\_\_\_\_, hereby solemnly swear (or affirm) that I will support and defend the  
4493 Constitution of the United States and the Constitution and Laws of the state or political jurisdiction from  
4494 which I was appointed as a Director (alternate director) of the Board of Washington Metropolitan Area  
4495 Transit Authority and will faithfully discharge the duties of the office upon which I am about to enter."

4496 Compensation of Directors and Alternates

4497 6. Members of the Board and alternates shall serve without compensation but may be reimbursed  
4498 for necessary expenses incurred as an incident to the performance of their duties.

4499 Organization and Procedure

4500 7. The Board shall provide for its own organization and procedure. It shall organize annually by  
4501 the election of a Chairman and Vice-Chairman from among its members. Meetings of the Board shall be  
4502 held as frequently as the Board deems that the proper performance of its duties requires and the Board  
4503 shall keep minutes of its meetings. The Board shall adopt rules and regulations governing its meeting,  
4504 minutes and transactions.

4505 Quorum and Actions by the Board

4506 8. (a) Four Directors or alternates consisting of at least one Director or alternate appointed from  
4507 each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority  
4508 of the Board present and voting, which majority shall include at least one Director or alternate from each

4509 Signatory, concur therein; provided, however, that a plan of financing may be adopted or a mass transit  
4510 plan adopted, altered, revised or amended by the unanimous vote of the Directors representing any two  
4511 Signatories.

4512 (b) The actions of the Board shall be expressed by motion or resolution. Actions dealing solely  
4513 with internal management of the Authority shall become effective when directed by the Board, but no  
4514 other action shall become effective prior to the expiration of thirty days following its adoption; provided,  
4515 however, that the Board may provide for the acceleration of any action upon a finding that such  
4516 acceleration is required for the proper and timely performance of its functions.

4517 Officers

4518 9. (a) The officers of the Authority, none of whom shall be members of the Board, shall consist of  
4519 a general manager, a secretary, a treasurer, a comptroller, an inspector general, and a general counsel and  
4520 such other officers as the Board may provide. Except for the office of general manager, inspector general,  
4521 and comptroller, the Board may consolidate any of such other offices in one person. All such officers shall  
4522 be appointed and may be removed by the Board, shall serve at the pleasure of the Board and shall perform  
4523 such duties and functions as the Board shall specify. The Board shall fix and determine the compensation  
4524 to be paid to all officers and, except for the general manager who shall be a full-time employee, all other  
4525 officers may be hired on a full-time or part-time basis and may be compensated on a salary or fee basis,  
4526 as the Board may determine. All employees and such officers as the Board may designate shall be  
4527 appointed and removed by the general manager under such rules of procedure and standards as the Board  
4528 may determine.

4529 (b) The general manager shall be the chief administrative officer of the Authority and, subject to  
4530 policy direction by the Board, shall be responsible for all activities of the Authority.

4531 (c) The treasurer shall be the custodian of the funds of the Authority, shall keep an account of all  
4532 receipts and disbursements and shall make payments only upon warrants duly and regularly signed by the  
4533 Chairman or Vice-Chairman of the Board, or other person authorized by the Board to do so, and by the  
4534 secretary or general manager; provided, however, that the Board may provide that warrants not exceeding

4535 such amounts or for such purposes as may from time to time be specified by the Board may be signed by  
4536 the general manager or by persons designated by him.

4537 (d) The inspector general shall report to the Board and head the Office of the Inspector General,  
4538 an independent and objective unit of the Authority that conducts and supervises audits, program  
4539 evaluations, and investigations relating to Authority activities; promotes economy, efficiency, and  
4540 effectiveness in Authority activities; detects and prevents fraud and abuse in Authority activities; and  
4541 keeps the Board fully and currently informed about deficiencies in Authority activities as well as the  
4542 necessity for and progress of corrective action.

4543 (e) An oath of office in the form set out in § 5 (b) of this Article shall be taken, subscribed and  
4544 filed with the Board by all appointed officers.

4545 (f) Each Director, officer and employee specified by the Board shall give such bond in such form  
4546 and amount as the Board may require, the premium for which shall be paid by the Authority.

4547 Conflict of Interest

4548 10. (a) No Director, officer or employee shall:

4549 (1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or  
4550 transfer of real or personal property to which the Board or the Authority is a party;

4551 (2) in connection with services performed within the scope of his official duties, solicit or accept  
4552 money or any other thing of value in addition to the compensation or expenses paid to him by the  
4553 Authority;

4554 (3a) offer money or any thing of value for or in consideration of obtaining an appointment,  
4555 promotion or privilege in his employment with the Authority.

4556 (b) Any Director, officer or employee who shall willfully violate any provision of this section  
4557 shall, in the discretion of the Board, forfeit his office or employment.

4558 (c) Any contract or agreement made in contravention of this section may be declared void by the  
4559 Board.

4560 (d) Nothing in this section shall be construed to abrogate or limit the applicability of any federal  
4561 or state law which may be violated by any action prescribed by this section.

4562 Article IV Pledge of Cooperation

4563 11. Each Signatory pledges to each other faithful cooperation in the achievement of the purposes  
4564 and objects of this Title.

4565 Article V General Powers

4566 Enumeration

4567 12. In addition to the powers and duties elsewhere described in this Title, and except as limited in  
4568 this Title, the Authority may:

4569 (a) Sue and be sued;

4570 (b) Adopt and use a corporate seal and alter the same at pleasure;

4571 (c) Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred  
4572 by this Title;

4573 (d) Construct, acquire, own, operate, maintain, control, sell and convey real and personal property  
4574 and any interest therein by contract, purchase, condemnation, lease, license, mortgage or otherwise but all  
4575 of said property shall be located in the Zone and shall be necessary or useful in rendering transit service  
4576 or in activities incidental thereto;

4577 (e) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other  
4578 funds, properties and services as may be transferred or made available to it by any Signatory party, any  
4579 political subdivision or agency thereof, by the United States, or by any agency thereof, or by any other  
4580 public or private corporation or individual, and enter into agreements to make reimbursement for all or  
4581 any part thereof;

4582 (f) Enter into and perform contracts, leases and agreements with any person, firm or corporation  
4583 or with any political subdivision or agency of any Signatory party or with the federal government, or any  
4584 agency thereof, including, but not limited to, contracts or agreements to furnish transit facilities and  
4585 service;

4586 (g) Create and abolish offices, employments and positions (other than those specifically provided  
4587 for herein) as it deems necessary for the purposes of the Authority, and fix and provide for the

4588 qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its  
4589 officers and employees without regard to the laws of any of the Signatories;

4590 (h) Establish, in its discretion, a personnel system based on merit and fitness and, subject to  
4591 eligibility, participate in the pension and retirement plans of any Signatory, or political subdivision or  
4592 agency thereof, upon terms and conditions mutually acceptable;

4593 (i) Contract for or employ any professional services;

4594 (j) Control and regulate the use of facilities owned or controlled by the Authority, the service to  
4595 be rendered and the fares and charges to be made therefor;

4596 (k) Hold public hearings and conduct investigations relating to any matter affecting transportation  
4597 in the Zone with which the Authority is concerned and, in connection therewith, subpoena witnesses,  
4598 papers, records and documents; or delegate such authority to any officer. Each Director may administer  
4599 oaths or affirmations in any proceeding or investigation;

4600 (l) Make or participate in studies of all phases and forms of transportation, including transportation  
4601 vehicle research and development techniques and methods for determining traffic projections, demand  
4602 motivations, and fiscal research and publicize and make available the results of such studies and other  
4603 information relating to transportation;

4604 (m) Exercise, subject to the limitations and restrictions herein imposed, all powers reasonably  
4605 necessary or essential to the declared objects and purposes of this Title; and

4606 (n) Establish regulations providing for public access to Board records.

4607 Article VI Planning

4608 Mass Transit Plan

4609 13. (a) The Board shall develop and adopt, and may from time to time review and revise, a mass  
4610 transit plan for the immediate and long-range needs of the Zone. The mass transit plan shall include one  
4611 or more plans designating (1) the transit facilities to be provided by the Authority, including the locations  
4612 of terminals, stations, platforms, parking facilities and the character and nature thereof; (2) the design and  
4613 location of such facilities; (3) whether such facilities are to be constructed or acquired by lease, purchase  
4614 or condemnation; (4) a timetable for the provision of such facilities; (5) the anticipated capital cost; (6)

4615 estimated operating expenses and revenues relating thereto; and (7) the various other factors and  
4616 considerations, which, in the opinion of the Board, justify and require the projects therein proposed. Such  
4617 plan shall specify the type of equipment to be utilized, the areas to be served, the routes and schedules of  
4618 service expected to be provided and probable fares and charges therefor.

4619 (b) In preparing the mass transit plan, and in any review or revision thereof, the Board shall make  
4620 full utilization of all data, studies, reports and information available from the National Capital  
4621 Transportation Agency and from any other agencies of the federal government, and from Signatories and  
4622 the political subdivisions thereof.

4623 Planning Process

4624 14. (a) The mass transit plan, and any revisions, alterations or amendments thereof, shall be  
4625 coordinated, through the procedures hereinafter set forth, with

4626 (1) other plans and programs affecting transportation in the Zone in order to achieve a balanced  
4627 system of transportation, utilizing each mode to its best advantage;

4628 (2) the general plan or plans for the development of the Zone; and

4629 (3) the development plans of the various political subdivisions embraced within the Zone.

4630 (b) It shall be the duty and responsibility of each member of the Board to serve as liaison between  
4631 the Board and the body which appointed him to the Board. To provide a framework for regional  
4632 participation in the planning process, the Board shall create technical committees concerned with planning  
4633 and collection and analyses of data relative to decision-making in the transportation planning process and  
4634 the Mayor and Council of the District of Columbia, the component governments of the Northern Virginia  
4635 Transportation District and the Washington Suburban Transit District shall appoint representatives to such  
4636 technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or  
4637 in revisions, alterations or amendments thereof.

4638 (c) The Board, in the preparation, revision, alteration or amendment of a mass transit plan, shall

4639 (1) consider data with respect to current and prospective conditions in the Zone, including, without  
4640 limitation, land use, population, economic factors affecting development plans, goals or objectives for the  
4641 development of the Zone and the separate political subdivisions, transit demands to be generated by such



4642 development, travel patterns, existing and proposed transportation and transit facilities, impact of transit  
4643 plans on the dislocation of families and businesses, preservation of the beauty and dignity of the Nation's  
4644 Capital, factors affecting environmental amenities and aesthetics and financial resources;

4645 (2) cooperate with and participate in any continuous, comprehensive transportation planning  
4646 process cooperatively established by the highway agencies of the Signatories and the local political  
4647 subdivisions in the Zone to meet the planning standards now or hereafter prescribed by the Federal-Aid  
4648 Highway Acts; and

4649 (3) to the extent not inconsistent with or duplicative of the planning process specified in  
4650 subdivision (2) of this subsection (c), cooperate with the National Capital Planning Commission, the  
4651 National Capital Regional Planning Council, the Washington Metropolitan Council of Governments, the  
4652 Washington Metropolitan Area Transit Commission, the highway agencies of the Signatories, the  
4653 Maryland-National Capital Park and Planning Commission, the Northern Virginia Regional Planning and  
4654 Economic Development Commission, the Maryland State Planning Department and the Commission of  
4655 Fine Arts. Such cooperation shall include the creation, as necessary, of technical committees composed  
4656 of personnel, appointed by such agencies, concerned with planning and collection and analysis of data  
4657 relative to decision-making in the transportation planning process.

4658 Adoption of Mass Transit Plan

4659 15. (a) Before a mass transit plan is adopted, altered, revised or amended, the Board shall transmit  
4660 such proposed plan, alteration, revision or amendment for comment to the following and to such other  
4661 agencies as the Board shall determine:

4662 (1) the Mayor and Council of the District of Columbia, the Northern Virginia Transportation  
4663 Commission and the Washington Suburban Transit Commission;

4664 (2) the governing bodies of the counties and cities embraced within the Zone;

4665 (3) the transportation agencies of the Signatories;

4666 (4) the Washington Metropolitan Area Transit Commission;

4667 (5) the Washington Metropolitan Council of Governments;

4668 (6) the National Capital Planning Commission;

4669 (7) the National Capital Regional Planning Council;

4670 (8) the Maryland-National Capital Park and Planning Commission;

4671 (9) the Northern Virginia Regional Planning and Economic Development Commission;

4672 (10) the Maryland State Planning Department; and

4673 (11) the private transit companies operating in the Zone and the Labor Unions representing the  
4674 employees of such companies and employees of contractors providing services under operating contracts.

4675 (b) A copy of the proposed mass transit plan, amendment or revision, shall be kept at the office of  
4676 the Board and shall be available for public inspection. Information with respect thereto shall be released  
4677 to the public. After thirty days' notice published once a week for two successive weeks in one or more  
4678 newspapers of general circulation within the Zone, a public hearing shall be held with respect to the  
4679 proposed plan, alteration, revision or amendment. The thirty days' notice shall begin to run on the first day  
4680 the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements  
4681 and comments made at such hearing and may make any changes in the proposed plan, amendment or  
4682 revision which it deems appropriate and such changes may be made without further hearing.

#### 4683 Article VII Financing

#### 4684 Policy

4685 16. With due regard for the policy of Congress for financing a mass transit plan for the Zone set  
4686 forth in Section 204 (g) of the National Capital Transportation Act of 1960 (74 Stat. 537), it is hereby  
4687 declared to be the policy of this Title that, as far as possible, the payment of all costs shall be borne by the  
4688 persons using or benefiting from the Authority's facilities and services and any remaining costs shall be  
4689 equitably shared among the federal, District of Columbia and participating local governments in the Zone.  
4690 The allocation among such governments of such remaining cost shall be determined by agreement among  
4691 them and shall be provided in the manner hereinafter specified.

#### 4692 Plan of Financing

4693 17. (a) The Authority, in conformance with said policy, shall prepare and adopt a plan for financing  
4694 the construction, acquisition and operation of facilities specified in a mass transit plan adopted pursuant  
4695 to Article VI hereof, or in any alteration, revision or amendment thereof. Such plan of financing shall

4696 specify the facilities to be constructed or acquired, the cost thereof, the principal amount of revenue bonds,  
4697 equipment trust certificates and other evidences of debt proposed to be issued, the principal terms and  
4698 provisions of all loans and underlying agreements and indentures, estimated operating expenses and  
4699 revenues and the proposed allocation among the federal, District of Columbia and participating local  
4700 governments of the remaining costs and deficits, if any, and such other information as the Commission  
4701 may consider appropriate.

4702 (b) Such plan of financing shall constitute a proposal to the interested governments for financial  
4703 participation and shall not impose any obligation on any government and such obligations shall be created  
4704 only as provided in § 18 of this Article VII.

4705 Commitments for Financial Participation

4706 18. (a) Commitments on behalf of the portion of the Zone located in Virginia shall be by contract  
4707 or agreement by the Authority with the Northern Virginia Transportation District, or its component  
4708 governments, as authorized in the Transportation District Act of 1964 (Ch. 631, 1964 Virginia Acts of  
4709 Assembly), to contribute to the capital required for the construction and/or acquisition of facilities  
4710 specified in a mass transit plan adopted as provided in Article VI, or any alteration, revision or amendment  
4711 thereof, and for meeting expenses and obligations in the operation of such facilities. No such contract or  
4712 agreement, however, shall be entered into by the Authority with the Northern Virginia Transportation  
4713 District unless said District has entered into the contracts or agreements with its member governments, as  
4714 contemplated by § 1 (b)(4) of Article 4 of said Act, which contracts or agreements expressly provide that  
4715 such contracts or agreements shall inure to the benefit of the Authority and shall be enforceable by the  
4716 Authority in accordance with the provisions of § 2, Article 5 of said Act, and such contracts or agreements  
4717 are acceptable to the Board. The General Assembly of Virginia hereby authorizes and designates the  
4718 Authority as the agency to plan for and provide transit facilities and services for the area of Virginia  
4719 encompassed within the Zone within the contemplation of Article 1, § 3 (c) of said Act.

4720 (b) Commitments on behalf of the portion of the Zone located in Maryland shall be by contract or  
4721 agreement by the Authority with the Washington Suburban Transit District, pursuant to which the  
4722 Authority undertakes to provide transit facilities and service in consideration for the agreement by said

4723 District to contribute to the capital required for the construction and/or acquisition of facilities specified  
4724 in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment  
4725 thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

4726 (c) With respect to the federal government, the commitment or obligation to render financial  
4727 assistance shall be created by appropriation or in such other manner, or by such other legislation, as the  
4728 Congress shall determine. Commitments by the District of Columbia shall be by contract or agreement  
4729 between the governing body of the District of Columbia and the Authority, pursuant to which the  
4730 Authority undertakes, subject to the provisions of § 20 hereof, to provide transit facilities and service in  
4731 consideration for the undertaking by the District of Columbia to contribute to the capital required for the  
4732 construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article  
4733 VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred  
4734 in the operation of such facilities.

4735 (d)(1) All payments made by the local Signatory governments for the Authority for the purpose of  
4736 matching federal funds appropriated in any given year as authorized under Title VI, § 601, P.L. 110-432  
4737 regarding funding of capital and preventive maintenance projects of the Authority shall be made from  
4738 amounts derived from dedicated funding sources.

4739 (2) For purposes of this paragraph (d), a "dedicated funding source" means any source of funding  
4740 that is earmarked or required under state or local law to be used to match federal appropriations authorized  
4741 under Title VI, § 601, P.L. 110-432 for payments to the Authority.

#### 4742 Administrative Expenses

4743 19. Prior to the time the Authority has receipts from appropriations and contracts or agreements as  
4744 provided in § 18 of this Article VII, the expenses of the Authority for administration and for preparation  
4745 of a mass transit and financing plan, including all engineering, financial, legal and other services required  
4746 in connection therewith, shall, to the extent funds for such expenses are not provided through grants by  
4747 the federal government, be borne by the District of Columbia, by the Washington Suburban Transit  
4748 District and the component governments of the Northern Virginia Transportation District. Such expenses  
4749 shall be allocated among such governments on the basis of population as reflected by the latest available

4750 population statistics of the Bureau of the Census; provided, however, that upon the request of any director  
4751 the Board shall make the allocation upon estimates of population acceptable to the Board. The allocations  
4752 shall be made by the Board and shall be included in the annual current expense budget prepared by the  
4753 Board.

4754 Acquisition of Facilities from Federal or Other Agencies

4755 20. (a) The Authority is authorized to acquire by purchase, lease or grant or in any manner other  
4756 than condemnation, from the federal government or any agency thereof, from the District of Columbia,  
4757 Maryland or Virginia, or any political subdivision or agency thereof, any transit and related facilities,  
4758 including real and personal property and all other assets, located within the Zone, whether in operation or  
4759 under construction. Such acquisition shall be made upon such terms and conditions as may be agreed upon  
4760 and subject to such authorization or approval by the Congress and the governing body of the District of  
4761 Columbia, as may be required; provided, however, that if such acquisition imposes or may impose any  
4762 further or additional obligation or liability upon the Washington Suburban Transit District, the Northern  
4763 Virginia Transportation District, or any component government thereof, under any contract with the  
4764 Authority, the Authority shall not make the acquisition until any such affected contract has been  
4765 appropriately amended.

4766 (b) For such purpose, the Authority is authorized to assume all liabilities and contracts relating  
4767 thereto, to assume responsibility as primary obligor, endorser or guarantor on any outstanding revenue  
4768 bonds, equipment trust certificates or other form of indebtedness authorized in this Act issued by such  
4769 predecessor agency or agencies and, in connection therewith, to become a party to, and assume the  
4770 obligations of, any indenture or loan agreement underlying or issued in connection with any outstanding  
4771 securities or debts.

4772 Temporary Borrowing

4773 21. The Board may borrow, in anticipation of receipts, from any Signatory, the Washington  
4774 Suburban Transit District, the Northern Virginia Transportation District, or any component government  
4775 thereof, or from any lending institution for any purposes of this Title, including administrative expenses.  
4776 Such loans shall be for a term not to exceed two years and at such rates on interest as shall be acceptable

4777 to the Board. The Signatories and any such political subdivision or agency may, in its discretion, make  
4778 such loans from any available money.

4779 Funding

4780 22. The Board shall not construct or acquire any of the transit facilities specified in a mass transit  
4781 plan adopted pursuant to the provisions of Article VI of this Title, or in any alteration, revision or  
4782 amendment thereof, nor make any commitments or incur any obligations with respect thereto until funds  
4783 are available therefor.

4784 Article VIII Budget

4785 Capital Budget

4786 23. The Board shall annually adopt a capital budget, including all capital projects it proposes to  
4787 undertake or continue during the budget period, containing a statement of the estimated cost of each  
4788 project and the method of financing thereof.

4789 Current Expense Budget

4790 24. The Board shall annually adopt a current expense budget for each fiscal year. Such budget  
4791 shall include the Board's estimated expenditures for administration, operation, maintenance and repairs,  
4792 debt service requirements and payments to be made into any funds required to be maintained. The total of  
4793 such expenses shall be balanced by the Board's estimated revenues and receipts from all sources, excluding  
4794 funds included in the capital budget or otherwise earmarked for other purposes.

4795 Adoption and Distribution of Budgets

4796 25. (a) Following the adoption by the Board of annual capital and current expense budgets, the  
4797 general manager shall transmit certified copies of such budgets to the principal budget officer of the federal  
4798 government, the District of Columbia, the Washington Suburban Transit District and of the component  
4799 governments of the Northern Virginia Transportation Commission at such time and in such manner as  
4800 may be required under their respective budgetary procedures.

4801 (b) Each budget shall indicate the amounts, if any, required from the federal government, the  
4802 government of the District of Columbia, the Washington Suburban Transit District and the component

4803 governments of the Northern Virginia Transportation District, determined in accordance with the  
4804 commitments made pursuant to Article VII, § 18 of this Title, to balance each of said budgets.

4805 Payment

4806 26. Subject to such review and approval as may be required by their budgetary or other applicable  
4807 processes, the federal government, the Government of the District of Columbia, the Washington Suburban  
4808 Transit District and the component governments of the Northern Virginia Transportation District shall  
4809 include in their respective budgets next to be adopted and appropriate or otherwise provide the amounts  
4810 certified to each of them as set forth in the budgets.

4811 Article IX Revenue Bonds

4812 Borrowing Power

4813 27. The Authority may borrow money for any of the purposes of this Title, may issue its negotiable  
4814 bonds and other evidences of indebtedness in respect thereto and may mortgage or pledge its properties,  
4815 revenues and contracts as security therefor.

4816 All such bonds and evidences of indebtedness shall be payable solely out of the properties and  
4817 revenues of the Authority. The bonds and other obligations of the Authority, except as may be otherwise  
4818 provided in the indenture under which they were issued, shall be direct and general obligations of the  
4819 Authority and the full faith and credit of the Authority are hereby pledged for the prompt payment of the  
4820 debt service thereon and for the fulfillment of all other undertakings of the Authority assumed by it to or  
4821 for the benefit of the holders thereof.

4822 Funds and Expenses

4823 28. The purposes of this Title shall include, without limitation, all costs of any project or facility  
4824 or any part thereof, including interest during a period of construction and for a period not to exceed two  
4825 years thereafter and any incidental expenses (legal, engineering, fiscal, financial, consultant and other  
4826 expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an  
4827 operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses  
4828 connected with administration, the planning, design, acquisition, construction, completion, improvement

4829 or reconstruction of any facility or any part thereof; and reimbursement of advances by the Board or by  
4830 others for such purposes and for working capital.

4831 Credit Excluded; Officers, State, Political Subdivisions and Agencies

4832 29. The Board shall have no power to pledge the credit of any Signatory party, political subdivision  
4833 or agency thereof, or to impose any obligation for payment of the bonds upon any Signatory party, political  
4834 subdivision or agency thereof, but may pledge the contracts of such governments and agencies; provided,  
4835 however, that the bonds may be underwritten in whole or in part as to principal and interest by the United  
4836 States, or by any political subdivision or agency of any Signatory; provided, further, that any bonds  
4837 underwritten in whole or in part as to principal and interest by the United States shall not be issued without  
4838 approval of the Secretary of the Treasury. Neither the Directors nor any person executing the bonds shall  
4839 be liable personally on the bonds of the Authority or be subject to any personal liability or accountability  
4840 by reason of the issuance thereof.

4841 Funding and Refunding

4842 30. Whenever the Board deems it expedient, it may fund and refund the bonds and other obligations  
4843 of the Authority whether or not such bonds and obligations have matured. It may provide for the issuance,  
4844 sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the  
4845 payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued  
4846 by the Authority or issued by any other issuing body, the proceeds of the sale of which have been applied  
4847 to any facility acquired by the Authority or which are payable out of the revenues of any facility acquired  
4848 by the Authority. Bonds may be issued partly to refund bonds and other obligations then outstanding, and  
4849 partly for any other purpose of the Authority. All provisions of this Title applicable to the issuance of  
4850 bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

4851 Bonds; Authorization Generally

4852 31. Bonds and other indebtedness of the Authority shall be authorized by resolution of the Board.  
4853 The validity of the authorization and issuance of any bonds by the Authority shall not be dependent upon  
4854 nor affected in any way by: (i) the disposition of bond proceeds by the Board or by contract, commitment  
4855 or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for



4856 which bonds are authorized to be issued. The Authority may issue bonds in one or more series and may  
4857 provide for one or more consolidated bond issues, in such principal amounts and with such terms and  
4858 provisions as the Board may deem necessary. The bonds may be secured by a pledge of all or any part of  
4859 the property, revenues and franchises under its control. Bonds may be issued by the Authority in such  
4860 amount, with such maturities and in such denominations and form or forms, whether coupon or registered,  
4861 as to principal alone or as to both principal and interest, as may be determined by the Board. The Board  
4862 may provide for redemption of bonds prior to maturity on such notice and at such time or times and with  
4863 such redemption provisions, including premiums, as the Board may determine.

4864 Bonds; Resolution and Indentures Generally

4865 32. The Board may determine and enter into indentures or adopt resolutions providing for the  
4866 principal amount, date or dates, maturities, interest rate, or rates, denominations, form, registration,  
4867 transfer, interchange and other provisions of bonds and coupons and the terms and conditions upon which  
4868 the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of  
4869 the Board authorizing any bond or any indenture so authorized under which the bonds are issued may  
4870 include all such covenants and other provisions not inconsistent with the provisions of this Title, other  
4871 than any restriction on the regulatory powers vested in the Board by this Title, as the Board may deem  
4872 necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including  
4873 without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges  
4874 to be charged or made for use of the facilities; the use, pledge, custody, securing, application and  
4875 disposition of such revenues, of the proceeds of the bonds, and of any other moneys or contracts of the  
4876 Authority; the operation, maintenance, repair and reconstruction of the facilities and the amounts which  
4877 may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities  
4878 and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance  
4879 of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the  
4880 bondholders upon default by the Authority or otherwise; and the modification of the provisions of the  
4881 indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date  
4882 of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof

4883 and of this Title into the body of the bonds and their appurtenant coupons. Each taker and subsequent  
4884 holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has  
4885 recourse to all of the provisions of the indenture and of this Title and is bound thereby.

4886 Maximum Maturity

4887 33. No bond or its terms shall mature in more than fifty years from its own date and in the event  
4888 any authorized issue is divided into two or more series or divisions, the maximum maturity date herein  
4889 authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact  
4890 that different dates may be prescribed for the bonds of each separate series or division of any authorized  
4891 issue.

4892 Tax Exemption

4893 34. All bonds and all other evidences of debt issued by the Authority under the provisions of this  
4894 Title and the interest thereon shall at all times be free and exempt from all taxation by or under authority  
4895 of any Signatory parties, except for transfer, inheritance and estate taxes.

4896 Interest

4897 35. Bonds shall bear interest at such rate or rates as may be determined by the Board, payable  
4898 annually or semiannually.

4899 Place of Payment

4900 36. The Board may provide for the payment of the principal and interest of bonds at any place or  
4901 places within or without the Signatory states, and in any specified lawful coin or currency of the United  
4902 States of America.

4903 Execution

4904 37. The Board may provide for the execution and authentication of bonds by the manual,  
4905 lithographed or printed facsimile signature of members of the Board, and by additional authentication by  
4906 a trustee or fiscal agent appointed by the Board; provided, however, that one of such signatures shall be  
4907 manual; and provided, further, that no such additional authentication or manual signatures need be  
4908 required in the case of bonds guaranteed by the United States of America. If any of the members whose  
4909 signatures or countersignatures appear upon the bonds or coupons cease to be members before the delivery

4910 of the bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force  
4911 and effect as if the members had remained in office until the delivery of the bonds and coupons.

4912 Holding Own Bonds

4913 38. The Board shall have power out of any funds available therefor to purchase its bonds and may  
4914 hold, cancel or resell such bonds.

4915 Sale

4916 39. The Board may fix terms and conditions for the sale or other disposition of any authorized  
4917 issue of bonds. The Board may sell bonds at less than their par or face value but no issue of bonds may be  
4918 sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost  
4919 to the Authority calculated upon the entire issue so sold in excess of the applicable rate determined by the  
4920 Board, payable semiannually, computed with relation to the absolute maturity of the bonds according to  
4921 standard tables of bond values, deducting the amount of any premium to be paid on the redemption of any  
4922 bonds prior to maturity. All bonds issued and sold pursuant to this Title may be sold in such manner, either  
4923 at public or private sale, as the Board shall determine.

4924 Negotiability

4925 40. All bonds issued under the provisions of this Title are negotiable instruments.

4926 Bonds Eligible for Investment and Deposit

4927 41. Bonds issued under the provisions of this Title are hereby made securities in which all public  
4928 officers and public agencies of the Signatories and their political subdivisions and all banks, trust  
4929 companies, savings and loan associations, investment companies and others carrying on a banking  
4930 business, all insurance companies and insurance associations and others carrying on an insurance business,  
4931 all administrators, executors, guardians, trustees and other fiduciaries, and all other persons may legally  
4932 and properly invest funds, including capital in their control or belonging to them. Such bonds are hereby  
4933 made securities which may properly and legally be deposited with and received by any officer of any  
4934 Signatory, or of any agency or political subdivision of any Signatory, for any purpose for which the deposit  
4935 of bonds or other obligations of such Signatory is now or may hereafter be authorized by law.

4936 Validation Proceedings

4937 42. Prior to the issuance of any bonds, the Board may institute a special proceeding to determine  
4938 the legality of proceedings to issue the bonds and their validity under the laws of any of the Signatory  
4939 parties. Such proceeding shall be instituted and prosecuted in rem and the final judgment rendered therein  
4940 shall be conclusive against all persons whomsoever and against each of the Signatory parties.

4941 43. No indenture need be recorded or filed in any public office, other than the office of the Board.  
4942 The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and  
4943 irrespective of the date of receipt of such revenues by the Board or the indenture trustee. Such pledge shall  
4944 be effective as provided in the indenture without physical delivery of the revenues to the Board or to the  
4945 indenture trustee.

4946 Pledged Revenues

4947 44. Bond redemption and interest payments shall, to the extent provided in the resolution or  
4948 indenture, constitute a first, direct and exclusive charge and lien on all revenues received from the use and  
4949 operation of the facility, and on any sinking or other funds created therefrom. All such revenues, together  
4950 with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except  
4951 as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other  
4952 purposes including administration, operation, maintenance, improvements or extensions of the facilities  
4953 or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them,  
4954 are outstanding and unpaid.

4955 Remedies

4956 45. The holder of any bond may for the equal benefit and protection of all holders of bonds  
4957 similarly situated: (1) by mandamus or other appropriate proceedings require and compel the performance  
4958 of any of the duties imposed upon the Board or assumed by it, its officers, agents or employees under the  
4959 provisions of any indenture, in connection with the acquisition, construction, operation, maintenance,  
4960 repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit,  
4961 investment, application and disbursement of the revenues derived from the operation and use of the  
4962 facilities, or in connection with the deposit, investment and disbursement of the proceeds received from  
4963 the sale of bonds; or (2) by action or suit in a court of competent jurisdiction of any Signatory party require

4964 the Authority to account as if it were the trustee of an express trust, or enjoin any acts or things which may  
4965 be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and  
4966 remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available  
4967 to the holders of bonds.

4968 Article X Equipment Trust Certificates

4969 Power

4970 46. The Board shall have power to execute agreements, leases and equipment trust certificates with  
4971 respect to the purchase of facilities or equipment such as cars, trolley buses and motor buses, or other  
4972 craft, in the form customarily used in such cases and appropriate to effect such purchase, and may dispose  
4973 of such equipment trust certificates in such manner as it may determine to be for the best interests of the  
4974 Authority. Each vehicle covered by an equipment trust certificate shall have the name of the owner and  
4975 lessor plainly marked upon both sides thereof, followed by the words "Owner and Lessor".

4976 Payments

4977 47. All moneys required to be paid by the Authority under the provisions of such agreements,  
4978 leases and equipment trust certificates shall be payable solely from the revenue to be derived from the  
4979 operation of the transit system or from such grants, loans, appropriations or other revenues, as may be  
4980 available to the Board under the provisions of this Title. Payment for such facilities or equipment, or  
4981 rentals thereof, may be made in installments, and the deferred installments may be evidenced by  
4982 equipment trust certificates as aforesaid, and title to such facilities or equipment may not vest in the  
4983 Authority until the equipment trust certificates are paid.

4984 Procedure

4985 48. The agreement to purchase facilities or equipment by the Board may direct the vendor to sell  
4986 and assign the equipment to a bank or trust company, duly authorized to transact business in any of the  
4987 Signatory states, or to the Housing and Home Finance Administrator, as trustee, lessor or vendor, for the  
4988 benefit and security of the equipment trust certificates and may direct the trustee to deliver the facilities  
4989 and equipment to one or more designated officers of the Board and may authorize the trustee  
4990 simultaneously therewith to execute and deliver a lease of the facilities or equipment to the Board.

4991           Agreements and Leases

4992           49. The agreements and leases shall be duly acknowledged before some person authorized by law  
4993 to take acknowledgments of deeds and in the form required for acknowledgment of deeds and such  
4994 agreements, leases, and equipment trust certificates shall be authorized by resolution of the Board and  
4995 shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to  
4996 insure the payment of the equipment trust certificates from the revenues to be derived from the operation  
4997 of the transit system and other funds.

4998           The covenants, conditions and provisions of the agreements, leases and equipment trust certificates  
4999 shall not conflict with any of the provisions of any resolution or trust agreement securing the payment of  
5000 bonds or other obligations of the Authority then outstanding or conflict with or be in derogation of the  
5001 rights of the holders of any such bonds or other obligations.

5002           Law Governing

5003           50. The equipment trust certificates issued hereunder shall be governed by Laws of the District of  
5004 Columbia and for this purpose the chief place of business of the Authority shall be considered to be the  
5005 District of Columbia. The filing of any documents required or permitted to be filed shall be governed by  
5006 the Laws of the District of Columbia.

5007           Article XI Operation of Facilities

5008           Operation by Contract or Lease

5009           51. Any facilities and properties owned or controlled by the Authority may be operated by the  
5010 Authority directly or by others pursuant to contract or lease as the Board may determine.

5011           The Operating Contract

5012           52. Without limitation upon the right of the Board to prescribe such additional terms and provisions  
5013 as it may deem necessary and appropriate, the operating contract shall:

5014           (a) specify the services and functions to be performed by the Contractor;

5015           (b) provide that the Contractor shall hire, supervise and control all personnel required to perform  
5016 the services and functions assumed by it under the operating contract and that all such personnel shall be  
5017 employees of the Contractor and not of the Authority;

5018 (c) require the Contractor to assume the obligations of the labor contract or contracts of any transit  
5019 company which may be acquired by the Authority and assume the pension obligations of any such transit  
5020 company;

5021 (d) require the Contractor to comply in all respects with the labor policy set forth in Article XIV  
5022 of this Title;

5023 (e) provide that no transfer of ownership of the capital stock, securities or interests in any  
5024 Contractor, whose principal business in the operating contract, shall be made without written approval of  
5025 the Board and the certificates or other instruments representing such stock, securities or interests shall  
5026 contain a statement of this restriction;

5027 (f) provide that the Board shall have the sole authority to determine the rates or fares to be charged,  
5028 the routes to be operated and the service to be furnished;

5029 (g) specify the obligations and liabilities which are to be assumed by the Contractor and those  
5030 which are to be the responsibility of the Authority;

5031 (h) provide for an annual audit of the books and accounts of the Contractor by an independent  
5032 certified public accountant to be selected by the Board and for such other audits, examinations and  
5033 investigations of the books and records, procedures and affairs of the Contractor at such times and in such  
5034 manner as the Board shall require, the cost of such audits, examinations and investigations to be borne as  
5035 agreed by the parties in the operating contracts; and

5036 (i) provided that no operating contract shall be entered into for a term in excess of five years;  
5037 provided, that any such contract may be renewed for successive terms, each of which shall not exceed five  
5038 years. Any such operating contract shall be subject to termination by the Board for cause only.

5039 Compensation for Contractor

5040 53. Compensation to the Contractor under the operating contract may, in the discretion of the  
5041 Board, be in the form of (1) a fee paid by the Board to the Contractor for services, (2) a payment by the  
5042 Contractor to the Board for the right to operate the system, or (3) such other arrangement as the Board  
5043 may prescribe; provided, however, that the compensation shall bear a reasonable relationship to the  
5044 benefits to the Authority and to the estimated costs the Authority would incur in directly performing the

5045 functions and duties delegated under the operating contract; and provided, further that no such contract  
5046 shall create any right in the Contractor (1) to make or change any rate or fare or alter or change the service  
5047 specified in the contract to be provided or (2) to seek judicial relief by any form of original action, review  
5048 or other proceeding from any rate or fare or service prescribed by the Board. Any assertion, or attempted  
5049 assertion, by the Contractor of the right to make or change any rate or fare or service prescribed by the  
5050 Board shall constitute cause for termination of the operating contract. The operating contract may provide  
5051 incentives for efficient and economical management.

5052 Selection of Contractor

5053 54. The Board shall enter into an operating contract only after formal advertisement and  
5054 negotiations with all interested and qualified parties, including private transit companies rendering transit  
5055 service within the Zone; provided, however, that, if the Authority acquires transit facilities from any  
5056 agency of the federal or District of Columbia governments, in accordance with the provisions of Article  
5057 VII, § 20 of this Title, the Authority shall assume the obligations of any operating contract which the  
5058 transferor agency may have entered into.

5059 Article XII Coordination of Private and Public Facilities

5060 Declaration of Policy

5061 55. It is hereby declared that the interest of the public in efficient and economical transit service  
5062 and in the financial well-being of the Authority and of the private transit companies requires that the public  
5063 and private segments of the regional transit system be operated, to the fullest extent possible, as a  
5064 coordinated system without unnecessary duplicating service.

5065 Implementation of Policy

5066 56. In order to carry out the legislative policy set forth in § 55 of this Article XII

5067 (a) The Authority--

5068 (1) except as herein provided, shall not, directly or through a Contractor, perform transit service  
5069 by bus or similar motor vehicles;



5070 (2) shall, in cooperation with the private carriers and WMATC coordinate to the fullest extent  
5071 practicable, the schedules for service performed by its facilities with the schedules for service performed  
5072 by private carriers; and

5073 (3) shall enter into agreements with the private carriers to establish and maintain, subject to  
5074 approval by WMATC, through routes and joint fares and provide for the division thereof, or, in the absence  
5075 of such agreements, establish and maintain through routes and joint fares in accordance with orders issued  
5076 by WMATC directed to the private carriers when the terms and conditions for such through service and  
5077 joint fares are acceptable to it.

5078 (b) The WMATC, upon application, complaint, or upon its own motion, shall--

5079 (1) direct private carriers to coordinate their schedules for service with the schedules for service  
5080 performed by facilities owned or controlled by the Authority;

5081 (2) direct private carriers to improve or extend any existing services or provide additional service  
5082 over additional routes;

5083 (3) authorize a private carrier, pursuant to agreement between said carrier and the Authority, to  
5084 establish and maintain through routes and joint fares for transportation to be rendered with facilities owned  
5085 or controlled by the Authority if, after hearing held upon reasonable notice, WMATC finds that such  
5086 through routes and joint fares are required by the public interest; and

5087 (4) in the absence of such an agreement with the Authority, direct a private carrier to establish and  
5088 maintain through routes and joint fares with the Authority, if, after hearing held upon reasonable notice,  
5089 WMATC finds that such through service and joint fares are required by the public interest; provided,  
5090 however, that no such order, rule or regulation of WMATC shall be construed to require the Authority to  
5091 establish and maintain any through route and joint fare.

5092 (c) WMATC shall not authorize or require a private carrier to render any service, including the  
5093 establishment or continuation of a joint fare for a through route service with the Authority which is based  
5094 on a division thereof between the Authority and private carrier which does not provide a reasonable return  
5095 to the private carrier, unless the carrier is currently earning a reasonable return on its operation as a whole  
5096 in performing transportation subject to the jurisdiction of WMATC. In determining the issue of reasonable

5097 return, WMATC shall take into account any income attributable to the carrier, or to any corporation, firm  
5098 or association owned in whole or in part by the carrier, from the Authority whether by way of payment  
5099 for services or otherwise.

5100 (d) If the WMATC is unable, through the exercise of its regulatory powers over the private carriers  
5101 granted in subsection (b) hereof or otherwise, to bring about the requisite coordination of operations and  
5102 service between the private carriers and the Authority, the Authority may in the situations specified in  
5103 subsection (b) hereof, cause such transit service to be rendered by its Contractor by bus or other motor  
5104 vehicle, as it shall deem necessary to effectuate the policy set forth in § 55 hereof. In any such situation,  
5105 the Authority, in order to encourage private carriers to render bus service to the fullest extent practicable,  
5106 may, pursuant to agreement, make reasonable subsidy payments to any private carrier.

5107 (e) The Authority may acquire the capital stock or the transit facilities of any private transit  
5108 company and may perform transit service, including service by bus or similar motor vehicle, with transit  
5109 facilities so acquired, or with transit facilities acquired pursuant to Article VII, § 20. Upon acquisition of  
5110 the capital stock or the transit facilities of any private transit company, the Authority shall undertake the  
5111 acquisition, as soon as possible, of the capital stock or the transit facilities of each of the other private  
5112 transit companies within the Zone requesting such acquisition. Lack of such request, however, shall not  
5113 be construed to preclude the Authority from acquiring the capital stock or the transit facilities of any such  
5114 company pursuant to § 82 of Article XVI.

#### 5115 Rights of Private Carriers Unaffected

5116 57. Nothing in this title shall restrict or limit such rights and remedies, if any, that any private  
5117 carrier may have against the Authority arising out of acts done or actions taken by the Authority hereunder.  
5118 In the event any court of competent jurisdiction shall determine that the Authority has unlawfully infringed  
5119 any rights of any private carrier or otherwise caused or permitted any private carrier to suffer legally  
5120 cognizable injury, damages or harm and shall award a judgment therefor, such judgment shall constitute  
5121 a lien against any and all of the assets and properties of the Authority.

#### 5122 Financial Assistance to Private Carriers

5123           58. (a) The Board may accept grants from and enter into loan agreements with the Housing and  
5124 Home Finance Administrator, pursuant to the provisions of the Urban Mass Transportation Act of 1964  
5125 (78 Stat. 302), or with any successor agency or under any law of similar purport, for the purpose of  
5126 rendering financial assistance to private carriers.

5127           (b) An application by the Board for any such grant or loan shall be based on and supported by a  
5128 report from WMATC setting forth for each private carrier to be assisted (1) the equipment and facilities  
5129 to be acquired, constructed, reconstructed, or improved, (2) the service proposed to be rendered by such  
5130 equipment and facilities, (3) the improvement in service expected from such facilities and equipment, (4)  
5131 how the use of such facilities and equipment will be coordinated with the transit facilities owned by the  
5132 Authority, (5) the ability of the affected private carrier to repay any such loans or grants and (6)  
5133 recommended terms for any such loans or grants.

5134           (c) Any equipment or facilities acquired, constructed, reconstructed or improved with the proceeds  
5135 of such grants or loans shall be owned by the Authority and may be made available to private carriers only  
5136 by lease or other agreement which contain provisions acceptable to the Housing and Home Finance  
5137 Administrator assuring that the Authority will have satisfactory continuing control over the use of such  
5138 facilities and equipment.

5139           Article XIII Jurisdiction; Rates and Service

5140           Washington Metropolitan Area Transit Commission

5141           59. Except as provided herein, this Title shall not affect the functions and jurisdiction of WMATC,  
5142 as granted by Titles I and II of this Compact, over the transportation therein specified and the persons  
5143 engaged therein and the Authority shall have no jurisdiction with respect thereto.

5144           Public Facilities

5145           60. Service performed by transit facilities owned or controlled by the Authority, and the rates and  
5146 fares to be charged for such service, shall be subject to the sole and exclusive jurisdiction of the Board  
5147 and, notwithstanding any other provision in this Compact contained, WMATC shall have no authority  
5148 with respect thereto, or with respect to any contractor in connection with the operation by it of transit

5149 facilities owned or controlled by the Authority. The determinations of the Board with respect to such  
5150 matters shall not be subject to judicial review nor to the processes to any court.

5151 Standards

5152 61. Insofar as practicable, and consistent with the provision of adequate service at reasonable fares,  
5153 the rates and fares and service shall be fixed by the Board so as to result in revenues which will:

5154 (a) pay the operating expenses and provide for repairs, maintenance and depreciation of the transit  
5155 system owned or controlled by the Authority;

5156 (b) provide for payment of all principal and interest on outstanding revenue bonds and other  
5157 obligations and for payment of all amounts to sinking funds and other funds as may be required by the  
5158 terms of any indenture of loan agreement;

5159 (c) provide for the purchase, lease or acquisition of rolling stock, including provisions for interest,  
5160 sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the  
5161 Authority for the acquisition of rolling stock; and

5162 (d) provide funds for any purpose the Board deems necessary and desirable to carry out the  
5163 purposes of this title.

5164 Hearings

5165 62. (a) The Board shall not raise any fare or rate, nor implement a major service reduction, except  
5166 after holding a public hearing with respect thereto.

5167 (b) Any Signatory, any political subdivision thereof, any agency of the federal government and  
5168 any person, firm or association served by or using the transit facilities of the Authority and any private  
5169 carrier may file a request with the Board for a hearing with respect to any rates or charges made by the  
5170 Board or any service rendered with the facilities owned or controlled by the Authority. Such request shall  
5171 be in writing, shall state the matter on which a hearing is requested and shall set forth clearly the matters  
5172 and things on which the request relies. As promptly as possible after such a request is filed, the Board, or  
5173 such officer or employee as it may designate, shall confer with the protestant with respect to the matters  
5174 complained of. After such conference, the Board, if it deems the matter meritorious and of general  
5175 significance, may call a hearing with respect to such request.

5176 (c) The Board shall give at least fifteen days' notice for all public hearings. The notice shall be  
5177 given by publication in a newspaper of daily circulation throughout the Transit Zone and such notice shall  
5178 be published once a week for two successive weeks. The notice period shall start with the first day of  
5179 publication. Notices of public hearings shall be posted in accordance with regulations promulgated by the  
5180 Board.

5181 (d) Prior to calling a hearing on any matter specified in this section, the Board shall prepare and  
5182 file at its main office and keep open for public inspection its report relating to the proposed action to be  
5183 considered at such hearing. Upon receipt by the Board of any report submitted by WMATC, in connection  
5184 with a matter set for hearing, pursuant to the provisions of § 63 of this Article XIII, the Board shall file  
5185 such report at its main office and make it available for public inspection. For hearings called by the Board  
5186 pursuant to paragraph (b), above, the Board also shall cause to be lodged and kept open for public  
5187 inspection the written request upon which the hearing is granted and all documents filed in support thereof.

5188 Reference of Matters to WMATC

5189 63. To facilitate the attainment of the public policy objectives for operation of the publicly and  
5190 privately owned or controlled transit facilities as stated in Article XII, § 55, prior to the hearings provided  
5191 for by § 62 hereof--

5192 (a) The Board shall refer to WMATC for its consideration and recommendations, any matter which  
5193 the Board considers may affect the operation of the publicly and privately owned or controlled transit  
5194 facilities as a coordinated regional transit system and any matter for which the Board has called a hearing,  
5195 pursuant to § 62 of this Article XIII, except that temporary or emergency changes in matters affecting  
5196 service shall not be referred; and

5197 (b) WMATC, upon such reference of any matter to it, shall give the referred matter preference  
5198 over any other matters pending before it and shall, as expeditiously as practicable, prepare and transmit  
5199 its report thereon to the Board. The Board may request WMATC to reconsider any part of its report or to  
5200 make any supplemental reports it deems necessary. All of such reports shall be advisory only.

5201 (c) Any report submitted by WMATC to the Board shall consider, without limitation, the probable  
5202 effect of the matter or proposal upon the operation of the publicly and privately owned or controlled transit

5203 facilities as a coordinated regional system, passenger movements, fare structures, service and the impact  
5204 on the revenues of both the public and private facilities.

5205 Article XIV Labor Policy

5206 Construction

5207 64. The Board shall take such action as may be necessary to insure that all laborers and mechanics  
5208 employed by contractors or subcontractors in the construction, alteration or repair, including painting and  
5209 decorating, of projects, buildings and works which are undertaken by the Authority or are financially  
5210 assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the  
5211 locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40  
5212 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and  
5213 one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any  
5214 workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages  
5215 thus determined and the requirement that overtime be paid as above provided shall be set out in each  
5216 project advertisement for bids and in each bid proposal form and shall be made a part of the contract  
5217 covering the project, which contract shall be deemed to be a contract of the character specified in § 103  
5218 of the Contract Work Hours Standards Act (76 Stat. 357), as now or as may hereafter be in effect. The  
5219 Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards  
5220 specified in this provision, the supervisory, investigatory and other authority and functions set forth in  
5221 Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and § 2 of  
5222 the Act of June thirteen, nineteen hundred thirty-four, as amended (48 Stat. 948, as amended; 40 U.S.C.  
5223 276 (c)). The requirements of this section shall also be applicable with respect to the employment of  
5224 laborers and mechanics in the construction, alteration or repair, including painting and decorating, of the  
5225 transit facilities owned or controlled by the Authority where such activities are performed by a contractor  
5226 pursuant to agreement with the operator of such facilities.

5227 Equipment and Supplies

5228           65. Contracts for the manufacture or furnishing of materials, supplies, articles and equipment shall  
5229 be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.), as now or  
5230 as may hereafter be in effect.

5231           Operations

5232           66. (a) The rights, benefits, and other employee protective conditions and remedies of § 13 (c) of  
5233 the Federal Transit Act, as amended (49 U.S.C. Section 5333 (b)), as determined by the Secretary of  
5234 Labor, shall apply to Washington Metropolitan Area Transit Authority employees otherwise covered by  
5235 the Act. The Authority shall extend to employees whose positions are adversely affected by the  
5236 expenditure of federal funds obtained by WMATA pursuant to congressional appropriations, the rights,  
5237 benefits, and other employee protective conditions and remedies of section 13 (c) of the Federal Transit  
5238 Act, as amended (49 U.S.C. § 5333(b)).

5239           (b) The Authority shall deal with and enter into written contracts with employees as defined in §  
5240 152 of Title 29, United States Code, through accredited representatives of such employees or  
5241 representatives of any labor organization authorized to act for such employees concerning wages, salaries,  
5242 hours, working conditions, and pension or retirement provisions. Each such contract entered into after the  
5243 effective date of this act shall prohibit the contracting employees from engaging in any strike or an  
5244 employer from engaging in any lockout.

5245           (c) In case of any labor dispute involving the Authority and such employees where collective  
5246 bargaining does not result in agreement, either party may declare that an impasse has been reached  
5247 between the parties and may, by written notification to the other party and to the Federal Mediation and  
5248 Conciliation Service, request the Service to appoint a mediator for the purpose of assisting them in  
5249 reconciling their differences and resolving the controversy on terms which are mutually acceptable.  
5250 Within five days of the receipt of the request the Federal Mediation and Conciliation Service shall appoint  
5251 a mediator in accordance with its rules and procedures for such appointment. The mediator shall meet  
5252 with the parties forthwith, either jointly or separately, and shall take such steps as he ~~or she~~ deems  
5253 appropriate to persuade the parties to resolve their differences and effect a mutually acceptable agreement.  
5254 The mediator shall not, however, make findings of fact or recommend terms of settlement. Each party

5255 shall pay one-half of the expenses of such mediator. If the mediator is unable to effect settlement of the  
5256 controversy within fifteen days after his-~~or her~~ appointment, the Authority shall submit such dispute to  
5257 fact finding by a board composed of three persons, one appointed by the Authority, one appointed by the  
5258 labor organization representing the employees, and a third member to be agreed upon by the labor  
5259 organization and the Authority. The member agreed upon by the labor organization and the Authority  
5260 shall act as chairman of the board. The determination of the majority of the fact finding board thus  
5261 established shall be advisory as to all matters in dispute. If after a period of ten days from the date of the  
5262 appointment of the two persons representing the Authority and the labor organization, the third person has  
5263 not been selected, then either of the two persons may request the Federal Mediation and Conciliation  
5264 Service to furnish a list of five persons from which the third person shall be selected; provided, however,  
5265 that the list shall not include the name of the person who served as mediator unless inclusion of his-~~or her~~  
5266 name is mutually agreed to by both parties. The persons appointed by the Authority and the labor  
5267 organization, promptly after the receipt of such list shall determine by lot the order of elimination, and  
5268 thereafter each shall in that order alternately eliminate one name until only one name remains. The  
5269 remaining person on the list shall be the third member of the fact finding board. The term "labor dispute"  
5270 shall be broadly construed and shall include any controversy concerning wages, salaries, hours, working  
5271 conditions, or benefits including health and welfare, sick leave, insurance or pension or retirement  
5272 provisions but not limited thereto, and including any controversy concerning any differences or questions  
5273 that may arise between the parties including but not limited to the making or maintaining of collective  
5274 bargaining agreements, the terms to be included in such agreements, and the interpretation or application  
5275 of such collective bargaining agreements. Each party shall pay one-half of the expenses of such fact  
5276 finding. Under no circumstances may the parties resort to binding arbitration after the date of enactment  
5277 of this act or the expiration date of any contract requiring binding arbitration, whichever is later. This  
5278 prohibition against binding arbitration shall not be interpreted to preclude such arbitration of individual  
5279 employee grievances.

5280 (d) The Authority is hereby authorized and empowered to establish and maintain a system of  
5281 pensions and retirement benefits for such officers and employees of the Authority as may be designated



5282 or described by resolution of the Authority; to fix the terms of and restrictions on admission to such system  
5283 and the classifications therein; to provide that persons eligible for admission in such pension system shall  
5284 not be eligible for admission to, or receive any benefits from, any other pension system (except Social  
5285 Security benefits), which is financed or funded, in whole or in part, directly or indirectly by funds paid or  
5286 appropriated by the Authority to such other pension system, and to provide in connection with such  
5287 pension system, a system of benefits payable to the beneficiaries and dependents of any participant in such  
5288 pension system after the death of such participant (whether accidental or otherwise, whether occurring in  
5289 the actual performance of duty or otherwise, or both) subject to such exceptions, conditions, restrictions  
5290 and classifications as may be provided by resolution of the Authority. Such pension system shall be  
5291 financed or funded by such means and in such manner as may be determined by the Authority to be  
5292 economically feasible. Unless the Authority shall otherwise determine, no officer or employee of the  
5293 Authority and no beneficiary or dependent of any such officer or employee shall be eligible to receive any  
5294 pension or retirement or other benefits both from or under any such pension system and from or under any  
5295 pension or retirement system established by an acquired transportation system or established or provided  
5296 for, by or under the provisions of any collective bargaining agreement between the Authority and the  
5297 representatives of its employees.

5298 (e) Whenever the Authority acquires existing transit facilities from a public or privately owned  
5299 utility either in proceeding by eminent domain or otherwise, the Authority shall assume and observe all  
5300 existing labor contracts and pension obligations. When the Authority acquires an existing transportation  
5301 system, all employees who are necessary for the operation thereof by the Authority shall be transferred to  
5302 and appointed as employees of the Authority, subject to all the rights and benefits of this Title. These  
5303 employees shall be given seniority credit and sick leave, vacation, insurance and pension credits in  
5304 accordance with the records or labor agreements from the acquired transportation system. Members and  
5305 beneficiaries of any pension or retirement system or other benefits established by the acquired  
5306 transportation system shall continue to have rights, privileges, benefits, obligations and status with respect  
5307 to such established system. The Authority shall assume the obligations of any transportation system  
5308 acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare

5309 and pension or retirement provisions for employees. It shall assume the provisions of any collective  
5310 bargaining agreement between such acquired transportation system and the representatives of its  
5311 employees. The Authority and the employees, through their representatives for collective bargaining  
5312 purposes, shall take whatever action may be necessary to have pension trust funds presently under the  
5313 joint control of the acquired transportation system and the participating employees through their  
5314 representative transferred to the trust fund to be established, maintained and administered jointly by the  
5315 Authority and the participating employees through their representatives. No employee of any acquired  
5316 transportation system who is transferred to a position with the Authority shall by reason of such transfer  
5317 be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick  
5318 leave, vacation, health and welfare insurance or any other benefits, than he enjoyed as an employee of  
5319 such acquired transportation system.

5320 (f) The Authority shall not require any person, as a condition of employment or continuation of  
5321 employment, to join any labor union or labor organization. The Authority shall not require any person, as  
5322 a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any  
5323 kind to any labor union or labor organization.

5324 Article XV Relocation Assistance

5325 Relocation Program and Payments

5326 67. Section 7 of the Urban Mass Transportation Act of 1964, and as the same may from time to  
5327 time be amended, and all regulations promulgated thereunder, are hereby made applicable to individuals,  
5328 families, business concerns and nonprofit organizations displaced from real property by actions of the  
5329 Authority without regard to whether financial assistance is sought by or extended to the Authority under  
5330 any provision of that Act; provided, however, that in the event real property is acquired for the Authority  
5331 by an agency of the federal government, or by a State or local agency or instrumentality, the Authority is  
5332 authorized to reimburse the acquiring agency for relocation payments made by it.

5333 Relocation of Public or Public Utility Facilities

5334 68. Notwithstanding the provisions of § 67 of this Article XV, any highway or other public facility  
5335 or any facilities of a public utility company which will be dislocated by reason of a project deemed

5336 necessary by the Board to effectuate the authorized purposes of this Title shall be relocated if such  
5337 facilities are devoted to a public use, and the reasonable cost of relocation, if substitute facilities are  
5338 necessary, shall be paid by the Board from any of its moneys.

5339 Article XVI General Provisions

5340 Creation and Administration of Funds

5341 69. (a) The Board may provide for the creation and administration of such funds as may be  
5342 required. The funds shall be disbursed in accordance with rules established by the Board and all payments  
5343 from any fund shall be reported to the Board. Moneys and such funds and other moneys of the Authority  
5344 shall be deposited, as directed by the Board, in any branch or subsidiary of any state or national bank  
5345 which has operations within the Zone, and having a total paid-in capital of at least one million dollars (\$  
5346 1, 000, 000). The trust department of any such state or national bank may be designated as a depository to  
5347 receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital  
5348 may be waived for any such bank which agrees to pledge federal securities to protect the funds and  
5349 securities of the Authority in such amounts and pursuant to such arrangements as may be acceptable to  
5350 the Board.

5351 (b) Any moneys of the Authority may, in the discretion of the Board and subject to any agreement  
5352 or covenant between the Authority and the holders of any of its obligations limiting or restricting classes  
5353 of investments, be invested in: (i) Direct obligations of or obligations guaranteed by the United States of  
5354 America; (ii) Bonds, debentures, notes or other evidences of indebtedness issued by agencies of the United  
5355 States of America, including but not limited to the following: Bank for Cooperatives; Federal Intermediate  
5356 Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land  
5357 Banks, Federal National Mortgage Association; Student Loan Marketing Association; Government  
5358 National Mortgage Association; Tennessee Valley Authority; or United States Postal Service; (iii)  
5359 Securities that qualify as lawful investments and may be accepted as security for fiduciary, trust and public  
5360 funds under the control of the United States or any officer or officers thereof, or securities eligible as  
5361 collateral for deposits of moneys of the United States, including United States Treasury tax and loan  
5362 accounts; (iv) Domestic and Eurodollar certificates of deposit; and (v) Bonds, debentures, notes or other

5363 evidences of indebtedness issued by a domestic corporation, such as a corporation organized under the  
5364 laws of one of the states of the United States, provided that such obligations are nonconvertible and at the  
5365 time of their purchase are rated in the highest rating categories by a nationally recognized bond rating  
5366 agency.

5367 Annual Independent Audit

5368 70. (a) As soon as practical after the closing of the fiscal year, an audit shall be made of the  
5369 financial accounts of the Authority. The audit shall be made by qualified certified public accountants  
5370 selected by the Board, who shall have no personal interest direct or indirect in the financial affairs of the  
5371 Authority or any of its officers or employees. The report of audit shall be prepared in accordance with  
5372 generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board  
5373 shall direct. Copies of the report shall be distributed to each Director, to the Congress, to the Mayor and  
5374 Council of the District of Columbia, to the Governors of Virginia and Maryland, to the Washington  
5375 Suburban Transit Commission, to the Northern Virginia Transportation Commission and to the governing  
5376 bodies of the political subdivisions located within the Zone which are parties to commitments for  
5377 participation in the financing of the Authority and shall be made available for public distribution.

5378 (b) The financial transactions of the Board shall be subject to audit by the United States General  
5379 Accounting Office in accordance with the principles and procedures applicable to commercial corporate  
5380 transactions and under such rules and regulations as may be prescribed by the Comptroller General of the  
5381 United States. The audit shall be conducted at the place or places where the accounts of the Board are  
5382 kept.

5383 (c) Any Director, officer or employee who shall refuse to give all required assistance and  
5384 information to the accountants selected by the Board or who shall refuse to submit to them for examination  
5385 such books, documents, records, files, accounts, papers, things or property as may be requested shall, in  
5386 the discretion of the Board, forfeit his office.

5387 Reports

5388 71. The Board shall make and publish an annual report on its programs, operations, and finances,  
5389 which shall be distributed in the same manner provided by § 70 of this Article XVI for the report of annual

5390 audit. It may also prepare, publish and distribute such other public reports and informational materials as  
5391 it may deem necessary or desirable.

5392 Insurance

5393 72. The Board may self-insure or purchase insurance and pay the premiums therefor against loss  
5394 or damage to any of its properties; against liability for injury to persons or property; and against loss of  
5395 revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the  
5396 Board may determine, subject to the requirements of any agreement arising out of insurance of bonds or  
5397 other obligations by the Authority.

5398 Contracting and Purchasing

5399 73. (a) (1) Except as provided in subsections (b), (c), and (f) of this section, and except in the case  
5400 of procurement procedures otherwise expressly authorized by statute, the Authority in conducting a  
5401 procurement of property, services, or construction shall:

5402 (A) obtain full and open competition through the use of competitive procedures in accordance with  
5403 the requirements of this Section; and

5404 (B) use the competitive procedure or combination of competitive procedures that is best suited  
5405 under the circumstances of the procurement.

5406 (2) In determining the competitive procedure appropriate under the circumstances, the Authority  
5407 shall:

5408 (A) solicit sealed bids if:

5409 (i) time permits the solicitation, submission, and evaluation of sealed bids;

5410 (ii) the award will be made on the basis of price and other price-related factors;

5411 (iii) it is not necessary to conduct discussions with the responding sources about their bids; and

5412 (iv) there is a reasonable expectation of receiving more than one sealed bid; or

5413 (B) request competitive proposals if sealed bids are not appropriate under clause (A) of this  
5414 paragraph.

5415 (b) The Authority may provide for the procurement of property, services, or construction covered  
5416 by this Section using competitive procedures but excluding a particular source in order to establish or

5417 maintain an alternative source or sources of supply for that property, service, or construction if the  
5418 Authority determines that excluding the source would increase or maintain competition and would likely  
5419 result in reduced overall costs for procurement of property, services, or construction.

5420 (c) The Authority may use procedures other than competitive procedures if:

5421 (1) the property, services, or construction needed by the Authority is available from only one  
5422 responsible source and no other type of property, services, or construction will satisfy the needs of the  
5423 Authority; or

5424 (2) the Authority's need for the property, services, or construction is of such an unusual and  
5425 compelling urgency that the Authority would be seriously injured unless the Authority limits the number  
5426 of sources from which it solicits bids or proposals; or

5427 (3) the Authority determines that it is necessary in the public interest to use procedures other than  
5428 competitive procedures in the particular procurement; or

5429 (4) the property or services needed can be obtained through federal or other governmental sources  
5430 at reasonable prices.

5431 (d) For the purpose of applying subsection (c)(1) of this Section:

5432 (1) in the case of a contract for property, services, or construction to be awarded on the basis of  
5433 acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be  
5434 available from only one responsible source if the source has submitted an unsolicited proposal that  
5435 demonstrates a concept:

5436 (A) that is unique and innovative or, in the case of a service, for which the source demonstrates a  
5437 unique capability to provide the service; and

5438 (B) the substance of which is not otherwise available to the Authority and does not resemble the  
5439 substance of a pending competitive procurement.

5440 (2) in the case of a follow-on contract for the continued development or production of a major  
5441 system or highly specialized equipment or the continued provision of highly specialized services, the  
5442 property, services, or construction may be deemed to be available from only the original source and may

5443 be procured through procedures other than competitive procedures if it is likely that award to a source  
5444 other than the original source would result in:

5445 (A) substantial duplication of cost to the Authority that is not expected to be recovered through  
5446 competition; or

5447 (B) unacceptable delays in fulfilling the Authority's needs.

5448 (e) If the Authority uses procedures other than competitive procedures to procure property,  
5449 services, or construction under subsection (c)(2) of this Section, the Authority shall request offers from as  
5450 many potential sources as is practicable under the circumstances.

5451 (f)(1) To promote efficiency and economy in contracting, the Authority may use simplified  
5452 acquisition procedures for purchases of property, services and construction.

5453 (2) For the purposes of this subsection, simplified acquisition procedures may be used for  
5454 purchases for an amount that does not exceed the simplified acquisition threshold adopted by the federal  
5455 government.

5456 (3) A proposed purchase or contract for an amount above the simplified acquisition threshold may  
5457 not be divided into several purchases or contracts for lesser amounts in order to use the procedures under  
5458 paragraph (1) of this subsection.

5459 (4) In using simplified acquisition procedures, the Authority shall promote competition to the  
5460 maximum extent practicable.

5461 (g) The Board shall adopt policies and procedures to implement this Section. The policies and  
5462 procedures shall provide for publication of notice of procurements and other actions designed to secure  
5463 competition where competitive procedures are used.

5464 (h) The Authority in its discretion may reject any and all bids or proposals received in response to  
5465 a solicitation.

5466 Rights-of-Way

5467 74. The Board is authorized to locate, construct and maintain any of its transit and related facilities  
5468 in, upon, over, under or across any streets, highways, freeways, bridges and any other vehicular facilities,  
5469 subject to the applicable laws governing such use of such facilities by public agencies. In the absence of

5470 such laws, such use of such facilities by the Board shall be subject to such reasonable conditions as the  
5471 highway department or other affected agency of a Signatory party may require; provided, however, that  
5472 the Board shall not construct or operate transit or related facilities upon, over, or across any parkways or  
5473 park lands without the consent of, and except upon the terms and conditions required by, the agency having  
5474 jurisdiction with respect to such parkways and park lands, but may construct or operate such facilities in  
5475 a subway under such parkways or park lands upon such reasonable terms and conditions as may be  
5476 specified by the agency having jurisdiction with respect thereto.

5477 Compliance with Laws, Regulations and Ordinances

5478 75. The Board shall comply with all laws, ordinances and regulations of the Signatories and  
5479 political subdivisions and agencies thereof with respect to use of streets, highways and all other vehicular  
5480 facilities, traffic control and regulation, zoning, signs and buildings.

5481 Police Security

5482 76. (a) The Authority is authorized to establish and maintain a regular police force, to be known  
5483 as the Metro Transit Police, to provide protection for its patrons, personnel, and Transit facilities. The  
5484 Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in  
5485 this section. It shall be composed of both uniformed and plain clothes personnel and shall be charged with  
5486 the duty of enforcing the laws of the Signatories, and the laws, ordinances, and regulations of the political  
5487 subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction  
5488 of the Metro Transit Police shall include all the Transit facilities (including bus stops) owned, controlled,  
5489 or operated by the Authority, but this restriction shall not limit the power of the Metro Transit Police to  
5490 make arrests in the Transit Zone for violations committed upon, to, or against such Transit facilities  
5491 committed from within or outside such Transit facilities while in hot or close pursuit, or to execute traffic  
5492 citations and criminal process in accordance with subsection (c) below. The members of the Metro Transit  
5493 Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law-  
5494 enforcement agencies of the Signatories and of the political subdivisions thereof in which any Transit  
5495 facility of the Authority is located or in which the Authority operates any Transit service. On-duty Metro  
5496 Transit Police officers are authorized to make arrests off of Transit facilities within the Transit Zone when



5497 immediate action is necessary to protect the health, safety, welfare or property of an individual from actual  
5498 or threatened harm or from an unlawful act. Nothing contained in this section shall either relieve any  
5499 Signatory or political subdivision or agency thereof from its duty to provide police, fire, and other public  
5500 safety service and protection, or limit, restrict, or interfere with the jurisdiction of or the performance of  
5501 duties by the existing police, fire, and other public safety agencies. For purposes of this section, "bus stop"  
5502 means that area within 150 feet of a MetroBus bus stop sign, excluding the interior of any building not  
5503 owned, controlled or operated by the Washington Metropolitan Area Transit Authority.

5504 (b) A member of the Metro Transit Police shall have same powers, including the power of arrest,  
5505 and shall be subject to the same limitations, including regulatory limitations, in the performance of his  
5506 duties as a member of the duly constituted police force of the political subdivision in which the Metro  
5507 Transit Police member is engaged in the performance of his duties. A member of the Metro Transit Police  
5508 is authorized to carry and use only such weapons, including handguns, as are issued by the Authority. A  
5509 member of the Metro Transit Police is subject to such additional limitations in the use of weapons as are  
5510 imposed on the duly constituted police force for the political subdivision in which he is engaged in the  
5511 performance of his duties.

5512 (c) Members of the Metro Transit Police shall have power to execute on the Transit facilities  
5513 owned, controlled, or operated by the Authority any traffic citation or any criminal process issued by any  
5514 court of any Signatory or of any political subdivision of a Signatory, for any felony, misdemeanor, or  
5515 other offense against the laws, ordinances, rules, or regulations specified in subsection (a). With respect  
5516 to offenses committed upon, to, or against the Transit facilities owned, controlled, or operated by the  
5517 Authority, the Metro Transit Police shall have power to execute criminal process within the Transit Zone.

5518 (d) Upon the apprehension or arrest of any person by a member of the Metro Transit Police  
5519 pursuant to the provisions of subsection (b), the officer, as required by the law of the place of apprehension  
5520 or arrest, shall either issue a summons or a citation against the person, book the person, or deliver the  
5521 person to the duly constituted police or judicial officer of the Signatory or political subdivision where the  
5522 apprehension or arrest is made, for disposition as required by law.

5523 (e) The Authority shall have the power to adopt rules and regulations for the safe, convenient, and  
5524 orderly use of the Transit facilities owned, controlled, or operated by the Authority, including the payment  
5525 and the manner of the payment of fares or charges therefor, the protection of the Transit facilities, the  
5526 control of traffic and parking upon the Transit facilities, and the safety and protection of the riding public.  
5527 In the event that any such rules and regulations contravene the laws, ordinances, rules, or regulations of a  
5528 Signatory or any political subdivision thereof which are existing or subsequently enacted, these laws,  
5529 ordinances, rules, or regulations of the Signatory or the political subdivision shall apply and the conflicting  
5530 rule or regulation, or portion thereof, of the Authority shall be void within the jurisdiction of that Signatory  
5531 or political subdivision. In all other respects the rules and regulations of the Authority shall be uniform  
5532 throughout the Transit Zone. The rules and regulations established under this subsection shall be adopted  
5533 by the Board following public hearings held in accordance with Section 62 (c) and (d) of this Compact.  
5534 The final regulation shall be published in a newspaper of general circulation within the Zone at least 15  
5535 days before its effective date. Any person violating any rule or regulation of the Authority shall be subject  
5536 to arrest and, upon conviction by a court of competent jurisdiction, shall pay a fine of not more than two  
5537 hundred fifty dollars (\$ 250) and costs. Criminal violations of any rule or regulation of the Authority shall  
5538 be prosecuted by the Signatory or political subdivision in which the violation occurred, in the same manner  
5539 by which violations of law, ordinances, rules and regulations of the Signatory or political subdivisions are  
5540 prosecuted.

5541 (f) With respect to members of the Metro Transit Police, the Authority shall:

5542 (1) Establish classifications based on the nature and scope of duties, and fix and provide for their  
5543 qualification, appointment, removal, tenure, term, compensation, pension, and retirement benefits;

5544 (2) Provide for their training and, for this purpose, the Authority may enter into contracts or  
5545 agreements with any public or private organization engaged in police training, and this training and the  
5546 qualifications of the uniformed and plain clothes personnel shall at least equal the requirements of each  
5547 Signatory and of the political subdivisions therein in the Transit Zone for their personnel performing  
5548 comparable duties; and

5549 (3) Prescribe distinctive uniforms to be worn.

5550 (g) The Authority shall have the power to enter into agreements with the Signatories, the political  
5551 subdivisions thereof in the Transit Zone, and public safety agencies located therein, including those of the  
5552 Federal Government, for the delineation of the functions and responsibilities of the Metro Transit Police  
5553 and the duly constituted police, fire, and other public safety agencies, and for mutual assistance.

5554 (h) Before entering upon the duties of office, each member of the Metro Transit Police shall take  
5555 or subscribe to an oath or affirmation, before a person authorized to administer oaths, faithfully to perform  
5556 the duties of that office.

5557 Exemption from Regulation

5558 77. Except as otherwise provided in this Title, any Transit service rendered by Transit facilities  
5559 owned or controlled by the Authority and the Authority or any corporation, firm or association performing  
5560 such transit service pursuant to an operating contract with the Authority, shall, in connection with the  
5561 performance of such service, be exempt from all laws, rules, regulations and orders of the Signatories and  
5562 of the United States otherwise applicable to such transit service and persons, except that laws, rules,  
5563 regulations and orders relating to inspection of equipment and facilities, safety and testing shall remain in  
5564 force and effect; provided, however, that the Board may promulgate regulations for the safety of the public  
5565 and employees not inconsistent with the applicable laws, rules, regulations or orders of the Signatories  
5566 and of the United States.

5567 Tax Exemption

5568 78. It is hereby declared that the creation of the Authority and the carrying out of the corporate  
5569 purposes of the Authority is in all respects for the benefit of the people of the Signatory states and is for a  
5570 public purpose and that the Authority and the Board will be performing an essential governmental  
5571 function, including, without limitation, proprietary, governmental and other functions, in the exercise of  
5572 the powers conferred by this Title. Accordingly, the Authority and the Board shall not be required to pay  
5573 taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession  
5574 or supervision or upon its activities in the operation and maintenance of any Transit facilities or upon any  
5575 revenues therefrom and the property and income derived therefrom shall be exempt from all federal, State,

5576 District of Columbia, municipal and local taxation. This exemption shall include, without limitation, all  
5577 motor vehicle license fees, sales taxes and motor fuel taxes.

5578 Reduced Fares

5579 79. The District of Columbia, the Northern Virginia Transportation District, the Washington  
5580 Suburban Transit District and the component governments thereof, may enter into contracts or agreements  
5581 with the Authority to make equitable payments for fares lower than those established by the Authority  
5582 pursuant to the provisions of Article XIII hereof for any specified class or category of riders.

5583 Liability for Contracts and Torts

5584 80. The Authority shall be liable for its contracts and for its torts and those of its Directors, officers,  
5585 employees and agents committed in the conduct of any proprietary function, in accordance with the law  
5586 of the applicable Signatory (including rules on conflict of laws), but shall not be liable for any torts  
5587 occurring in the performance of a governmental function. The exclusive remedy for such breach of  
5588 contracts and torts for which the Authority shall be liable, as herein provided, shall be by suit against the  
5589 Authority. Nothing contained in this Title shall be construed as a waiver by the District of Columbia,  
5590 Maryland, Virginia and the counties and cities within the Zone of any immunity from suit.

5591 Jurisdiction of Courts

5592 81. The United States District Courts shall have original jurisdiction, concurrent with the courts of  
5593 Maryland, Virginia and the District of Columbia, of all actions brought by or against the Authority and to  
5594 enforce subpoenas issued under this Title. Any such action initiated in a State or District of Columbia  
5595 Court shall be removable to the appropriate United States District Court in the manner provided by Act of  
5596 June 25, 1948, as amended (28 U.S.C. 1446).

5597 Condemnation

5598 82. (a) The Authority shall have the power to acquire by condemnation, whenever in its opinion it  
5599 is necessary or advantageous to the Authority to do so, any real or personal property, or any interest  
5600 therein, necessary or useful for the transit system authorized herein, except property owned by the United  
5601 States, by a Signatory, or any political subdivision thereof, whenever such property cannot be acquired by  
5602 negotiated purchase at a price satisfactory to the Authority.

5603 (b) Proceedings for the condemnation of property in the District of Columbia shall be instituted  
5604 and maintained under the Act of December 23, 1963 (77 Stat. 577-581, D.C. Code 1961, Supp. IV,  
5605 Sections 1351-1368). Proceedings for the condemnation of property located elsewhere within the Zone  
5606 shall be instituted and maintained, if applicable, pursuant to the provisions of the Act of August 1, 1888,  
5607 as amended (25 Stat. 357, 40 U.S.C. 257) and the Act of June 25, 1948 (62 Stat. 935 and 937, 28 U.S.C.  
5608 1358 and 1403) or any other applicable act; provided, however, that if there is no applicable federal law,  
5609 condemnation proceedings shall be in accordance with the provisions of the state law of the Signatory in  
5610 which the property is located governing condemnation by the highway agency of such state. Whenever  
5611 the words "real property, " "realty, " "land, " "easement, " "right-of-way, " or words of similar meaning  
5612 are used in any applicable federal or state law relating to procedure, jurisdiction and venue, they shall be  
5613 deemed, for the purposes of this Title, to include any personal property authorized to be acquired  
5614 hereunder.

5615 (c) Any award or compensation for the taking of property pursuant to this Title shall be paid by  
5616 the Authority, and none of the Signatory parties nor any other agency, instrumentality or political  
5617 subdivision thereof shall be liable for such award or compensation.

5618 Enlargement and Withdrawal; Duration

5619 83. (a) When advised in writing by the Northern Virginia Transportation Commission or the  
5620 Washington Suburban Transit Commission that the geographical area embraced therein has been enlarged,  
5621 the Board, upon such terms and conditions as it may deem appropriate, shall by resolution enlarge the  
5622 Zone to embrace the additional area.

5623 (b) The duration of this Title shall be perpetual but any Signatory thereto may withdraw therefrom  
5624 upon two years' written notice to the Board.

5625 (c) The withdrawal of any Signatory shall not relieve such Signatory, any transportation district,  
5626 county or city or other political subdivision thereof from any obligation to the Authority, or inuring to the  
5627 benefit of the Authority, created by contract or otherwise.

5628 Amendments and Supplements

5629 84. Amendments and supplements to this Title to implement the purposes thereof may be adopted  
5630 by legislative action of any of the Signatory parties concurred in by all of the others. When one Signatory  
5631 adopts an amendment or supplement to an existing Section of the Compact, that amendment or supplement  
5632 shall not be immediately effective, and the previously enacted provision or provisions shall remain in  
5633 effect in each jurisdiction until the amendment or supplement is approved by the other Signatories and is  
5634 consented to by Congress.

5635 Construction and Severability

5636 85. The provisions of this Title and of the agreements thereunder shall be severable and if any  
5637 phrase, clause, sentence or provision of this Title or any such agreement is declared to be unconstitutional  
5638 or the applicability thereof to any Signatory party, political subdivision or agency thereof is held invalid,  
5639 the constitutionality of the remainder of this Title or any such agreement and the applicability thereof to  
5640 any other Signatory party, political subdivision or agency thereof or circumstance shall not be affected  
5641 thereby. It is the legislative intent that the provisions of this Title be reasonably and liberally construed.

5642 Effective Date; Execution

5643 86. This Title shall be adopted by the Signatories in the manner provided by law therefor and shall  
5644 be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of  
5645 State of each of the Signatory parties or in accordance with laws of the State in which the filing is made,  
5646 and one copy shall be filed and retained in the archives of the Authority upon its organization. This Title  
5647 shall become effective ninety days after the enactment of concurring legislation by or on behalf of the  
5648 District of Columbia, Maryland and Virginia and consent thereto by the Congress and all other acts or  
5649 actions have been taken, including the signing and execution of the Title by the Governors of Maryland  
5650 and Virginia and the Mayor and Council of the District of Columbia.

5651 **Drafting note: Technical changes consistent with Va. Code § 1-216. Non-substantive**  
5652 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
5653 **of the compact. As the provisions of this section provide, the compact is effective among jurisdictions**  
5654 **that "agree substantially" to the provisions as adopted in Virginia. See *Delgado v. Commonwealth*,**  
5655 **16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting that compacts "constitute an**

5656 agreement between the Commonwealth of Virginia and other states, territories and the United  
5657 States, who join in a compact *by enacting substantially the same provisions*"). *Cf. Sassoon v.*  
5658 *Stynchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the enacted versions of the Interstate  
5659 Agreement on Detainers under federal and Georgia law contained differences, but were  
5660 "substantively identical").

5661 § 33.2-3101. (For effective date, see Editor's note) Washington Metrorail Safety Commission  
5662 Interstate Compact.

5663 The Washington Metrorail Safety Commission Interstate Compact is hereby enacted into law and  
5664 entered into with all other jurisdictions legally joining therein in the form substantially as follows:

5665 WASHINGTON METRORAIL SAFETY COMMISSION INTERSTATE COMPACT

5666 Preamble

5667 WHEREAS, the Washington Metropolitan Area Transit Authority, an interstate compact agency  
5668 of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, provides  
5669 transportation services to millions of people each year, the safety of whom is paramount; and

5670 WHEREAS, an effective and safe Washington Metropolitan Area Transit Authority system is  
5671 essential to the commerce and prosperity of the National Capital region; and

5672 WHEREAS, the Tri-State Oversight Committee, created by a memorandum of understanding  
5673 amongst these three jurisdictions, has provided safety oversight of the Washington Metropolitan Area  
5674 Transit Authority; and

5675 WHEREAS, an amendment to 49 U.S.C. § 5329 requires the creation of a legally and financially  
5676 independent state authority for safety oversight of all fixed rail transit facilities; and

5677 WHEREAS, the District of Columbia, the Commonwealth of Virginia, and the State of Maryland  
5678 intend to create a Washington Metrorail Safety Commission to act as the state safety oversight authority  
5679 for the Washington Metropolitan Area Transit Authority system under 49 U.S.C. § 5329; and

5680 WHEREAS, this act is created for the benefit of the people of the District of Columbia, the  
5681 Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and  
5682 prosperity.

5683 Article I. Definitions.

5684 A. As used in this MSC Compact, the following words and terms shall have the meanings set forth  
5685 below, unless the context clearly requires a different meaning. Capitalized terms used herein, but not  
5686 otherwise defined in this act, shall have the definition set forth in regulations issued under 49 U.S.C. §  
5687 5329, as they may be revised from time to time:

5688 "Alternate member" means an alternate member of the Board.

5689 "Board" means the board of directors of the Commission.

5690 "Commission" means the Washington Metrorail Safety Commission.

5691 "Member" means a member of the Board.

5692 "MSC Compact" means the Washington Metrorail Safety Commission Interstate Compact created  
5693 by this act.

5694 "Public transportation agency safety plan" means the comprehensive agency safety plan for a rail  
5695 transit agency required by 49 U.S.C. § 5329 and the regulations thereunder, as may be amended or revised  
5696 from time to time.

5697 "Public transportation safety certification training program" means the federal certification  
5698 training program, as established and amended from time to time by applicable federal laws and  
5699 regulations, for federal and state employees, or other designated personnel, who conduct safety audits and  
5700 examinations of public transportation systems and employees of public transportation agencies directly  
5701 responsible for safety oversight.

5702 "Safety-sensitive position" means any position held by a WMATA employee or contractor  
5703 designated in the Public Transportation Agency Safety Plan for the WMATA Rail System and approved  
5704 by the Commission as directly or indirectly affecting the safety of the passengers or employees of the  
5705 WMATA Rail System.

5706 "Signatory" means the State of Maryland, the Commonwealth of Virginia, and the District of  
5707 Columbia.

5708 "State" or "jurisdiction" means the State of Maryland, the Commonwealth of Virginia, and the  
5709 District of Columbia.



5710 "Washington Metropolitan Area Transit Authority" or "WMATA" means the entity created by the  
5711 WMATA Compact, which entity is responsible for providing certain rail fixed guideway public  
5712 transportation system services.

5713 "WMATA Compact" means the Washington Metropolitan Area Transit Authority Compact  
5714 (Public Law 89 774; 80 Stat. 1324).

5715 "WMATA Rail System" or "Metrorail" means the rail fixed guideway public transportation system  
5716 and all other real and personal property owned, leased, operated, or otherwise used by WMATA rail  
5717 services and shall include WMATA rail projects under design or construction by owners other than  
5718 WMATA.

5719 Article II. Purpose and Functions.

5720 A. The Signatories to the WMATA Compact hereby adopt this MSC Compact pursuant to 49  
5721 U.S.C. § 5329. The Commission created hereunder shall have safety regulatory and enforcement authority  
5722 over the WMATA Rail System and shall act as the state safety oversight authority for WMATA under 49  
5723 U.S.C. § 5329, as may be amended from time to time. WMATA shall be subject to the Commission's  
5724 rules, regulations, actions, and orders.

5725 B. The purpose of this MSC Compact is to create a state safety oversight authority for the WMATA  
5726 Rail System, pursuant to the mandate of federal law, as a common agency of each Signatory, empowered  
5727 in the manner hereinafter set forth to review, approve, oversee, and enforce the safety of the WMATA  
5728 Rail System, including, without limitation, to (i) have exclusive safety oversight authority and  
5729 responsibility over the WMATA Rail System pursuant to federal law, including, without limitation, the  
5730 power to restrict, suspend, or prohibit rail service on all or part of the WMATA Rail system as set forth  
5731 in this MSC Compact; (ii) develop and adopt a written state safety oversight program standard; (iii) review  
5732 and approve the WMATA public transportation agency safety plan; (iv) investigate Hazards, Incidents,  
5733 and Accidents on the WMATA Rail System; (v) require, review, approve, oversee, and enforce Corrective  
5734 Action Plans developed by WMATA; and (vi) meet other requirements of federal and state law relating  
5735 to safety oversight of the WMATA Rail System.

5736 Article III. Establishment and Organization.

5737 A. Washington Metrorail Safety Commission.

5738 1. The Commission is hereby created as an instrumentality of each Signatory, which shall be a  
5739 public body corporate and politic, and which shall have the powers and duties set forth in this MSC  
5740 Compact.

5741 2. The Commission shall be financially and legally independent from WMATA.

5742 B. Board Membership.

5743 1. The Commission shall be governed by a Board of six members with two members appointed or  
5744 reappointed, including to fill an unexpired term, by each Signatory pursuant to the signatory's applicable  
5745 laws.

5746 2. Each Signatory shall also appoint or reappoint, including to fill an unexpired term, one alternate  
5747 member pursuant to the signatory's applicable laws.

5748 3. An alternate member shall participate and take action as a member only in the absence of one  
5749 or both members appointed from the same jurisdiction as the alternate member's appointing jurisdiction  
5750 and, in such instances, may cast a single vote.

5751 4. Members and alternate members shall have backgrounds in transit safety, transportation,  
5752 relevant engineering disciplines, or public finance.

5753 5. No member or alternate member shall simultaneously hold an elected public office, serve on the  
5754 WMATA board of directors, be employed by WMATA, or be a contractor to WMATA.

5755 6. Each member and alternate member shall serve a four-year term and may be reappointed for  
5756 additional terms, except that each Signatory shall make its initial appointments as follows:

5757 a. One member shall be appointed for a four-year term;

5758 b. One member shall be appointed for a two-year term; and

5759 c. The alternate member shall be appointed for a three-year term.

5760 7. Any person appointed to fill a vacancy shall serve for the unexpired term.

5761 8. Members and alternate members shall be entitled to reimbursement for reasonable and necessary  
5762 expenses and shall be compensated for each day spent meeting on the business of the Commission at a

5763 rate of \$ 200 per day or at such other rate as may be adjusted in appropriations approved by all of the  
5764 Signatories.

5765 9. A member or an alternate member may be removed or suspended from office only for cause in  
5766 accordance with the laws of such member's or alternate member's appointing jurisdiction.

5767 C. Quorum and Actions of the Board.

5768 1. Four members shall constitute a quorum. The affirmative vote of four members is required for  
5769 action of the Board, other than as provided in subdivision A 3 of Article IV. Quorum and voting  
5770 requirements under this paragraph may be met with one or more alternate members pursuant to subdivision  
5771 B 3.

5772 2. The Commission's action shall become effective upon enactment unless otherwise provided for  
5773 by the Commission.

5774 D. Oath of Office.

5775 1. Before entering office, each member and alternate member shall take and subscribe to the  
5776 following oath or affirmation of office or any such other oath or affirmation as the constitution or laws of  
5777 the Signatory he-~~or she~~ represents shall provide: "I, , hereby solemnly swear or affirm that I will support  
5778 and defend the Constitution and the laws of the United States as a member (or alternate member) of the  
5779 Board of the Washington Metrorail Safety Commission and will faithfully discharge the duties of the  
5780 office upon which I am about to enter."

5781 E. Organization and Procedure.

5782 1. The Board shall provide for its own organization and procedure. Meetings of the Board shall be  
5783 held as frequently as the Board determines, but in no event less than quarterly. The Board shall keep  
5784 minutes of its meetings and establish rules and regulations governing its transactions and internal affairs,  
5785 including, without limitation, policies regarding records retention that are not in conflict with applicable  
5786 federal record retention laws.

5787 2. The Commission shall keep commercially reasonable records of its financial transactions in  
5788 accordance with accounting principles generally accepted in the United States of America.

5789 3. The Commission shall establish an office for the conduct of its affairs at a location to be  
5790 determined by the Commission.

5791 4. The Commission shall adopt the Federal Freedom of Information Act, codified at 5 U.S.C. §  
5792 552(a)-(d) and (g), and Government in the Sunshine Act, codified at 5 U.S.C. 552b, as both may be  
5793 amended from time to time, as its freedom of information policy and open meeting policy, respectively,  
5794 and shall not be subject to the comparable laws or policies of any Signatory.

5795 5. Reports of investigations or inquiries adopted by the Board shall be made publicly available.

5796 6. The Commission shall adopt a policy on conflict of interest that shall be consistent with the  
5797 regulations issued under 49 U.S.C. § 5329, as they may be revised from time to time, which, among other  
5798 things, places appropriate separation between members, officers, employees, contractors, and agents of  
5799 the Commission and WMATA.

5800 7. The Commission shall adopt and utilize its own administrative procedure and procurement  
5801 policies in conformance with applicable federal regulations and shall not be subject to the administrative  
5802 procedure or procurement laws of any Signatory.

5803 F. Officers and Employees.

5804 1. The Board shall elect a Chairman, Vice-Chairman, Secretary, and Treasurer from among its  
5805 members, each for a two-year term, and shall prescribe their powers and duties.

5806 2. The Board shall appoint and fix the compensation and benefits of a chief executive officer who  
5807 shall be the chief administrative officer of the Commission and who shall have expertise in transportation  
5808 safety and one or more industry-recognized transportation safety certifications.

5809 3. Consistent with 49 U.S.C. § 5329, as may be amended from time to time, the Commission may  
5810 employ, under the direction of the chief executive officer, such other technical, legal, clerical, and other  
5811 employees on a regular, part-time, or as-needed basis as it determines necessary or desirable for the  
5812 discharge of its duties.

5813 4. The Commission shall not be bound by any statute or regulation of any Signatory in the  
5814 employment or discharge of any officer or employee of the Commission, but shall develop its own policies  
5815 in compliance with federal law. The MSC shall, however, consider the laws of the Signatories in devising

5816 its employment and discharge policies, and when it deems it practical, devise policies consistent with the  
5817 laws of the Signatories.

5818 5. The Board may fix and provide policies for the qualification, appointment, removal, term,  
5819 tenure, compensation benefits, workers' compensation, pension, and retirement rights of its employees  
5820 subject to federal law. The Board may also establish a personnel system based on merit and fitness and,  
5821 subject to eligibility, participate in the pension, retirement, and workers' compensation plans of any  
5822 Signatory or agency or political subdivision thereof.

5823 Article IV. Powers.

5824 A. Safety Oversight Power.

5825 1. In carrying out its purposes, the Commission, through its Board or designated employees or  
5826 agents, shall, consistent with federal law:

5827 a. Adopt, revise, and distribute a written State Safety Oversight Program;

5828 b. Review, approve, oversee, and enforce the adoption and implementation of WMATA's public  
5829 transportation agency safety plan;

5830 c. Require, review, approve, oversee, and enforce the adoption and implementation of any  
5831 Corrective Action Plans that the Commission deems appropriate;

5832 d. Implement and enforce relevant federal and state laws and regulations relating to safety of the  
5833 WMATA Rail System; and

5834 e. Audit every three years the compliance of WMATA with WMATA's public transportation  
5835 agency safety plan or conduct such an audit on an ongoing basis over a three-year time frame.

5836 2. In performing its duties, the Commission, through its Board or designated employees or agents,  
5837 may:

5838 a. Conduct, or cause to be conducted, inspections, investigations, examinations, and testing of  
5839 WMATA personnel and contractors, property, equipment, facilities, rolling stock, and operations of the  
5840 WMATA Rail System, including, without limitation, electronic information and databases through  
5841 reasonable means, which may include issuance of subpoenas;

5842 b. Enter upon the WMATA Rail System and, upon reasonable notice and a finding by the chief  
5843 executive officer that a need exists, upon any lands, waters, and premises adjacent to the WMATA Rail  
5844 System, including, without limitation, property owned or occupied by the federal government, for the  
5845 purpose of making inspections, investigations, examinations, and testing as the Commission may deem  
5846 necessary to carry out the purposes of this MSC Compact, and such entry shall not be deemed a trespass.  
5847 The Commission shall make reasonable reimbursement for any actual damage resulting to any such  
5848 adjacent lands, waters, and premises as a result of such activities;

5849 c. Compel WMATA's compliance with any Corrective Action Plan or order of the Commission by  
5850 such means as the Commission deems appropriate, including, without limitation, by:

5851 (1) Taking legal action in a court of competent jurisdiction;

5852 (2) Issuing citations or fines with funds going into an escrow account for spending by WMATA  
5853 on Commission-directed safety measures;

5854 (3) Directing WMATA to prioritize spending on safety-critical items;

5855 (4) Removing a specific vehicle, infrastructure element, or Hazard from the WMATA Rail System;

5856 and

5857 (5) Compelling WMATA to restrict, suspend, or prohibit rail service on all or part of the WMATA  
5858 Rail System with an appropriate notice period dictated by the circumstances.

5859 d. Direct WMATA to suspend or disqualify from performing in any safety-sensitive position an  
5860 individual who is alleged to or has violated safety rules, regulations, policies, or laws;

5861 e. Compel WMATA's Office of the Inspector General, created under WMATA board resolution  
5862 2006-18, or any successor WMATA office or organization having similar duties, to conduct safety-related  
5863 audits or investigations and to provide its findings to the Commission; and

5864 f. Take such other actions as the Commission may deem appropriate consistent with its purpose  
5865 and powers.

5866 3. Action by the Board under subdivision 2 c (5) of subsection A of Article IV shall require the  
5867 unanimous vote of all members present and voting. The Commission shall coordinate its enforcement  
5868 activities with appropriate federal and state governmental authorities.

5869 B. General Powers.

5870 1. In addition to the powers and duties set forth above, the Commission may:

5871 a. Sue and be sued;

5872 b. Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred  
5873 by this MSC Compact;

5874 c. Create and abolish offices, employments, and positions, other than those specifically provided  
5875 for in this MSC Compact, necessary or desirable for the purposes of the Commission;

5876 d. Determine a staffing level for the Commission that is commensurate with the size and  
5877 complexity of the WMATA Rail System, and require that employees and other designated personnel of  
5878 the Commission, who are responsible for safety oversight, be qualified to perform such functions through  
5879 appropriate training, including, without limitation, successful completion of the public transportation  
5880 safety certification training program;

5881 e. Contract for or employ consulting attorneys, inspectors, engineers, and such other experts  
5882 necessary or desirable and, within the limitations prescribed in this MSC Compact, prescribe their powers  
5883 and duties and fix their compensation;

5884 f. Enter into and perform contracts, leases, and agreements necessary or desirable in the  
5885 performance of its duties and in the execution of the powers granted under this MSC Compact;

5886 g. Apply for, receive, and accept such payments, appropriations, grants, gifts, loans, advances, and  
5887 other funds, properties, and services as may be transferred or made available to it by the United States  
5888 government or any other public or private entity or individual, subject to the limitations specified in  
5889 subdivision D 3 of Article V;

5890 h. Adopt an official seal and alter the same at its pleasure;

5891 i. Adopt and amend by-laws, policies, and procedures governing the regulation of its affairs;

5892 j. Appoint one or more advisory committees; and

5893 k. Do such other acts necessary or desirable for the performance of its duties and the execution of  
5894 its powers under this MSC Compact.

5895 2. Consistent with this MSC Compact, the Commission shall promulgate rules and regulations to  
5896 carry out the purposes of this MSC Compact.

5897 Article V. General Provisions.

5898 A. Annual Safety Report.

5899 1. The Commission shall make and publish annually a status report on the safety of the WMATA  
5900 Rail System, which shall include, among other requirements established by the Commission and federal  
5901 law, status updates of outstanding Corrective Action Plans, Commission directives, and ongoing  
5902 investigations. A copy of each such report shall be provided to:

5903 a. The Administrator of the Federal Transit Administration;

5904 b. The Governor of Virginia, the Governor of Maryland, and the Mayor of the District of  
5905 Columbia;

5906 c. The Chair of the Council of the District of Columbia;

5907 d. The President of the Maryland Senate and the Speaker of the Maryland House of Delegates;

5908 e. The President of the Senate of Virginia and the Speaker of the Virginia House of Delegates; and

5909 f. The General Manager and each member of the board of directors of WMATA.

5910 2. The Commission may prepare, publish, and distribute such other safety reports that it deems  
5911 necessary or desirable.

5912 B. Annual Report of Operations.

5913 1. The Commission shall make and publish an annual report on its programs, operations, and  
5914 finances, which shall be distributed in the same manner provided by subdivision A 1.

5915 2. The Commission may also prepare, publish, and distribute such other public reports and  
5916 informational materials as it deems necessary or desirable.

5917 C. Annual Independent Audit.

5918 An independent annual audit shall be made of the financial accounts of the Commission. The audit  
5919 shall be made by qualified certified public accountants selected by the Board, who shall have no personal  
5920 interest, direct or indirect, in the financial affairs of the Commission or any of its officers or employees.

5921 The report of audit shall be prepared in accordance with generally accepted auditing principles and shall



5922 be distributed in the same manner provided by subdivision A 1. Members, employees, agents, and  
5923 contractors of the Commission shall provide access to information necessary or desirable for the conduct  
5924 of the annual audit.

5925 D. Financing.

5926 1. The Commission's operations shall be funded, independently of WMATA, by the Signatory  
5927 jurisdictions and, when available, by federal funds. The Commission shall have no authority to levy taxes.

5928 2. The Signatories shall unanimously agree on adequate funding levels for the Commission and  
5929 make equal contributions of such funding, subject to annual appropriation, to cover the portion of  
5930 Commission operations not funded by federal funds.

5931 3. The Commission may borrow up to five percent of its last annual appropriations budget in  
5932 anticipation of receipts, or as otherwise set forth in the appropriations budget approved by all of the  
5933 Signatories, from any lawful lending institution for any purpose of this Compact, including, without  
5934 limitation, for administrative expenses. Such loans shall be for a term not to exceed two years, or at such  
5935 longer term approved by each Signatory pursuant to its laws as evidenced by the written authorization by  
5936 the Mayor of the District of Columbia and the Governors of Maryland and Virginia, and at such rates of  
5937 interest as shall be acceptable to the Commission.

5938 4. With respect to the District of Columbia, the commitment or obligation to render financial  
5939 assistance to the Commission shall be created, by appropriation or in such other manner, or by such other  
5940 legislation, as the District of Columbia shall determine; provided, that any such commitment or obligation  
5941 shall be approved by Congress pursuant to the District of Columbia Home Rule Act, approved December  
5942 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 et seq.).

5943 5. Pursuant to the requirements of 31 U.S.C. §§ 1341, 1342, 1349 to 1351, and 1511 to 1519, and  
5944 D.C. Official Code §§ 47-105 and 47-355.01 to 355.08 (collectively, the "Anti-Deficiency Acts"), the  
5945 District cannot obligate itself to any financial commitment in any present or future year unless the  
5946 necessary funds to pay that commitment have been appropriated and are lawfully available for the purpose  
5947 committed. Thus, pursuant to the Anti-Deficiency Acts, nothing in this MSC Compact creates an  
5948 obligation of the District in anticipation of an appropriation for such purpose, and the District's legal

5949 liability for the payment of any amount under this MSC Compact does not and may not arise or obtain in  
5950 advance of the lawful availability of appropriated funds for the applicable fiscal year.

5951 E. Tax Exemption.

5952 The exercise of the powers granted by this MSC Compact shall in all respects be for the benefit of  
5953 the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for  
5954 the increase of their safety, commerce, and prosperity, and as the activities associated with this MSC  
5955 Compact shall constitute the performance of essential governmental functions, the Commission shall not  
5956 be required to pay any taxes or assessments upon the services or any property acquired or used by the  
5957 Commission under the provisions of this MSC Compact or upon the income therefrom, and shall at all  
5958 times be free from taxation within the District of Columbia, the Commonwealth of Virginia, and the State  
5959 of Maryland.

5960 F. Reconsideration of Commission Orders.

5961 1. WMATA shall have the right to petition the Commission for reconsideration of an order based  
5962 on rules and procedures developed by the Commission.

5963 2. Consistent with subdivision C 2 of Article III, the filing of a petition for reconsideration shall  
5964 not act as a stay upon the execution of a Commission order, or any part of it, unless the Commission orders  
5965 otherwise. WMATA may appeal any adverse action on a petition for reconsideration as set forth in  
5966 subdivision G 1.

5967 G. Judicial Matters.

5968 1. The United States District Courts for the Eastern District of Virginia, Alexandria Division, the  
5969 United States District Courts for the District of Maryland, Southern Division, and the United States  
5970 District Courts for the District of Columbia shall have exclusive and original jurisdiction of all actions  
5971 brought by or against the Commission and to enforce subpoenas under this MSC Compact.

5972 2. The commencement of a judicial proceeding shall not operate as a stay of a Commission order  
5973 unless specifically ordered by the court.

5974 H. Liability and Indemnification.

5975 1. The Commission and its members, alternate members, officers, agents, employees, or  
5976 representatives shall not be liable for suit or action or for any judgment or decree for damages, loss, or  
5977 injury resulting from action taken within the scope of their employment or duties under this MSC  
5978 Compact, nor required in any case arising or any appeal taken under this MSC Compact to give a  
5979 supersedeas bond or security for damages. Nothing in this section shall be construed to protect such person  
5980 from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton  
5981 misconduct of such person.

5982 2. The Commission shall be liable for its contracts and for its torts and those of its members,  
5983 alternate members, officers, agents, employees, and representatives committed in the conduct of any  
5984 proprietary function, in accordance with the law of the applicable Signatory, including, without limitation,  
5985 rules on conflict of laws but shall not be liable for any torts occurring in the performance of a governmental  
5986 function. The exclusive remedy for such breach of contract or tort for which the Commission shall be  
5987 liable, as herein provided, shall be by suit against the Commission. Nothing contained in this MSC  
5988 Compact shall be construed as a waiver by the District of Columbia, the Commonwealth of Virginia, or  
5989 the State of Maryland of any immunity from suit.

5990 I. Commitment of Parties.

5991 Each of the Signatories pledges to each other faithful cooperation in providing safety oversight for  
5992 the WMATA Rail System, and, to affect such purposes, agrees to consider in good faith and request any  
5993 necessary legislation to achieve the objectives of this MSC Compact.

5994 J. Amendments and Supplements.

5995 Amendments and supplements to this MSC Compact shall be adopted by legislative action of each  
5996 of the Signatories and the consent of Congress. When one Signatory adopts an amendment or supplement  
5997 to an existing section of this MSC Compact, that amendment or supplement shall not be immediately  
5998 effective, and the previously enacted provision or provisions shall remain in effect in each jurisdiction  
5999 until the amendment or supplement is approved by the other Signatories and is consented to by Congress.

6000 K. Withdrawal and Termination.

6001 1. Any Signatory may withdraw from this MSC Compact, which action shall constitute a  
6002 termination of this MSC Compact.

6003 2. Withdrawal from this MSC Compact shall be by a Signatory's repeal of this MSC Compact from  
6004 its laws, but such repeal shall not take effect until two years after the effective date of the repealed statute  
6005 and written notice of the withdrawal being given by the withdrawing Signatory to the governors or mayors,  
6006 as appropriate, of the other Signatories.

6007 3. Prior to termination of this MSC Compact, the Commission shall provide to each Signatory:

6008 a. A mechanism for concluding the operations of the Commission;

6009 b. A proposal to maintain state safety oversight of the WMATA Rail System in compliance with  
6010 applicable federal law;

6011 c. A plan to hold surplus funds in a trust for a successor regulatory entity for four years after the  
6012 termination of this MSC Compact; and

6013 d. A plan to return any surplus funds that remain four years after the creation of the trust.

6014 L. Construction and Severability.

6015 1. This MSC Compact shall be liberally construed to effectuate the purposes for which it is created.

6016 2. If any part or provision of this MSC Compact or the application thereof to any person or  
6017 circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined  
6018 in its operation to the part, provision, or application directly involved in the controversy in which such  
6019 judgment shall have been rendered and shall not affect or impair the validity of the remainder of this MSC  
6020 Compact or the application thereof to other persons or circumstances, and the Signatories hereby declare  
6021 that they would have entered into this MSC Compact or the remainder thereof had the invalidity of such  
6022 provision or application thereof been apparent.

6023 M. Adoption; Effective Date.

6024 This MSC Compact shall be adopted by the Signatories in the manner provided by law therefor  
6025 and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the  
6026 Secretary of State of the State of Maryland, the Secretary of the Commonwealth of Virginia, and the  
6027 Secretary of the District of Columbia in accordance with the laws of each jurisdiction. One copy shall be

6028 filed and retained in the archives of the Commission upon its organization. This MSC Compact shall  
6029 become effective upon the enactment of concurring legislation by the District of Columbia, the  
6030 Commonwealth of Virginia, and the State of Maryland, and consent thereto by Congress and when all  
6031 other acts or actions have been taken, including, without limitation, the signing and execution of this MSC  
6032 Compact by the Governors of Maryland and Virginia and the Mayor of the District of Columbia.

6033 N. Conflict of Laws.

6034 1. Any conflict between any authority granted herein, or the exercise of such authority, and the  
6035 provisions of the WMATA Compact shall be resolved in favor of the exercise of such authority by the  
6036 Commission.

6037 2. All other general or special laws inconsistent with this MSC Compact are hereby declared to be  
6038 inapplicable to the Commission or its activities.

6039 **Drafting note: Technical change consistent with Va. Code § 1-216. Non-substantive**  
6040 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
6041 **of the compact. As the opening paragraph of this section provides, the compact is effective among**  
6042 **jurisdictions that adopt its provisions "in the form substantially" as adopted in Virginia. See**  
6043 ***Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting**  
6044 **that compacts "constitute an agreement between the Commonwealth of Virginia and other states,**  
6045 **territories and the United States, who join in a compact by enacting substantially the same**  
6046 **provisions"). Cf. *Sassoon v. Synchronbe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the**  
6047 **enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained**  
6048 **differences, but were "substantively identical").**

6049 **§ 38.2-602. Definitions.**

6050 As used in this chapter:

6051 "Adverse underwriting decision" means:

6052 1. Any of the following actions with respect to insurance transactions involving insurance coverage  
6053 that is individually underwritten:

6054 a. A declination of insurance coverage;

6055 b. A termination of insurance coverage;

6056 c. Failure of an agent to apply for insurance coverage with a specific insurance institution that an  
6057 agent represents and that is requested by an applicant;

6058 d. In the case of a property or casualty insurance coverage:

6059 (1) Placement by an insurance institution or agent of a risk with a residual market mechanism or  
6060 an unlicensed insurer; or

6061 (2) The charging of a higher rate on the basis of information that differs from that which the  
6062 applicant or policyholder furnished; or

6063 e. In the case of a life or accident and sickness insurance coverage, an offer to insure at higher than  
6064 standard rates, or with limitations, exceptions or benefits other than those applied for.

6065 2. Notwithstanding subdivision 1 of this definition, the following actions shall not be considered  
6066 adverse underwriting decisions, but the insurance institution or agent responsible for their occurrence shall  
6067 provide the applicant or policyholder with the specific reason or reasons for their occurrence:

6068 a. The termination of an individual policy form on a class or statewide basis;

6069 b. A declination of insurance coverage solely because such coverage is not available on a class or  
6070 statewide basis;

6071 c. The rescission of a policy.

6072 "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more  
6073 intermediaries, controls, is controlled by, or is under common control with another person.

6074 "Agent" shall have the meaning as set forth in § 38.2-1800 and shall include surplus lines brokers.

6075 "Applicant" means any person who seeks to contract for insurance coverage other than a person  
6076 seeking group insurance that is not individually underwritten.

6077 "Clear and conspicuous notice" means a notice that is reasonably understandable and designed to  
6078 call attention to the nature and significance of the information in the notice.

6079 "Consumer report" means any written, oral, or other communication of information bearing on a  
6080 natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal

6081 characteristics or mode of living that is used or expected to be used in connection with an insurance  
6082 transaction.

6083 "Consumer reporting agency" means any person who:

6084 1. Regularly engages, in whole or in part, in the practice of assembling or preparing consumer  
6085 reports for a monetary fee;

6086 2. Obtains information primarily from sources other than insurance institutions; and

6087 3. Furnishes consumer reports to other persons.

6088 "Control," including the terms "controlled by" or "under common control with," means the  
6089 possession, direct or indirect, of the power to direct or cause the direction of the management and policies  
6090 of a person, whether through the ownership of voting securities, by contract other than a commercial  
6091 contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official  
6092 position with or corporate office held by the person.

6093 "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution  
6094 or agent of requested insurance coverage.

6095 "Financial information" means personal information other than medical record information or  
6096 records of payment for the provision of health care to an individual.

6097 "Financial institution" means any institution the business of which is engaging in financial  
6098 activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843 (k)).

6099 "Financial product or service" means any product or service that a financial holding company could  
6100 offer by engaging in an activity that is financial in nature or incidental to such a financial activity under  
6101 Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843 (k)).

6102 "Individual" means any natural person who:

6103 1. In the case of property or casualty insurance, is a past, present, or proposed named insured or  
6104 certificate holder;

6105 2. In the case of life or accident and sickness insurance, is a past, present, or proposed principal  
6106 insured or certificate holder;

6107 3. Is a past, present or proposed policyowner;

6108 4. Is a past or present applicant;

6109 5. Is a past or present claimant;

6110 6. Derived, derives, or is proposed to derive insurance coverage under an insurance policy or  
6111 certificate subject to this chapter;

6112 7. For the purposes of §§ 38.2-612.1 and 38.2-613, is a beneficiary of a life insurance policy;

6113 8. For the purposes of §§ 38.2-612.1 and 38.2-613, is a mortgagor of a mortgage covered under a  
6114 mortgage guaranty insurance policy; or

6115 9. For the purposes of §§ 38.2-612.1 and 38.2-613, is an owner of property used as security for an  
6116 indebtedness for which single interest insurance is required by a lender.

6117 Notwithstanding any provision of this definition to the contrary, for purposes of § 38.2-612.1,  
6118 "individual" shall not include any natural person who is covered under an employee benefit plan, group  
6119 or blanket insurance contract, or group annuity contract when the insurance institution or agent that  
6120 provides such plan or contract: (i) furnishes the notice required under § 38.2-604.1 to the employee benefit  
6121 plan sponsor, group or blanket insurance contract holder, or group annuity contract holder; and (ii) does  
6122 not disclose the financial information of the person to a nonaffiliated third party other than as permitted  
6123 under § 38.2-613.

6124 "Institutional source" means any person or governmental entity that provides information about an  
6125 individual to an agent, insurance institution or insurance-support organization, other than:

6126 1. An agent;

6127 2. The individual who is the subject of the information; or

6128 3. A natural person acting in a personal capacity rather than in a business or professional capacity.

6129 "Insurance institution" means any corporation, association, partnership, reciprocal exchange, inter-  
6130 insurer, Lloyd's type of organization, fraternal benefit society, or other person engaged in the business of  
6131 insurance, including health maintenance organizations, and health, legal, dental, and optometric service  
6132 plans. "Insurance institution" shall not include agents or insurance-support organizations.

6133 "Insurance-support organization" means any person who regularly engages, in whole or in part, in  
6134 the practice of assembling or collecting information about natural persons for the primary purpose of



6135 providing the information to an insurance institution or agent for insurance transactions, including (i) the  
6136 furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for  
6137 use in connection with an insurance transaction or (ii) the collection of personal information from  
6138 insurance institutions, agents or other insurance-support organizations for the purpose of detecting or  
6139 preventing fraud, material misrepresentation or material nondisclosure in connection with insurance  
6140 underwriting or insurance claim activity. However, the following persons shall not be considered  
6141 "insurance-support organizations" for purposes of this chapter: agents, governmental institutions,  
6142 insurance institutions, medical-care institutions and medical professionals.

6143 "Insurance transaction" means any transaction involving insurance primarily for personal, family,  
6144 or household needs rather than business or professional needs that entails:

- 6145 1. The determination of an individual's eligibility for an insurance coverage, benefit or payment;  
6146 or  
6147 2. The servicing of an insurance application, policy, contract, or certificate.

6148 "Investigative consumer report" means a consumer report or a portion thereof in which information  
6149 about a natural person's character, general reputation, personal characteristics, or mode of living is  
6150 obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or  
6151 others who may have knowledge concerning such items of information.

6152 "Joint marketing agreement" means a formal written contract pursuant to which an insurance  
6153 institution jointly offers, endorses, or sponsors a financial product or service with another financial  
6154 institution.

6155 "Life insurance" includes annuities.

6156 "Medical-care institution" means any facility or institution that is licensed to provide health care  
6157 services to natural persons, including but not limited to, hospitals, skilled nursing facilities, home-health  
6158 agencies, medical clinics, rehabilitation agencies, and public-health agencies or health-maintenance  
6159 organizations.

6160 "Medical professional" means any person licensed or certified to provide health care services to  
6161 natural persons, including but not limited to, a physician, dentist, nurse, chiropractor, optometrist, physical

6162 or occupational therapist, social worker, clinical dietitian, clinical psychologist, licensed professional  
6163 counselor, licensed marriage and family therapist, pharmacist, or speech therapist.

6164 "Medical-record information" means personal information that:

6165 1. Relates to an individual's physical or mental condition, medical history, or medical treatment;

6166 and

6167 2. Is obtained from a medical professional or medical-care institution, from the individual, or from

6168 the individual's spouse, parent, or legal guardian.

6169 "Nonaffiliated third party" means any person who is not an affiliate of an insurance institution but

6170 does not mean (i) an agent who is selling or servicing a product on behalf of the insurance institution or

6171 (ii) a person who is employed jointly by the insurance institution and the company that is not an affiliate.

6172 "Personal information" means any individually identifiable information gathered in connection

6173 with an insurance transaction from which judgments can be made about an individual's character, habits,

6174 avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics.

6175 "Personal information" includes an individual's name and address and medical-record information, but

6176 does not include (i) privileged information or (ii) any information that is publicly available.

6177 "Policyholder" means any person who:

6178 1. In the case of individual property or casualty insurance, is a present named insured;

6179 2. In the case of individual life or accident and sickness insurance, is a present policyowner; or

6180 3. In the case of group insurance that is individually underwritten, is a present group certificate

6181 holder.

6182 "Policyholder information" means personal information about a policyholder, whether in paper,

6183 electronic, or other form, that is maintained by or on behalf of an insurance institution, agent, or insurance-

6184 support organization.

6185 "Pretext interview" means an interview whereby a person, in an attempt to obtain information

6186 about a natural person, performs one or more of the following acts:

6187 1. Pretends to be someone he-~~or she~~ is not;

6188 2. Pretends to represent a person he-~~or she~~ is not in fact representing;

6189 3. Misrepresents the true purpose of the interview; or

6190 4. Refuses to identify himself ~~or herself~~ upon request.

6191 "Privileged information" means any individually identifiable information that (i) relates to a claim  
6192 for insurance benefits or a civil or criminal proceeding involving an individual, and (ii) is collected in  
6193 connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal  
6194 proceeding involving an individual.

6195 "Residual market mechanism" means an association, organization, or other entity defined,  
6196 described, or provided for in the Virginia Automobile Insurance Plan as set forth in § 38.2-2015, or in the  
6197 Virginia Property Insurance Association as set forth in Chapter 27 (§ 38.2-2700 et seq.) of this title.

6198 "Termination of insurance coverage" or "termination of an insurance policy" means either a  
6199 cancellation or nonrenewal of an insurance policy other than by the policyholder's request, in whole or in  
6200 part, for any reason other than the failure to pay a premium as required by the policy.

6201 "Unlicensed insurer" means an insurance institution that has not been granted a license by the  
6202 Commission to transact the business of insurance in Virginia.

6203 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

6204 **§ 38.2-2903. Directors.**

6205 A. The Association shall be governed by a board of 11 directors, including one who shall be elected  
6206 chairman. Two directors shall be appointed by each of the following three insurance industry trade  
6207 associations: (i) the American Insurance Association; (ii) the Property Casualty Insurers Association of  
6208 America; and (iii) the National Association of Mutual Insurance Companies. One director shall be  
6209 appointed by each of the following two insurance agents' trade associations: (a) the Independent Insurance  
6210 Agents of Virginia and (b) the Professional Insurance Agents Association of Virginia and the District of  
6211 Columbia. The Commission shall appoint three directors not affiliated with the aforementioned trade  
6212 associations. If, for any reason, any of the trade associations fail to appoint a director or directors within  
6213 a reasonable period of time, the Commission shall have the power to make the appointment.

6214 B. All board members, including the chairman, shall be appointed to serve for two-year terms  
6215 beginning on a date designated by the plan.

6216 C. Six directors shall constitute a quorum for the transaction of any business or exercise of any  
6217 power of the Association. The directors of the Association shall act by vote of a majority of those present.  
6218 The directors shall serve without salary, but each director shall be reimbursed for actual and necessary  
6219 expenses incurred in the performance of his-~~or her~~ official duties as a director of the Association.

6220 **Drafting note: Technical change consistent with Va. Code § 1-216.**

6221 **§ 38.2-2906. Stabilization reserve fund.**

6222 A. When an Association is activated under this chapter, a stabilization reserve fund shall be created  
6223 for the lines, subclassifications and types of commercial liability insurance for which such activation  
6224 occurred. The fund shall be administered by five directors appointed by the Commission, one of whom  
6225 shall be a representative of the Commission, two of whom shall be representatives of the Association, and  
6226 two of whom shall be representatives of the Association's policyholders.

6227 B. The directors of the fund shall act by majority vote of those present with three directors  
6228 constituting a quorum for the transaction of any business or the exercise of any power of the fund. The  
6229 directors shall serve without salary, but each director shall be reimbursed for actual and necessary  
6230 expenses incurred in the performance of his-~~or her~~ official duties as a director of the fund. The directors  
6231 shall not be subject to any personal liability with respect to the administration of the fund.

6232 C. Each policyholder shall pay to the Association a stabilization reserve fund charge equal to one-  
6233 third of the annual premium due for commercial liability insurance obtained through the Association. The  
6234 means of payment shall be set forth in the plan of operation and shall be separately stated in the policy.  
6235 The Association shall cancel the policy of any policyholder who fails to pay the stabilization reserve fund  
6236 charge. Upon the termination of any policy during the term of the policy, payments made to the  
6237 stabilization reserve fund shall be returned to the policyholder on a pro rata basis identical to that applied  
6238 in computing that portion of the premium which is returned to the policyholder.

6239 D. All moneys received by the fund shall be held in a separate restricted cash account or accounts  
6240 under the sole control of an independent fund manager to be selected by the directors of the fund. The  
6241 fund manager shall account separately for the moneys paid to the fund for each year's policies written for  
6242 a given line, subclassification or type of commercial liability insurance. The fund manager may invest the

6243 moneys held, subject to the approval of the directors. All investment income shall be credited to the fund.  
6244 All expenses of administration of the fund shall be charged against the fund. The moneys held shall be  
6245 used solely for the following purposes: (i) to reimburse the Association for any and all expenses, taxes,  
6246 licenses and fees paid by the Association which are properly chargeable or allocable to the stabilization  
6247 reserve fund, and (ii) to pay any retrospective premium adjustment charge levied by the Association.  
6248 Payment of retrospective premium adjustment charges and other authorized payments shall be made by  
6249 the directors of the fund upon certification to them by the Association of the amount due. If all moneys  
6250 accruing to the fund for a particular year's policies for a given line, subclassification or type of commercial  
6251 liability insurance are exhausted in payment of retrospective premium adjustment charges for the  
6252 particular year, all liability and obligations of the holders of said policies with respect to the payment of  
6253 retrospective premium adjustment charges shall terminate and shall be conclusively presumed to have  
6254 been discharged.

6255 E. The Association shall promptly pay the fund manager all stabilization reserve fund charges that  
6256 it collects from its policyholders under subsection C of this section.

6257 F. Upon dissolution of the Association, all assets remaining in the fund shall be distributed  
6258 equitably to the policyholders who have contributed to the fund under procedures authorized by the  
6259 directors. Distribution of assets remaining in the fund shall be made after final disposition of all claims,  
6260 expenses, and liabilities against the fund, including reimbursement of preliminary organizational  
6261 assessments made pursuant to subsection B of § 38.2-2904.

6262 **Drafting note: Technical change consistent with Va. Code § 1-216.**

6263 **§ 38.2-3323. Group life insurance coverages of spouses, dependent children, and other**  
6264 **persons.**

6265 A. Coverage under a group life insurance policy, except a policy issued pursuant to § 38.2-3318.1  
6266 B, may be extended to insure:

6267 1. The spouse and any child who is under the age of 19 years or who is a dependent and a full-time  
6268 student under 25 years of age, or any class of spouses and dependent children, of each insured group  
6269 member who so elects; and

6270 2. Any other person in whom the insured group member has an insurable interest as defined in §§  
6271 38.2-301 and 38.2-302 as may mutually be agreed upon by the insurer and the group policyholder.

6272 The amount of insurance on the life of a spouse, child, or other person shall not exceed the amount  
6273 of insurance for which the insured group member is eligible.

6274 B. A spouse insured under this section shall have the same conversion right to the insurance on his  
6275 ~~or her~~ life as the insured group member.

6276 C. Notwithstanding the provisions of § 38.2-3331, one certificate may be issued for each insured  
6277 group member if a statement concerning any spouse's, dependent child's, or other person's coverage is  
6278 included in the certificate.

6279 D. In addition to the coverages afforded by the provisions of this section, any such plan for group  
6280 life insurance which includes coverage for children shall afford coverage to any child who is both (i)  
6281 incapable of self-sustaining employment by reason of intellectual disability or physical handicap and (ii)  
6282 chiefly dependent upon the employee for support and maintenance. Upon request of the insurer, proof of  
6283 incapacity and dependency shall be furnished to the insurer by the insured group member within 31 days  
6284 of the child's attainment of the specified age. Subsequent proof may be required by the insurer but not  
6285 more frequently than annually after the two-year period following the child's attainment of the specified  
6286 age. The insurer shall be allowed to charge a premium at the insurer's then customary rate applicable to  
6287 such group policy for such extended coverage.

6288 E. 1. Upon termination of such group coverage of a child, the child shall be entitled to have issued  
6289 to him by the insurer, without evidence of insurability, an individual life insurance policy without  
6290 disability or other supplementary benefits, if:

6291 a. An application for the individual policy is made, and the first premium paid to the insurer, within  
6292 31 days after such termination; and

6293 b. The individual policy, at the option of such person, is on any one of the forms then customarily  
6294 issued by the insurer at the age and for the amount applied for, except that the group policy may exclude  
6295 the option to elect term insurance;

6296 c. The individual policy is in an amount not in excess of the amount of life insurance which ceases  
6297 because of such termination, less the amount of any life insurance for which such person becomes eligible  
6298 under the same or any other group policy within 31 days after such termination, provided that any amount  
6299 of insurance which has matured on or before the date of such termination as an endowment payable to the  
6300 person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the  
6301 purposes of this provision, be included in the amount which is considered to cease because of such  
6302 termination; and

6303 d. The premium on the individual policy is at the insurer's then customary rate applicable to the  
6304 form and amount of the individual policy, to the class of risk to which such person then belongs, and to  
6305 the individual age attained on the effective date of the individual policy.

6306 2. Subject to the same conditions set forth above, the conversion privilege shall be available (i) to  
6307 a surviving dependent, if any, at the death of the group member, with respect to the coverage under the  
6308 group policy which terminates by reason of such death, and (ii) to the dependent of the group member  
6309 upon termination of coverage of the dependent, while the group member remains insured under the group  
6310 policy, by reason of the dependent ceasing to be a qualified family member under the group policy.

6311 **Drafting note: Technical change consistent with Va. Code § 1-216.**

6312 **§ 38.2-3407.12. Patient optional point-of-service benefit.**

6313 A. As used in this section:

6314 "Affiliate" shall have the meaning set forth in § 38.2-1322.

6315 "Allowable charge" means the amount from which the carrier's payment to a provider for any  
6316 covered item or service is determined before taking into account any cost-sharing arrangement.

6317 "Carrier" means:

6318 1. Any insurer licensed under this title proposing to offer or issue accident and sickness insurance  
6319 policies which are subject to Chapter 34 (§ 38.2-3400 et seq.) or 39 (§ 38.2-3900 et seq.) of this title;

6320 2. Any nonstock corporation licensed under this title proposing to issue or deliver subscription  
6321 contracts for one or more health services plans, medical or surgical services plans or hospital services  
6322 plans which are subject to Chapter 42 (§ 38.2-4200 et seq.) of this title;

6323 3. Any health maintenance organization licensed under this title which provides or arranges for the  
6324 provision of one or more health care plans which are subject to Chapter 43 (§ 38.2-4300 et seq.) of this  
6325 title;

6326 4. Any nonstock corporation licensed under this title proposing to issue or deliver subscription  
6327 contracts for one or more dental or optometric services plans which are subject to Chapter 45 (§ 38.2-4500  
6328 et seq.) of this title; and

6329 5. Any other person licensed under this title which provides or arranges for the provision of health  
6330 care coverage or benefits or health care plans or provider panels which are subject to regulation as the  
6331 business of insurance under this title.

6332 "Co-insurance" means the portion of the carrier's allowable charge for the covered item or service  
6333 which is not paid by the carrier and for which the enrollee is responsible.

6334 "Co-payment" means the out-of-pocket charge other than co-insurance or a deductible for an item  
6335 or service to be paid by the enrollee to the provider towards the allowable charge as a condition of the  
6336 receipt of specific health care items and services.

6337 "Cost sharing arrangement" means any co-insurance, co-payment, deductible or similar  
6338 arrangement imposed by the carrier on the enrollee as a condition to or consequence of the receipt of  
6339 covered items or services.

6340 "Deductible" means the dollar amount of a covered item or service which the enrollee is obligated  
6341 to pay before benefits are payable under the carrier's policy or contract with the group contract holder.

6342 "Enrollee" or "member" means any individual who is enrolled in a group health benefit plan  
6343 provided or arranged by a health maintenance organization or other carrier. If a health maintenance  
6344 organization arranges or contracts for the point-of-service benefit required under this section through  
6345 another carrier, any enrollee selecting the point-of-service benefit shall be treated as an enrollee of that  
6346 other carrier when receiving covered items or services under the point-of-service benefit.

6347 "Group contract holder" means any contract holder of a group health benefit plan offered or  
6348 arranged by a health maintenance organization or other carrier. For purposes of this section, the group



6349 contract holder shall be the person to which the group agreement or contract for the group health benefit  
6350 plan is issued.

6351 "Group health benefit plan" shall mean any health care plan, subscription contract, evidence of  
6352 coverage, certificate, health services plan, medical or hospital services plan, accident and sickness  
6353 insurance policy or certificate, or other similar certificate, policy, contract or arrangement, and any  
6354 endorsement or rider thereto, offered, arranged or issued by a carrier to a group contract holder to cover  
6355 all or a portion of the cost of enrollees (or their eligible dependents) receiving covered health care items  
6356 or services. Group health benefit plan does not mean (i) health care plans, contracts or policies issued in  
6357 the individual market; (ii) coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C.  
6358 § 1395 et seq. (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid) or  
6359 Title XXI of the Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal  
6360 employees), 10 U.S.C. § 1071 et seq. (TRICARE) or Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 (state  
6361 employees); (iii) accident only, credit or disability insurance, or long-term care insurance, plans providing  
6362 only limited health care services under § 38.2-4300 (unless offered by endorsement or rider to a group  
6363 health benefit plan), TRICARE supplement, Medicare supplement, or workers' compensation coverages;  
6364 or (iv) an employee welfare benefit plan (as defined in section 3 (1) of the Employee Retirement Income  
6365 Security Act of 1974, 29 U.S.C. § 1002 (1)), which is self-insured or self-funded.

6366 "Group specific administrative cost" means the direct administrative cost incurred by a carrier  
6367 related to the offer of the point-of-service benefit to a particular group contract holder.

6368 "Health care plan" shall have the meaning set forth in § 38.2-4300.

6369 "Person" means any individual, corporation, trust, association, partnership, limited liability  
6370 company, organization or other entity.

6371 "Point-of-service benefit" means a health maintenance organization's delivery system or covered  
6372 benefits, or the delivery system or covered benefits of another carrier under contract or arrangement with  
6373 the health maintenance organization, which permit an enrollee (and eligible dependents) to receive  
6374 covered items and services outside of the provider panel, including optometrists and clinical psychologists,  
6375 of the health maintenance organization under the terms and conditions of the group contract holder's group

6376 health benefit plan with the health maintenance organization or with another carrier arranged by or under  
6377 contract with the health maintenance organization and which otherwise complies with this section.  
6378 Without limiting the foregoing, the benefits offered or arranged by a carrier's indemnity group accident  
6379 and sickness policy under Chapter 34 (§ 38.2-3400 et seq.) of this title, health services plan under Chapter  
6380 42 (§ 38.2-4200 et seq.) of this title or preferred provider organization plan under Chapter 34 (§ 38.2-3400  
6381 et seq.) or 42 (§ 38.2-4200 et seq.) of this title which permit an enrollee (and eligible dependents) to  
6382 receive the full range of covered items and services outside of a provider panel, including optometrists  
6383 and clinical psychologists, and which are otherwise in compliance with applicable law and this section  
6384 shall constitute a point-of-service benefit.

6385 "Preferred provider organization plan" means a health benefit program offered pursuant to a  
6386 preferred provider policy or contract under § 38.2-3407 or covered services offered under a preferred  
6387 provider subscription contract under § 38.2-4209.

6388 "Provider" means any physician, hospital or other person, including optometrists and clinical  
6389 psychologists, that is licensed or otherwise authorized in the Commonwealth to deliver or furnish health  
6390 care items or services.

6391 "Provider panel" means the participating providers or referral providers who have a contract,  
6392 agreement or arrangement with a health maintenance organization or other carrier, either directly or  
6393 through an intermediary, and who have agreed to provide items or services to enrollees of the health  
6394 maintenance organization or other carrier.

6395 B. To the maximum extent permitted by applicable law, every health care plan offered or proposed  
6396 to be offered in the large group market in the Commonwealth by a health maintenance organization  
6397 licensed under this title to a group contract holder shall provide or include, or the health maintenance  
6398 organization shall arrange for or contract with another carrier to provide or include, a point-of-service  
6399 benefit to be provided or offered in conjunction with the health maintenance organization's health care  
6400 plan as an additional benefit for the enrollee, at the enrollee's option, individually to accept or reject. In  
6401 connection with its group enrollment application, every health maintenance organization shall, at no  
6402 additional cost to the group contract holder, make available or arrange with a carrier to make available to

6403 the prospective group contract holder and to all prospective enrollees, in advance of initial enrollment and  
6404 in advance of each reenrollment, a notice in form and substance acceptable to the Commission which  
6405 accurately and completely explains to the group contract holder and prospective enrollee the point-of-  
6406 service benefit and permits each enrollee to make his-or-her election. The form of notice provided in  
6407 connection with any reenrollment may be the same as the approved form of notice used in connection with  
6408 initial enrollment and may be made available to the group contract holder and prospective enrollee by the  
6409 carrier in any reasonable manner.

6410 C. To the extent permitted under applicable law, a health maintenance organization providing or  
6411 arranging, or contracting with another carrier to provide, the point-of-service benefit under this section  
6412 and a carrier providing the point-of-service benefit required under this section under arrangement or  
6413 contract with a health maintenance organization:

6414 1. May not impose, or permit to be imposed, a minimum enrollee participation level on the point-  
6415 of-service benefit alone;

6416 2. May not refuse to reimburse a provider of the type listed or referred to in § 38.2-3408 or 38.2-  
6417 4221 for items or services provided under the point-of-service benefit required under this section solely  
6418 on the basis of the license or certification of the provider to provide such items or services if the carrier  
6419 otherwise covers the items or services provided and the provision of the items or services is within the  
6420 provider's lawful scope of practice or authority; and

6421 3. Shall rate and underwrite all prospective enrollees of the group contract holder as a single group  
6422 prior to any enrollee electing to accept or reject the point-of-service benefit.

6423 D. The premium imposed by a carrier with respect to enrollees who select the point-of-service  
6424 benefit may be different from that imposed by the health maintenance organization with respect to  
6425 enrollees who do not select the point-of-service benefit. Unless a group contract holder determines  
6426 otherwise, any enrollee who accepts the point-of-service benefit shall be responsible for the payment of  
6427 any premium over the amount of the premium applicable to an enrollee who selects the coverage offered  
6428 by the health maintenance organization without the point-of-service benefit and for any identifiable group  
6429 specific administrative cost incurred directly by the carrier or any administrative cost incurred by the

6430 group contract holder in offering the point-of-service benefit to the enrollee. If a carrier offers the point-  
6431 of-service benefit to a group contract holder where no enrollees of the group contract holder elect to accept  
6432 the point-of-service benefit and incurs an identifiable group specific administrative cost directly as a  
6433 consequence of the offering to that group contract holder, the carrier may reflect that group specific  
6434 administrative cost in the premium charged to other enrollees selecting the point-of-service benefit under  
6435 this section. Unless the group contract holder otherwise directs or authorizes the carrier in writing, the  
6436 carrier shall make reasonable efforts to ensure that no portion of the cost of offering or arranging the point-  
6437 of-service benefit shall be reflected in the premium charged by the carrier to the group contract holder for  
6438 a group health benefit plan without the point-of-service benefit. Any premium differential and any group  
6439 specific administrative cost imposed by a carrier relating to the cost of offering or arranging the point-of-  
6440 service benefit must be actuarially sound and supported by a sworn certification of an officer of each  
6441 carrier offering or arranging the point-of-service benefit filed with the Commission certifying that the  
6442 premiums are based on sound actuarial principles and otherwise comply with this section. The  
6443 certifications shall be in a form, and shall be accompanied by such supporting information in a form  
6444 acceptable to the Commission.

6445 E. Any carrier may impose different co-insurance, co-payments, deductibles and other cost-sharing  
6446 arrangements for the point-of-service benefit required under this section based on whether or not the item  
6447 or service is provided through the provider panel of the health maintenance organization; provided that,  
6448 except to the extent otherwise prohibited by applicable law, any such cost-sharing arrangement:

6449 1. Shall not impose on the enrollee (or his-~~or her~~ eligible dependents, as appropriate) any co-  
6450 insurance percentage obligation which is payable by the enrollee which exceeds the greater of: (i) thirty  
6451 percent of the carrier's allowable charge for the items or services provided by the provider under the point-  
6452 of-service benefit or (ii) the co-insurance amount which would have been required had the covered items  
6453 or services been received through the provider panel;

6454 2. Shall not impose on an enrollee (or his-~~or her~~ eligible dependents, as appropriate) a co-payment  
6455 or deductible which exceeds the greatest co-payment or deductible, respectively, imposed by the carrier  
6456 or its affiliate under one or more other group health benefit plans providing a point-of-service benefit

6457 which are currently offered and actively marketed by the carrier or its affiliate in the Commonwealth and  
6458 are subject to regulation under this title; and

6459 3. Shall not result in annual aggregate cost-sharing payments to the enrollee (or his ~~or her~~ eligible  
6460 dependents, as appropriate) which exceed the greatest annual aggregate cost-sharing payments which  
6461 would apply had the covered items or services been received under another group health benefit plan  
6462 providing a point-of-service benefit which is currently offered and actively marketed by the carrier or its  
6463 affiliate in the Commonwealth and which is subject to regulation under this title.

6464 F. Except to the extent otherwise required under applicable law, any carrier providing the point-  
6465 of-service benefit required under this section may not utilize an allowable charge or basis for determining  
6466 the amount to be reimbursed or paid to any provider from which covered items or services are received  
6467 under the point-of-service benefit which is not at least as favorable to the provider as that used:

6468 1. By the carrier or its affiliate in calculating the reimbursement or payment to be made to similarly  
6469 situated providers under another group health benefit plan providing a point-of-service benefit which is  
6470 subject to regulation under this title and which is currently offered or arranged by the carrier or its affiliate  
6471 and actively marketed in the Commonwealth, if the carrier or its affiliate offers or arranges another such  
6472 group health benefit plan providing a point-of-service benefit in the Commonwealth; or

6473 2. By the health maintenance organization in calculating the reimbursement or payment to be made  
6474 to similarly situated providers on its provider panel.

6475 G. Except as expressly permitted in this section or required under applicable law, no carrier shall  
6476 impose on any person receiving or providing health care items or services under the point-of-service  
6477 benefit any condition or penalty designed to discourage the enrollee's selection or use of the point-of-  
6478 service benefit, which is not otherwise similarly imposed either: (i) on enrollees in another group health  
6479 benefit plan, if any, currently offered or arranged and actively marketed by the carrier or its affiliate in the  
6480 Commonwealth or (ii) on enrollees who receive the covered items or services from the health maintenance  
6481 organization's provider panel. Nothing in this section shall preclude a carrier offering or arranging a point-  
6482 of-service benefit from imposing on enrollees selecting the point-of-service benefit reasonable utilization  
6483 review, preadmission certification or precertification requirements or other utilization or cost control

6484 measures which are similarly imposed on enrollees participating in one or more other group health benefit  
6485 plans which are subject to regulation under this title and are currently offered and actively marketed by  
6486 the carrier or its affiliates in the Commonwealth or which are otherwise required under applicable law.

6487 H. Except as expressly otherwise permitted in this section or as otherwise required under  
6488 applicable law, the scope of the health care items and services which are covered under the point-of-  
6489 service benefit required under this section shall at least include the same health care items and services  
6490 which would be covered if provided under the health maintenance organization's health care plan,  
6491 including without limitation any items or services covered under a rider or endorsement to the applicable  
6492 health care plan. Carriers shall be required to disclose prominently in all group health benefit plans and in  
6493 all marketing materials utilized with respect to such group health benefit plans that the scope of the  
6494 benefits provided under the point-of-service option are at least as great as those provided through the  
6495 HMO's health care plan for that group. Filings of point-of-service benefits submitted to the Commission  
6496 shall be accompanied by a certification signed by an officer of the filing carrier certifying that the scope  
6497 of the point-of-service benefits includes at a minimum the same health care items and services as are  
6498 provided under the HMO's group health care plan for that group.

6499 I. Nothing in this section shall prohibit a health maintenance organization from offering or  
6500 arranging the point-of-service benefit (i) as a separate group health benefit plan or under a different name  
6501 than the health maintenance organization's group health benefit plan which does not contain the point-of-  
6502 service benefit or (ii) from managing a group health benefit plan under which the point-of-service benefit  
6503 is offered in a manner which separates or otherwise differentiates it from the group health benefit plan  
6504 which does not contain the point-of-service benefit.

6505 J. Notwithstanding anything in this section to the contrary, to the extent permitted under applicable  
6506 law, no health maintenance organization shall be required to offer or arrange a point-of-service benefit  
6507 under this section with respect to any group health benefit plan offered to a group contract holder if the  
6508 health maintenance organization determines in good faith that the group contract holder will be  
6509 concurrently offering another group health benefit plan or a self-insured or self-funded health benefit plan

6510 which allows the enrollees to access care from their provider of choice whether or not the provider is a  
6511 member of the health maintenance organization's panel.

6512 K. This section shall apply only to group health benefit plans issued in the Commonwealth in the  
6513 commercial large group market by carriers regulated by this title and shall not apply to (i) health care  
6514 plans, contracts or policies issued in the individual or small group market; (ii) coverages issued pursuant  
6515 to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. (Medicare), Title XIX of the Social  
6516 Security Act, 42 U.S.C. § 1396 et seq. (Medicaid) or Title XXI of the Social Security Act, 42 U.S.C. §  
6517 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), 10 U.S.C. § 1071 et seq. (TRICARE)  
6518 or Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 (state employees); (iii) accident only, credit or disability  
6519 insurance, or long-term care insurance, plans providing only limited health care services under § 38.2-  
6520 4300 (unless offered by endorsement or rider to a group health benefit plan), TRICARE supplement,  
6521 Medicare supplement, or workers' compensation coverages; (iv) an employee welfare benefit plan (as  
6522 defined in section 3 (1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002 (1)),  
6523 which is self-insured or self-funded; or (v) a qualified health plan when the plan is offered in the  
6524 Commonwealth by a health carrier through a health benefit exchange established under § 1311 of the  
6525 federal Patient Protection and Affordable Care Act (P.L. 111-148).

6526 L. Nothing in this section shall operate to limit any rights or obligations arising under § 38.2-3407,  
6527 38.2-3407.7, 38.2-3407.10, 38.2-3407.11, 38.2-4209, 38.2-4209.1, 38.2-4312, or 38.2-4312.1.

6528 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

6529 **§ 38.2-3432.1. Renewability.**

6530 A. Every health insurance issuer that offers health insurance coverage in the group market in this  
6531 Commonwealth shall renew or continue in force such coverage with respect to all insureds at the option  
6532 of the employer except:

6533 1. For nonpayment of the required premiums by the policyholder, or contract holder, or where the  
6534 health insurance issuer has not received timely premium payments;

6535 2. When the health insurance issuer is ceasing to offer coverage in the small group market in  
6536 accordance with subdivisions 9 and 10;

6537 3. For fraud or misrepresentation by the employer, with respect to their coverage;

6538 4. With regard to coverage provided to an eligible employee, for fraud or misrepresentation by the  
6539 employee with regard to his ~~or her~~ coverage;

6540 5. For failure to comply with contribution and participation requirements defined by the health  
6541 benefit plan;

6542 6. For failure to comply with health benefit plan provisions that have been approved by the  
6543 Commission;

6544 7. When a health insurance issuer offers health insurance coverage in the group market through a  
6545 network plan, and there is no longer an enrollee in connection with such plan who lives, resides, or works  
6546 in the service area of the health insurance issuer (or in the area for which the health insurance issuer is  
6547 authorized to do business) and, in the case of the group market, the health insurance issuer would deny  
6548 enrollment with respect to such plan under the provisions of subdivision 9 or 10;

6549 8. When health insurance coverage is made available in the group market only through one or more  
6550 bona fide associations, the membership of an employer in the association (on the basis of which the  
6551 coverage is provided) ceases but only if such coverage is terminated under this subdivision uniformly  
6552 without regard to any health status related factor relating to any covered individual;

6553 9. When a health insurance issuer decides to discontinue offering a particular type of group health  
6554 insurance coverage in the group market in this Commonwealth, coverage of such type may be discontinued  
6555 by the health insurance issuer in accordance with the laws of this Commonwealth in such market only if  
6556 (i) the health insurance issuer provides notice to each plan sponsor provided coverage of this type in such  
6557 market (and participants and beneficiaries covered under such coverage) of such discontinuation at least  
6558 ninety days prior to the date of the discontinuation of such coverage; (ii) the health insurance issuer offers  
6559 to each plan sponsor provided coverage of this type in such market, the option to purchase any other health  
6560 insurance coverage currently being offered by the health insurance issuer to a group health plan in such  
6561 market; and (iii) in exercising the option to discontinue coverage of this type and in offering the option of  
6562 coverage under this subdivision, the health insurance issuer acts uniformly without regard to the claims



6563 experience of those sponsors or any health status-related factor relating to any participants or beneficiaries  
6564 covered or new participants or beneficiaries who may become eligible for such coverage;

6565 10. In any case in which a health insurance issuer elects to discontinue offering all health insurance  
6566 coverage in the group market in this Commonwealth, health insurance coverage may be discontinued by  
6567 the health insurance issuer only in accordance with the laws of this Commonwealth and if: (i) the health  
6568 insurance issuer provides notice to the Commission and to each plan sponsor (and participants and  
6569 beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of  
6570 the discontinuation of such coverage; and (ii) all health insurance issued or delivered for issuance in this  
6571 Commonwealth in such market (or markets) are discontinued and coverage under such health insurance  
6572 coverage in such market (or markets) is not renewed;

6573 11. In the case of a discontinuation under subdivision 10 of this subsection in a market, the health  
6574 insurance issuer may not provide for the issuance of any health insurance coverage in the market and this  
6575 Commonwealth during the five-year period beginning on the date of the discontinuation of the last health  
6576 insurance coverage not so renewed;

6577 12. At the time of coverage renewal, a health insurance issuer may modify the health insurance  
6578 coverage for a product offered to a group health plan or health insurance issuer offering group health  
6579 insurance coverage in the group market if, for coverage that is available in such market other than only  
6580 through one or more bona fide associations, such modification is consistent with the laws of this  
6581 Commonwealth and effective on a uniform basis among group health plans or health insurance issuers  
6582 offering group health insurance coverage with that product; or

6583 13. In applying this section in the case of health insurance coverage that is made available by a  
6584 health insurance issuer in the group market to employers only through one or more associations, a  
6585 reference to "plan sponsor" is deemed, with respect to coverage provided to an employer member of the  
6586 association, to include a reference to such employer.

6587 B. If coverage to the small employer market pursuant to this article ceases to be written,  
6588 administered or otherwise provided, such coverage shall continue to be governed by this article with

6589 respect to business conducted under this article that was transacted prior to the effective date of termination  
6590 and that remains in force.

6591 **Drafting note: Technical change consistent with Va. Code § 1-216.**

6592 **§ 38.2-4107. No personal liability.**

6593 A. The officers and members of the supreme governing body or any subordinate body of a society  
6594 shall not be personally liable for any benefits provided by a society.

6595 B. Any person may be indemnified and reimbursed by any society for expenses reasonably  
6596 incurred by, and liabilities imposed upon, such person in connection with or arising out of any action, suit  
6597 or proceeding, or threat of such, in which the person may be involved because he ~~or she~~ is or was a director,  
6598 officer, employee or agent of the society or of any firm, corporation or organization which he ~~or she~~ served  
6599 in any capacity at the request of the society. A person shall not be so indemnified or reimbursed in relation  
6600 to any matter in (i) such action, suit or proceeding as to which he ~~or she~~ was finally adjudged to be or have  
6601 been guilty of breach of a duty as a director, officer, employee or agent of the society or (ii) such action,  
6602 suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement, unless  
6603 in either case the person acted in good faith for a purpose the person reasonably believed to be in or not  
6604 opposed to the best interests of the society and, in a criminal action or proceeding, in addition, had no  
6605 reasonable cause to believe that his ~~or her~~ conduct was unlawful. The determination whether the conduct  
6606 of such person met the standard required in order to justify indemnification and reimbursement in relation  
6607 to any matter described in (i) or (ii) of this subsection may be made only by the supreme governing body  
6608 or board of directors by a majority vote of a quorum consisting of persons who were not parties to such  
6609 action, suit or proceeding or by a court of competent jurisdiction. The termination of any action, suit or  
6610 proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to such person  
6611 shall not in itself create a conclusive presumption that the person did not meet the standard of conduct  
6612 required in order to justify indemnification and reimbursement. The foregoing right of indemnification  
6613 and reimbursement shall not be exclusive of other rights to which such person may be entitled as a matter  
6614 of law and shall inure to the benefit of his ~~or her~~ heirs, executors, and administrators.

6615 C. A society shall have power to purchase and maintain insurance on behalf of any person who is  
6616 or was a director, officer, employee or agent of the society, or who is or was serving at the request of the  
6617 society as a director, officer, employee or agent of any other firm, corporation, or organization against any  
6618 liability asserted against such person and incurred by him-~~or her~~ in any such capacity or arising out of his  
6619 ~~or her~~ status as such, whether or not the society would have the power to indemnify the person against  
6620 such liability under this section.

6621 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

6622 **§ 38.2-4132. Licensing of agents.**

6623 A. Agents of societies shall be licensed as life and health agents in accordance with Chapter 18 (§  
6624 38.2-1800 et seq.) of this title regulating the licensing, revocation, suspension or termination of licenses  
6625 of resident and nonresident agents.

6626 B. No examination or license shall be required of any regular salaried officer, employee or member  
6627 of a licensed society who devotes substantially all of his-~~or her~~ services to activities other than the  
6628 solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such  
6629 contracts no commission or other compensation directly dependent upon the amount of business obtained.

6630 **Drafting note: Technical change consistent with Va. Code § 1-216.**

6631 **§ 38.2-5020. Assessments.**

6632 A. A physician who otherwise qualifies as a participating physician pursuant to this chapter may  
6633 become a participating physician in the Program for a particular calendar year by paying an annual  
6634 participating physician assessment to the Program in the amount of \$5,000 on or before December 1 of  
6635 the previous year, in the manner required by the plan of operation. Effective January 1, 2009, the total  
6636 annual assessment shall be \$5,600, and shall increase by \$300 for the 2010 assessment and by \$100 each  
6637 year thereafter, to a maximum of \$6,200 per year. The board may authorize a prorated participating  
6638 physician or participating hospital assessment for a particular year in its plan of operation, but such  
6639 prorated assessment shall not become effective until the physician or hospital has given at least 30 days'  
6640 notice to the Program of the request for a prorated assessment.

6641 B. Notwithstanding the provisions of subsection A, a participating hospital with a residency  
6642 training program accredited to the American Council for Graduate Medical Education may pay an annual  
6643 participating physician assessment to the Program for residency positions in the hospital's residency  
6644 training program, in the manner provided by the plan of operation. However, any resident in a duly  
6645 accredited family practice or obstetrics residency training program at a participating hospital shall be  
6646 considered a participating physician in the Program and neither the resident nor the hospital shall be  
6647 required to pay any assessment for such participation. No resident shall become a participating physician  
6648 in the Program, however, until 30 days following notification by the hospital to the Program of the name  
6649 of the resident or residents filling the particular position for which the annual participating physician  
6650 assessment payment, if required, has been made.

6651 C. A hospital that otherwise qualifies as a participating hospital pursuant to this chapter may  
6652 become a participating hospital in the Program for a particular year by paying an annual participating  
6653 hospital assessment to the Program, on or before December 1 of the previous year, amounting to \$50 per  
6654 live birth for the prior year, as reported to the Department of Health in the Annual Survey of Hospitals.  
6655 Effective January 1, 2009, the annual participating hospital assessment shall increase by \$2.50 per live  
6656 birth for the prior year, as reported to the Department of Health in the Annual Survey of Hospitals, and  
6657 shall be increased at that rate each year thereafter to a maximum of \$55 per live birth so reported for the  
6658 prior year. The participating hospital assessment shall not exceed \$150,000 for any participating hospital  
6659 in any 12-month period until January 1, 2005. Effective January 1, 2005, the maximum total annual  
6660 assessment shall be \$160,000, and shall increase by \$10,000 each year thereafter, to a maximum of  
6661 \$200,000 in any 12-month period.

6662 D. All licensed physicians practicing in the Commonwealth on September 30 of a particular year,  
6663 other than participating physicians, shall pay to the Program an annual assessment of \$250 for the  
6664 following year, in the manner required by the plan of operation until January 1, 2005. Effective January  
6665 1, 2005, the total annual assessment shall be \$260, and shall increase by \$10 each year thereafter to a  
6666 maximum of \$300 per year.

6667           Upon proper certification to the Program, the following physicians shall be exempt from the  
6668 payment of the annual assessment under this subsection:

6669           1. A physician who is employed by the Commonwealth or federal government and whose income  
6670 from professional fees is less than an amount equal to 10 percent of the annual salary of the physician.

6671           2. A physician who is enrolled in a full-time graduate medical education program accredited by  
6672 the American Council for Graduate Medical Education.

6673           3. A physician who has retired from active clinical practice.

6674           4. A physician whose active clinical practice is limited to the provision of services, voluntarily and  
6675 without compensation, to any patient of any clinic which is organized in whole or in part for the delivery  
6676 of health care services without charge as provided in § 54.1-106.

6677           E. Taking into account the assessments collected pursuant to subsections A through D of this  
6678 section, if required to maintain the Fund on an actuarially sound basis, all insurance carriers licensed to  
6679 write and engaged in writing liability insurance in the Commonwealth of a particular year, shall pay into  
6680 the Fund an assessment for the following year, in an amount determined by the State Corporation  
6681 Commission pursuant to subsection A of § 38.2-5021, in the manner required by the plan of operation.  
6682 Liability insurance for the purposes of this provision shall include the classes of insurance defined in §§  
6683 38.2-117, 38.2-118, and 38.2-119 and the liability portions of the insurance defined in §§ 38.2-124, 38.2-  
6684 125, 38.2-130, 38.2-131, and 38.2-132.

6685           1. All annual assessments against liability insurance carriers shall be made on the basis of net direct  
6686 premiums written for the business activity which forms the basis for each such entity's inclusion as a  
6687 funding source for the Program in the Commonwealth during the prior year ending December 31, as  
6688 reported to the State Corporation Commission, and shall be in the proportion that the net direct premiums  
6689 written by each on account of the business activity forming the basis for their inclusion in the Program  
6690 bears to the aggregate net direct premiums for all such business activity written in this Commonwealth by  
6691 all such entities. For purposes of this chapter "net direct premiums written" means gross direct premiums  
6692 written in this Commonwealth on all policies of liability insurance less (i) all return premiums on the

6693 policy, (ii) dividends paid or credited to policyholders, and (iii) the unused or unabsorbed portions of  
6694 premium deposits on liability insurance.

6695 2. The entities listed in this subsection shall not be individually liable for an annual assessment in  
6696 excess of one quarter of one percent of that entity's net direct premiums written.

6697 3. Liability insurance carriers shall be entitled to recover their initial and annual assessments  
6698 through (i) a surcharge on future policies, (ii) a rate increase applicable prospectively, or (iii) a  
6699 combination of the two, at the discretion of the State Corporation Commission.

6700 F. On and after January 1, 1989, a participating physician covered under the provisions of this  
6701 section who has paid an annual assessment for a particular calendar year to the Program and who retires  
6702 from the practice of medicine during that particular calendar year shall be entitled to a refund of a prorated  
6703 share of his ~~or her~~ annual assessment for the calendar year that corresponds to the portion of the calendar  
6704 year remaining following his or her retirement.

6705 G. Whenever the State Corporation Commission determines the Fund is actuarially sound in  
6706 conjunction with actuarial investigations conducted pursuant to § 38.2-5021, it shall enter an order  
6707 suspending the assessment required under subsection D. The annual assessment shall be reinstated  
6708 whenever the State Corporation Commission determines that such assessment is required to maintain the  
6709 Fund's actuarial soundness.

6710 **Drafting note: Technical change consistent with Va. Code § 1-216.**

6711 **§ 38.2-6200. Form of Compact.**

6712 The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the  
6713 Interstate Insurance Product Regulation Compact with any and all states legally joining therein according  
6714 to its terms, in the form substantially as follows:

6715 Article I.

6716 Purposes.

6717 The purposes of this Compact are, through means of joint and cooperative action among the  
6718 Compacting States:

- 6719 1. To promote and protect the interest of consumers of individual and group annuity, life insurance,  
6720 disability income and long-term care insurance products;
- 6721 2. To develop uniform standards for insurance products covered under the Compact;
- 6722 3. To establish a central clearinghouse to receive and provide prompt review of insurance products  
6723 covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers  
6724 authorized to do business in one or more Compacting States;
- 6725 4. To give appropriate regulatory approval to those product filings and advertisements satisfying  
6726 the applicable uniform standard;
- 6727 5. To improve coordination of regulatory resources and expertise between state insurance  
6728 departments regarding the setting of uniform standards and review of insurance products covered under  
6729 the Compact;
- 6730 6. To create the Interstate Insurance Product Regulation Commission; and
- 6731 7. To perform these and such other related functions as may be consistent with the state regulation  
6732 of the business of insurance.

6733 Article II.

6734 Definitions.

6735 For purposes of this Compact:

- 6736 1. "Advertisement" means any material designed to create public interest in a Product, or induce  
6737 the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, as  
6738 more specifically defined in the Rules and Operating Procedures of the Commission.
- 6739 2. "Bylaws" mean those bylaws established by the Commission for its governance, or for directing  
6740 or controlling the Commission's actions or conduct.
- 6741 3. "Compacting State" means any State which has enacted this Compact legislation and which has  
6742 not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.
- 6743 4. "Commission" means the "Interstate Insurance Product Regulation Commission" established by  
6744 this Compact.

6745 5. "Commissioner" means the chief insurance regulatory official of a State including, but not  
6746 limited to, commissioner, superintendent, director, or administrator.

6747 6. "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the  
6748 case of an alien Insurer, its state of entry.

6749 7. "Insurer" means any entity licensed by a State to issue contracts of insurance for any of the lines  
6750 of insurance covered by this Act.

6751 8. "Member" means the person chosen by a Compacting State as its representative to the  
6752 Commission, or his ~~or her~~ designee.

6753 9. "Non-compacting State" means any State which is not at the time a Compacting State.

6754 10. "Operating Procedures" mean procedures promulgated by the Commission implementing a  
6755 Rule, Uniform Standard or a provision of this Compact.

6756 11. "Product" means the form of a policy or contract, including any application, endorsement, or  
6757 related form which is attached to and made a part of the policy or contract, and any evidence of coverage  
6758 or certificate, for an individual or group annuity, life insurance, disability income or long-term care  
6759 insurance product that an Insurer is authorized to issue.

6760 12. "Rule" means a statement of general or particular applicability and future effect promulgated  
6761 by the Commission, including a Uniform Standard developed pursuant to Article VII of this Compact,  
6762 designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or  
6763 practice requirements of the Commission, which shall have the force and effect of law in the Compacting  
6764 States.

6765 13. "State" means any state, district or territory of the United States of America.

6766 14. "Third-Party Filer" means an entity that submits a Product filing to the Commission on behalf  
6767 of an Insurer.

6768 15. "Uniform Standard" means a standard adopted by the Commission for a Product line, pursuant  
6769 to Article VII of this Compact, and shall include all of the Product requirements in aggregate; provided,  
6770 that each Uniform Standard shall be construed, whether express or implied, to prohibit the use of any



6771 inconsistent, misleading or ambiguous provisions in a Product and the form of the Product made available  
6772 to the public shall not be unfair, inequitable or against public policy as determined by the Commission.

6773 Article III.

6774 Establishment of the Commission and Venue.

6775 1. The Compacting States hereby create and establish a joint public agency known as the "Interstate  
6776 Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power  
6777 to develop Uniform Standards for Product lines, receive and provide prompt review of Products filed  
6778 therewith, and give approval to those Product filings satisfying applicable Uniform Standards; provided,  
6779 it is not intended for the Commission to be the exclusive entity for receipt and review of insurance product  
6780 filings. Nothing herein shall prohibit any Insurer from filing its product in any State wherein the Insurer  
6781 is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the  
6782 State where filed.

6783 2. The Commission is a body corporate and politic, and an instrumentality of the Compacting  
6784 States.

6785 3. The Commission is solely responsible for its liabilities except as otherwise specifically provided  
6786 in this Compact.

6787 4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely  
6788 and exclusively in a court of competent jurisdiction where the principal office of the Commission is  
6789 located.

6790 Article IV.

6791 Powers of the Commission.

6792 The Commission shall have the following powers:

6793 1. To promulgate Rules, pursuant to Article VII of this Compact, which shall have the force and  
6794 effect of law and shall be binding in the Compacting States to the extent and in the manner provided in  
6795 this Compact;

6796 2. To exercise its rule-making authority and establish reasonable Uniform Standards for Products  
6797 covered under the Compact, and Advertisement related thereto, which shall have the force and effect of

6798 law and shall be binding in the Compacting States, but only for those Products filed with the Commission,  
6799 provided, that a Compacting State shall have the right to opt out of such Uniform Standard pursuant to  
6800 Article VII, to the extent and in the manner provided in this Compact, and, provided further, that any  
6801 Uniform Standard established by the Commission for long-term care insurance products may provide the  
6802 same or greater protections for consumers as, but shall not provide less than, those protections set forth in  
6803 the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-  
6804 Term Care Insurance Model Regulation, respectively, adopted as of 2001. The Commission shall consider  
6805 whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term  
6806 Care Insurance Model Regulation adopted by the NAIC require amending of the Uniform Standards  
6807 established by the Commission for long-term care insurance products;

6808         3. To receive and review in an expeditious manner Products filed with the Commission, and rate  
6809 filings for disability income and long-term care insurance Products, and give approval of those Products  
6810 and rate filings that satisfy the applicable Uniform Standard, where such approval shall have the force and  
6811 effect of law and be binding on the Compacting States to the extent and in the manner provided in the  
6812 Compact;

6813         4. To receive and review in an expeditious manner Advertisement relating to long-term care  
6814 insurance products for which Uniform Standards have been adopted by the Commission, and give  
6815 approval to all Advertisement that satisfies the applicable Uniform Standard. For any product covered  
6816 under this Compact, other than long-term care insurance products, the Commission shall have the  
6817 authority to require an insurer to submit all or any part of its Advertisement with respect to that product  
6818 for review or approval prior to use, if the Commission determines that the nature of the product is such  
6819 that an Advertisement of the product could have the capacity or tendency to mislead the public. The actions  
6820 of Commission as provided in this section shall have the force and effect of law and shall be binding in  
6821 the Compacting States to the extent and in the manner provided in the Compact;

6822         5. To exercise its rule-making authority and designate Products and Advertisement that may be  
6823 subject to a self-certification process without the need for prior approval by the Commission;

- 6824           6. To promulgate Operating Procedures, pursuant to Article VII of this Compact, which shall be  
6825 binding in the Compacting States to the extent and in the manner provided in this Compact;
- 6826           7. To bring and prosecute legal proceedings or actions in its name as the Commission; provided,  
6827 that the standing of any state insurance department to sue or be sued under applicable law shall not be  
6828 affected;
- 6829           8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of  
6830 evidence;
- 6831           9. To establish and maintain offices;
- 6832           10. To purchase and maintain insurance and bonds;
- 6833           11. To borrow, accept or contract for services of personnel, including, but not limited to, employees  
6834 of a Compacting State;
- 6835           12. To hire employees, professionals or specialists, and elect or appoint officers, and to fix their  
6836 compensation, define their duties and give them appropriate authority to carry out the purposes of the  
6837 Compact, and determine their qualifications; and to establish the Commission's personnel policies and  
6838 programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of  
6839 personnel;
- 6840           13. To accept any and all appropriate donations and grants of money, equipment, supplies,  
6841 materials and services, and to receive, utilize and dispose of the same; provided that at all times the  
6842 Commission shall strive to avoid any appearance of impropriety;
- 6843           14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve  
6844 or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to  
6845 avoid any appearance of impropriety;
- 6846           15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any  
6847 property, real, personal or mixed;
- 6848           16. To remit filing fees to Compacting States as may be set forth in the Bylaws, Rules or Operating  
6849 Procedures;

- 6850 17. To enforce compliance by Compacting States with Rules, Uniform Standards, Operating  
6851 Procedures and Bylaws;
- 6852 18. To provide for dispute resolution among Compacting States;
- 6853 19. To advise Compacting States on issues relating to Insurers domiciled or doing business in Non-  
6854 compacting jurisdictions, consistent with the purposes of this Compact;
- 6855 20. To provide advice and training to those personnel in state insurance departments responsible  
6856 for product review, and to be a resource for state insurance departments;
- 6857 21. To establish a budget and make expenditures;
- 6858 22. To borrow money;
- 6859 23. To appoint committees, including advisory committees comprising Members, state insurance  
6860 regulators, state legislators or their representatives, insurance industry and consumer representatives, and  
6861 such other interested persons as may be designated in the Bylaws;
- 6862 24. To provide and receive information from, and to cooperate with, law-enforcement agencies;
- 6863 25. To adopt and use a corporate seal; and
- 6864 26. To perform such other functions as may be necessary or appropriate to achieve the purposes  
6865 of this Compact consistent with the state regulation of the business of insurance.

6866 Article V.

6867 Organization of the Commission.

6868 1. Membership, Voting and Bylaws.

6869 a. Each Compacting State shall have and be limited to one Member. Each Member shall be  
6870 qualified to serve in that capacity pursuant to applicable law of the Compacting State. Any Member may  
6871 be removed or suspended from office as provided by the law of the State from which he-~~or she~~ shall be  
6872 appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the  
6873 Compacting State wherein the vacancy exists. Nothing herein shall be construed to affect the manner in  
6874 which a Compacting State determines the election or appointment and qualification of its own  
6875 Commissioner.

6876           b. Each Member shall be entitled to one vote and shall have an opportunity to participate in the  
6877 governance of the Commission in accordance with the Bylaws. Notwithstanding any provision herein to  
6878 the contrary, no action of the Commission with respect to the promulgation of a Uniform Standard shall  
6879 be effective unless two-thirds of the Members vote in favor thereof.

6880           c. The Commission shall, by a majority of the Members, prescribe Bylaws to govern its conduct  
6881 as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the Compact,  
6882 including, but not limited to:

6883           i. Establishing the fiscal year of the Commission;

6884           ii. Providing reasonable procedures for appointing and electing members, as well as holding  
6885 meetings, of the Management Committee;

6886           iii. Providing reasonable standards and procedures: (i) for the establishment and meetings of other  
6887 committees, and (ii) governing any general or specific delegation of any authority or function of the  
6888 Commission;

6889           iv. Providing reasonable procedures for calling and conducting meetings of the Commission that  
6890 consists of a majority of Commission members, ensuring reasonable advance notice of each such meeting,  
6891 and providing for the right of citizens to attend each such meeting with enumerated exceptions designed  
6892 to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including  
6893 trade secrets. The Commission may meet in camera only after a majority of the entire membership votes  
6894 to close a meeting en toto or in part. As soon as practicable, the Commission must make public (i) a copy  
6895 of the vote to close the meeting revealing the vote of each Member with no proxy votes allowed, and (ii)  
6896 votes taken during such meeting;

6897           v. Establishing the titles, duties and authority and reasonable procedures for the election of the  
6898 officers of the Commission;

6899           vi. Providing reasonable standards and procedures for the establishment of the personnel policies  
6900 and programs of the Commission. Notwithstanding any civil service or other similar laws of any  
6901 Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the  
6902 Commission;

6903           vii. Promulgating a code of ethics to address permissible and prohibited activities of Commission  
6904 members and employees; and

6905           viii. Providing a mechanism for winding up the operations of the Commission and the equitable  
6906 disposition of any surplus funds that may exist after the termination of the Compact after the payment  
6907 and/or reserving of all of its debts and obligations.

6908           d. The Commission shall publish its Bylaws in a convenient form and file a copy thereof and a  
6909 copy of any amendment thereto, with the appropriate agency or officer in each of the Compacting States.

6910           2. Management Committee, Officers and Personnel.

6911           a. A Management Committee comprising no more than 14 members shall be established as  
6912 follows:

6913           i. One member from each of the six Compacting States with the largest premium volume for  
6914 individual and group annuities, life, disability income, and long-term care insurance products, determined  
6915 from the records of the NAIC for the prior year;

6916           ii. Four members from those Compacting States with at least two percent of the market based on  
6917 the premium volume described above, other than the six Compacting States with the largest premium  
6918 volume, selected on a rotating basis as provided in the Bylaws; and

6919           iii. Four members from those Compacting States with less than two percent of the market, based  
6920 on the premium volume described above, with one selected from each of the four zone regions of the  
6921 NAIC as provided in the Bylaws.

6922           b. The Management Committee shall have such authority and duties as may be set forth in the  
6923 Bylaws, including but not limited to:

6924           i. Managing the affairs of the Commission in a manner consistent with the Bylaws and purposes  
6925 of the Commission;

6926           ii. Establishing and overseeing an organizational structure within, and appropriate procedures for,  
6927 the Commission to provide for the creation of Uniform Standards and other Rules, receipt and review of  
6928 product filings, administrative and technical support functions, review of decisions regarding the  
6929 disapproval of a product filing, and the review of elections made by a Compacting State to opt out of a

6930 Uniform Standard; provided that a Uniform Standard shall not be submitted to the Compacting States for  
6931 adoption unless approved by two-thirds of the members of the Management Committee;

6932 iii. Overseeing the offices of the Commission; and

6933 iv. Planning, implementing, and coordinating communications and activities with other state,  
6934 federal and local government organizations in order to advance the goals of the Commission.

6935 c. The Commission shall elect annually officers from the Management Committee, with each  
6936 having such authority and duties as may be specified in the Bylaws.

6937 d. The Management Committee may, subject to the approval of the Commission, appoint or retain  
6938 an executive director for such period, upon such terms and conditions and for such compensation as the  
6939 Commission may deem appropriate. The executive director shall serve as secretary to the Commission,  
6940 but shall not be a Member of the Commission. The executive director shall hire and supervise such other  
6941 staff as may be authorized by the Commission.

6942 3. Legislative and Advisory Committees.

6943 a. A legislative committee comprising state legislators or their designees shall be established to  
6944 monitor the operations of, and make recommendations to, the Commission, including the Management  
6945 Committee; provided that the manner of selection and term of any legislative committee member shall be  
6946 as set forth in the Bylaws. Prior to the adoption by the Commission of any Uniform Standard, revision to  
6947 the Bylaws, annual budget, or other significant matter as may be provided in the Bylaws, the Management  
6948 Committee shall consult with and report to the legislative committee.

6949 b. The Commission shall establish two advisory committees, one of which shall comprise  
6950 consumer representatives independent of the insurance industry, and the other comprising insurance  
6951 industry representatives.

6952 c. The Commission may establish additional advisory committees as its Bylaws may provide for  
6953 the carrying out of its functions.

6954 4. Corporate Records of the Commission.

6955 The Commission shall maintain its corporate books and records in accordance with the Bylaws.

6956 5. Qualified Immunity, Defense and Indemnification.

6957 a. The Members, officers, executive director, employees and representatives of the Commission  
6958 shall be immune from suit and liability, either personally or in their official capacity, for any claim for  
6959 damage to or loss of property or personal injury or other civil liability caused by or arising out of any  
6960 actual or alleged act, error or omission that occurred, or that the person against whom the claim is made  
6961 had a reasonable basis for believing occurred within the scope of Commission employment, duties or  
6962 responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person  
6963 from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and  
6964 wanton misconduct of that person.

6965 b. The Commission shall defend any Member, officer, executive director, employee or  
6966 representative of the Commission in any civil action seeking to impose liability arising out of any actual  
6967 or alleged act, error or omission that occurred within the scope of Commission employment, duties or  
6968 responsibilities, or that the person against whom the claim is made had a reasonable basis for believing  
6969 occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing  
6970 herein shall be construed to prohibit that person from retaining his-~~or her~~ own counsel; and provided  
6971 further, that the actual or alleged act, error or omission did not result from that person's intentional or  
6972 willful and wanton misconduct.

6973 c. The Commission shall indemnify and hold harmless any Member, officer, executive director,  
6974 employee or representative of the Commission for the amount of any settlement or judgment obtained  
6975 against that person arising out of any actual or alleged act, error or omission that occurred within the scope  
6976 of Commission employment, duties or responsibilities; or that such person had a reasonable basis for  
6977 believing occurred within the scope of Commission employment, duties or responsibilities, provided, that  
6978 the actual or alleged act, error or omission did not result from the intentional or willful and wanton  
6979 misconduct of that person.

6980 Article VI.

6981 Meetings and Acts of the Commission.

6982 1. The Commission shall meet and take such actions as are consistent with the provisions of this  
6983 Compact and the Bylaws.



6984           2. Each Member of the Commission shall have the right and power to cast a vote to which that  
6985 Compacting State is entitled and to participate in the business and affairs of the Commission. A Member  
6986 shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for  
6987 Members' participation in meetings by telephone or other means of communication.

6988           3. The Commission shall meet at least once during each calendar year. Additional meetings shall  
6989 be held as set forth in the Bylaws.

6990           Article VII.

6991           Rules and Operating Procedures: Rulemaking Functions of the Commission and Opting Out of  
6992 Uniform Standards.

6993           1. Rulemaking Authority. The Commission shall promulgate reasonable Rules, including Uniform  
6994 Standards, and Operating Procedures in order to effectively and efficiently achieve the purposes of this  
6995 Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority  
6996 in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then  
6997 such an action by the Commission shall be invalid and have no force and effect.

6998           2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant to a rulemaking  
6999 process that conforms to the Model State Administrative Procedure Act of 1981, as amended, as may be  
7000 appropriate to the operations of the Commission. Before the Commission adopts a Uniform Standard, the  
7001 Commission shall give written notice to the relevant state legislative committee(s) in each Compacting  
7002 State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in  
7003 adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation  
7004 of its decision.

7005           3. Effective Date and Opt Out of a Uniform Standard. A Uniform Standard shall become effective  
7006 90 days after its promulgation by the Commission or such later date as the Commission may determine;  
7007 provided, however, that a Compacting State may opt out of a Uniform Standard as provided in this Article.  
7008 "Opt out" shall be defined as any action by a Compacting State to decline to adopt or participate in a  
7009 promulgated Uniform Standard. All other Rules and Operating Procedures, and amendments thereto, shall  
7010 become effective as of the date specified in each Rule, Operating Procedure or amendment.

7011 4. Opt Out Procedure. A Compacting State may opt out of a Uniform Standard, either by legislation  
7012 or regulation duly promulgated by the Insurance Department under the Compacting State's Administrative  
7013 Procedure Act or duly promulgated pursuant to the Compacting State's law. If a Compacting State elects  
7014 to opt out of a Uniform Standard by regulation, it must (a) give written notice to the Commission no later  
7015 than 10 business days after the Uniform Standard is promulgated, or at the time the State becomes a  
7016 Compacting State and (b) find that the Uniform Standard does not provide reasonable protections to the  
7017 citizens of the State, given the conditions in the State. The Commissioner or tribunal shall make specific  
7018 findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions  
7019 in the State which warrant a departure from the Uniform Standard and determining that the Uniform  
7020 Standard would not reasonably protect the citizens of the State. The Commissioner or tribunal must  
7021 consider and balance the following factors and find that the conditions in the State and needs of the citizens  
7022 of the State outweigh: (i) the intent of the legislature to participate in, and the benefits of, an interstate  
7023 agreement to establish national uniform consumer protections for the Products subject to this Act; and (ii)  
7024 the presumption that a Uniform Standard adopted by the Commission provides reasonable protections to  
7025 consumers of the relevant Product.

7026 Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this  
7027 Compact, prospectively opt out of all Uniform Standards involving long-term care insurance products by  
7028 expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a  
7029 material variance in the offer or acceptance of any State to participate in this Compact. Such an opt out  
7030 shall be effective at the time of enactment of this Compact by the Compacting State and shall apply to all  
7031 existing Uniform Standards involving long-term care insurance products and those subsequently  
7032 promulgated.

7033 5. Effect of Opt Out. If a Compacting State elects to opt out of a Uniform Standard, the Uniform  
7034 Standard shall remain applicable in the Compacting State electing to opt out until such time the opt out  
7035 legislation is enacted into law or the regulation opting out becomes effective.

7036 Once the opt out of a Uniform Standard by a Compacting State becomes effective as provided  
7037 under the laws of that State, the Uniform Standard shall have no further force and effect in that State unless

7038 and until the legislation or regulation implementing the opt out is repealed or otherwise becomes  
7039 ineffective under the laws of the State. If a Compacting State opts out of a Uniform Standard after the  
7040 Uniform Standard has been made effective in that State, the opt out shall have the same prospective effect  
7041 as provided under Article XIV for withdrawals.

7042 6. Stay of Uniform Standard. If a Compacting State has formally initiated the process of opting  
7043 out of a Uniform Standard by regulation, and while the regulatory opt out is pending, the Compacting  
7044 State may petition the Commission, at least 15 days before the effective date of the Uniform Standard, to  
7045 stay the effectiveness of the Uniform Standard in that State. The Commission may grant a stay if it  
7046 determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of  
7047 success. If a stay is granted or extended by the Commission, the stay or extension thereof may postpone  
7048 the effective date by up to 90 days, unless affirmatively extended by the Commission; provided, a stay  
7049 may not be permitted to remain in effect for more than one year unless the Compacting State can show  
7050 extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the  
7051 existence of a legal challenge which prevents the Compacting State from opting out. A stay may be  
7052 terminated by the Commission upon notice that the rulemaking process has been terminated.

7053 7. Not later than 30 days after a Rule or Operating Procedure is promulgated, any person may file  
7054 a petition for judicial review of the Rule or Operating Procedure; provided, that the filing of such a petition  
7055 shall not stay or otherwise prevent the Rule or Operating Procedure from becoming effective unless the  
7056 court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the  
7057 actions of the Commission consistent with applicable law and shall not find the Rule or Operating  
7058 Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable exercise of the  
7059 Commission's authority.

7060 Article VIII.

7061 Commission Records and Enforcement.

7062 1. The Commission shall promulgate Rules establishing conditions and procedures for public  
7063 inspection and copying of its information and official records, except such information and records  
7064 involving the privacy of individuals and insurers' trade secrets. The Commission may promulgate

7065 additional Rules under which it may make available to federal and state agencies, including law-  
7066 enforcement agencies, records and information otherwise exempt from disclosure, and may enter into  
7067 agreements with such agencies to receive or exchange information or records subject to nondisclosure and  
7068 confidentiality provisions.

7069 2. Except as to privileged records, data and information, the laws of any Compacting State  
7070 pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Commissioner of the  
7071 duty to disclose any relevant records, data, or information to the Commission; provided, that disclosure to  
7072 the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and  
7073 further provided, that, except as otherwise expressly provided in this Act, the Commission shall not be  
7074 subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to  
7075 records, data, and information in its possession. Confidential information of the Commission shall remain  
7076 confidential after such information is provided to any Commissioner.

7077 3. The Commission shall monitor Compacting States for compliance with duly adopted Bylaws,  
7078 Rules, including Uniform Standards, and Operating Procedures. The Commission shall notify any non-  
7079 complying Compacting State in writing of its noncompliance with Commission Bylaws, Rules or  
7080 Operating Procedures. If a noncomplying Compacting State fails to remedy its noncompliance within the  
7081 time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as  
7082 set forth in Article XIV.

7083 4. The Commissioner of any State in which an Insurer is authorized to do business, or is conducting  
7084 the business of insurance, shall continue to exercise his-~~or her~~ authority to oversee the market regulation  
7085 of the activities of the Insurer in accordance with the provisions of the State's law. The Commissioner's  
7086 enforcement of compliance with the Compact is governed by the following provisions:

7087 a. With respect to the Commissioner's market regulation of a Product or Advertisement that is  
7088 approved or certified to the Commission, the content of the Product or Advertisement shall not constitute  
7089 a violation of the provisions, standards or requirements of the Compact except upon a final order of the  
7090 Commission, issued at the request of a Commissioner after prior notice to the Insurer and an opportunity  
7091 for hearing before the Commission.

7092           b. Before a Commissioner may bring an action for violation of any provision, standard or  
7093 requirement of the Compact relating to the content of an Advertisement not approved or certified to the  
7094 Commission, the Commission, or an authorized Commission officer or employee, must authorize the  
7095 action. However, authorization pursuant to this paragraph does not require notice to the Insurer,  
7096 opportunity for hearing or disclosure of requests for authorization or records of the Commission's action  
7097 on such requests.

7098           Article IX.

7099           Dispute Resolution.

7100           The Commission shall attempt, upon the request of a Member, to resolve any disputes or other  
7101 issues that are subject to this Compact and which may arise between two or more Compacting States, or  
7102 between Compacting States and Non-compacting States, and the Commission shall promulgate an  
7103 Operating Procedure providing for resolution of such disputes.

7104           Article X.

7105           Product Filing and Approval.

7106           1. Insurers and Third-Party Filers seeking to have a Product approved by the Commission shall  
7107 file the Product with, and pay applicable filing fees to, the Commission. Nothing in this Act shall be  
7108 construed to restrict or otherwise prevent an insurer from filing its Product with the insurance department  
7109 in any State wherein the insurer is licensed to conduct the business of insurance, and such filing shall be  
7110 subject to the laws of the States where filed.

7111           2. The Commission shall establish appropriate filing and review processes and procedures pursuant  
7112 to Commission Rules and Operating Procedures. Notwithstanding any provision herein to the contrary,  
7113 the Commission shall promulgate Rules to establish conditions and procedures under which the  
7114 Commission will provide public access to Product filing information. In establishing such Rules, the  
7115 Commission shall consider the interests of the public in having access to such information, as well as  
7116 protection of personal medical and financial information and trade secrets, that may be contained in a  
7117 Product filing or supporting information.

7118 3. Any Product approved by the Commission may be sold or otherwise issued in those Compacting  
7119 States for which the Insurer is legally authorized to do business.

7120 Article XI.

7121 Review of Commission Decisions Regarding Filings.

7122 1. Not later than 30 days after the Commission has given notice of a disapproved Product or  
7123 Advertisement filed with the Commission, the Insurer or Third Party Filer whose filing was disapproved  
7124 may appeal the determination to a review panel appointed by the Commission. The Commission shall  
7125 promulgate Rules to establish procedures for appointing such review panels and provide for notice and  
7126 hearing. An allegation that the Commission, in disapproving a Product or Advertisement filed with the  
7127 Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not  
7128 in accordance with the law, is subject to judicial review in accordance with Article III, section 4.

7129 2. The Commission shall have authority to monitor, review and reconsider Products and  
7130 Advertisement subsequent to their filing or approval upon a finding that the Product does not meet the  
7131 relevant Uniform Standard. Where appropriate, the Commission may withdraw or modify its approval  
7132 after proper notice and hearing, subject to the appeal process in section 1 above.

7133 Article XII.

7134 Finance.

7135 1. The Commission shall pay or provide for the payment of the reasonable expenses of its  
7136 establishment and organization. To fund the cost of its initial operations, the Commission may accept  
7137 contributions and other forms of funding from the National Association of Insurance Commissioners,  
7138 Compacting States and other sources. Contributions and other forms of funding from other sources shall  
7139 be of such a nature that the independence of the Commission concerning the performance of its duties  
7140 shall not be compromised.

7141 2. The Commission shall collect a filing fee from each Insurer and Third Party Filer filing a Product  
7142 with the Commission to cover the cost of the operations and activities of the Commission and its staff in  
7143 a total amount sufficient to cover the Commission's annual budget.

7144 3. The Commission's budget for a fiscal year shall not be approved until it has been subject to  
7145 notice and comment as set forth in Article VII of this Compact.

7146 4. The Commission shall be exempt from all taxation in and by the Compacting States.

7147 5. The Commission shall not pledge the credit of any Compacting State, except by and with the  
7148 appropriate legal authority of that Compacting State.

7149 6. The Commission shall keep complete and accurate accounts of all its internal receipts, including  
7150 grants and donations, and disbursements of all funds under its control. The internal financial accounts of  
7151 the Commission shall be subject to the accounting procedures established under its Bylaws. The financial  
7152 accounts and reports including the system of internal controls and procedures of the Commission shall be  
7153 audited annually by an independent certified public accountant. Upon the determination of the  
7154 Commission, but no less frequently than every three years, the review of the independent auditor shall  
7155 include a management and performance audit of the Commission. The Commission shall make an Annual  
7156 Report to the Governor and legislature of the Compacting States, which shall include a report of the  
7157 independent audit. The Commission's internal accounts shall not be confidential and such materials may  
7158 be shared with the Commissioner of any Compacting State upon request; provided, however, that any  
7159 work papers related to any internal or independent audit and any information regarding the privacy of  
7160 individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

7161 7. No Compacting State shall have any claim to or ownership of any property held by or vested in  
7162 the Commission or to any Commission funds held pursuant to the provisions of this Compact.

7163 Article XIII.

7164 Compacting States, Effective Date and Amendment.

7165 1. Any State is eligible to become a Compacting State.

7166 2. The Compact shall become effective and binding upon legislative enactment of the Compact  
7167 into law by two Compacting States; provided, the Commission shall become effective for purposes of  
7168 adopting Uniform Standards for, reviewing, and giving approval or disapproval of, Products filed with the  
7169 Commission that satisfy applicable Uniform Standards only after 26 States are Compacting States or,  
7170 alternatively, by States representing greater than 40 percent of the premium volume for life insurance,

7171 annuity, disability income, and long-term care insurance products, based on records of the NAIC for the  
7172 prior year. Thereafter, it shall become effective and binding as to any other Compacting State upon  
7173 enactment of the Compact into law by that State.

7174 3. Amendments to the Compact may be proposed by the Commission for enactment by the  
7175 Compacting States. No amendment shall become effective and binding upon the Commission and the  
7176 Compacting States unless and until all Compacting States enact the amendment into law.

7177 Article XIV.

7178 Withdrawal, Default and Termination.

7179 1. Withdrawal.

7180 a. Once effective, the Compact shall continue in force and remain binding upon each and every  
7181 Compacting State; provided, that a Compacting State may withdraw from the Compact (Withdrawing  
7182 State) by enacting a statute specifically repealing the statute which enacted the Compact into law.

7183 b. The effective date of withdrawal is the effective date of the repealing statute. However, the  
7184 withdrawal shall not apply to any Product filings approved or self-certified, or any Advertisement of such  
7185 Products, on the date the repealing statute becomes effective, except by mutual agreement of the  
7186 Commission and the Withdrawing State unless the approval is rescinded by the Withdrawing State as  
7187 provided in subsection e of this section.

7188 c. The Commissioner of the Withdrawing State shall immediately notify the Management  
7189 Committee in writing upon the introduction of legislation repealing this Compact in the Withdrawing  
7190 State.

7191 d. The Commission shall notify the other Compacting States of the introduction of such legislation  
7192 within 10 days after its receipt of notice thereof.

7193 e. The Withdrawing State is responsible for all obligations, duties and liabilities incurred through  
7194 the effective date of withdrawal, including any obligations, the performance of which extend beyond the  
7195 effective date of withdrawal, except to the extent those obligations may have been released or relinquished  
7196 by mutual agreement of the Commission and the Withdrawing State. The Commission's approval of  
7197 Products and Advertisement prior to the effective date of withdrawal shall continue to be effective and be



7198 given full force and effect in the Withdrawing State, unless formally rescinded by the Withdrawing State  
7199 in the same manner as provided by the laws of the Withdrawing State for the prospective disapproval of  
7200 Products or Advertisement previously approved under State law.

7201 f. Reinstatement following withdrawal of any Compacting State shall occur upon the effective date  
7202 of the Withdrawing State reenacting the Compact.

7203 2. Default.

7204 a. If the Commission determines that any Compacting State has at any time defaulted (Defaulting  
7205 State) in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or  
7206 duly promulgated Rules or Operating Procedures, then, after notice and hearing as set forth in the Bylaws,  
7207 all rights, privileges and benefits conferred by this Compact on the Defaulting State shall be suspended  
7208 from the effective date of default as fixed by the Commission. The grounds for default include, but are  
7209 not limited to, failure of a Compacting State to perform its obligations or responsibilities, and any other  
7210 grounds designated in Commission Rules. The Commission shall immediately notify the Defaulting State  
7211 in writing of the Defaulting State's suspension pending a cure of the default. The Commission shall  
7212 stipulate the conditions and the time period within which the Defaulting State must cure its default. If the  
7213 Defaulting State fails to cure the default within the time period specified by the Commission, the  
7214 Defaulting State shall be terminated from the Compact and all rights, privileges and benefits conferred by  
7215 this Compact shall be terminated from the effective date of termination.

7216 b. Product approvals by the Commission or Product self-certifications, or any Advertisement in  
7217 connection with such Product, that are in force on the effective date of termination shall remain in force  
7218 in the Defaulting State in the same manner as if the Defaulting State had withdrawn voluntarily pursuant  
7219 to paragraph 1 of this Article.

7220 c. Reinstatement following termination of any Compacting State requires a reenactment of the  
7221 Compact.

7222 3. Dissolution of Compact.

7223 a. The Compact dissolves effective upon the date of the withdrawal or default of the Compacting  
7224 State which reduces membership in the Compact to one Compacting State.

7225           b. Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no  
7226 further force or effect, and the business and affairs of the Commission shall be wound up and any surplus  
7227 funds shall be distributed in accordance with the Bylaws.

7228           Article XV.

7229           Severability and Construction.

7230           1. The provisions of this Compact shall be severable; and if any phrase, clause, sentence, or  
7231 provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

7232           2. The provisions of this Compact shall be liberally construed to effectuate its purposes.

7233           Article XVI.

7234           Binding Effect of Compact and Other Laws.

7235           1. Other Laws.

7236           a. Nothing herein prevents the enforcement of any other law of a Compacting State, except as  
7237 provided in paragraph b of this Article.

7238           b. For any Product approved or certified to the Commission, the Rules, Uniform Standards, and  
7239 any other requirements of the Commission shall constitute the exclusive provisions applicable to the  
7240 content, approval and certification of such Products. For Advertisement that is subject to the Commission's  
7241 authority, any Rule, Uniform Standard or other requirement of the Commission which governs the content  
7242 of the Advertisement shall constitute the exclusive provision that a Commissioner may apply to the content  
7243 of the Advertisement. Notwithstanding the foregoing, no action taken by the Commission shall abrogate  
7244 or restrict: (i) the access of any person to State courts; (ii) remedies available under State law related to  
7245 breach of contract, tort, or other laws not specifically directed to the content of the Product; (iii) State law  
7246 relating to the construction of insurance contracts; or (iv) the authority of the attorney general of the State,  
7247 including but not limited to maintaining any actions or proceedings, as authorized by law.

7248           c. All insurance Products filed with individual States shall be subject to the laws of those States.

7249           2. Binding Effect of this Compact.

7250           a. All lawful actions of the Commission, including all Rules and Operating Procedures  
7251 promulgated by the Commission, are binding upon the Compacting States.

7252 b. All agreements between the Commission and the Compacting States are binding in accordance  
7253 with their terms.

7254 c. Upon the request of a party to a conflict over the meaning or interpretation of Commission  
7255 actions, and upon a majority vote of the Compacting States, the Commission may issue advisory opinions  
7256 regarding the meaning or interpretation in dispute.

7257 d. In the event any provision of this Compact exceeds the constitutional limits imposed on the  
7258 legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred  
7259 by that provision upon the Commission shall be ineffective as to that Compacting State, and those  
7260 obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by  
7261 the agency thereof to which those obligations, duties, powers or jurisdiction are delegated by law in effect  
7262 at the time this Compact becomes effective.

7263 **Drafting note: Technical changes consistent with Va. Code § 1-216. Non-substantive**  
7264 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
7265 **of the compact. As the opening paragraph of this section provides, the compact is effective among**  
7266 **jurisdictions that adopt its provisions "in the form substantially" as adopted in Virginia. See**  
7267 ***Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993) (emphasis added) (noting**  
7268 **that compacts "constitute an agreement between the Commonwealth of Virginia and other states,**  
7269 **territories and the United States, who join in a compact by enacting substantially the same**  
7270 **provisions"). Cf. *Sassoon v. Synchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981) (noting that the**  
7271 **enacted versions of the Interstate Agreement on Detainers under federal and Georgia law contained**  
7272 **differences, but were "substantively identical").**

7273 **§ 40.1-11.1. Employment of illegal immigrants.**

7274 It shall be unlawful and constitute a Class 1 misdemeanor for any employer or any person acting  
7275 as an agent for an employer, or any person who, for a fee, refers an alien who cannot provide documents  
7276 indicating that he ~~or she~~ is legally eligible for employment in the United States for employment to an  
7277 employer, or an officer, agent or representative of a labor organization to knowingly employ, continue to

7278 employ, or refer for employment any alien who cannot provide documents indicating that he-or she is  
7279 legally eligible for employment in the United States.

7280 Permits issued by the United States Department of Justice authorizing an alien to work in the  
7281 United States shall constitute proof of eligibility for employment.

7282 All employment application forms used by State and local governments and privately owned  
7283 businesses operating in the Commonwealth on and after January 1, 1978, shall ask prospective employees  
7284 if they are legally eligible for employment in the United States.

7285 The provisions of this section shall not be deemed to require any employer to use employment  
7286 application forms.

7287 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

7288 **§ 40.1-51.2:2. Remedy for discrimination.**

7289 A. Any employee who believes that he-or she has been discharged or otherwise discriminated  
7290 against by any person in violation of § 40.1-51.2:1 may, within 60 days after such violation occurs, file a  
7291 complaint with the Commissioner alleging such discharge or discrimination. The employee shall be  
7292 prohibited from seeking relief under this section if he fails to file such complaint within the 60-day time  
7293 period. Upon receipt of such complaint, the Commissioner shall cause such investigation to be made as  
7294 he deems appropriate. If, upon such investigation, he determines that the provisions of § 40.1-51.2:1 have  
7295 been violated, he shall attempt by conciliation to have the violation abated without economic loss to the  
7296 employee. In the event a voluntary agreement cannot be obtained, the Commissioner shall bring an action  
7297 in a circuit court having jurisdiction over the person charged with the violation. The court shall have  
7298 jurisdiction, for cause shown, to restrain violations and order appropriate relief, including rehiring or  
7299 reinstatement of the employee to his former position with back pay plus interest at a rate not to exceed  
7300 eight percent per annum.

7301 B. Should the Commissioner, based on the results of his investigation of the complaint, refuse to  
7302 issue a charge against the person that allegedly discriminated against the employee, the employee may  
7303 bring action in a circuit court having jurisdiction over the person allegedly discriminating against the  
7304 employee, for appropriate relief.

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

**§ 46.2-944.1. Compact entered into law; terms.**

The Nonresident Violator Compact of 1977 is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

NONRESIDENT VIOLATOR COMPACT of 1977

Article I Findings, Declaration of Policy and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction:

(i) Must post collateral or bond to secure appearance for trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted;

or

(iii) Is taken directly to court for the trial to be held.

(2) In some instance, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as directed in paragraph (2) is viewed with disfavor.

7332 (7) The practices described herein consume an undue amount of law enforcement time.

7333 (b) It is the policy of the party jurisdictions to:

7334 (1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating  
7335 to the operation of motor vehicles in each of the jurisdictions.

7336 (2) Allow motorists to accept a traffic citation for certain violations and proceed on their way  
7337 without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

7338 (3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with  
7339 the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

7340 (4) Maximize effective utilization of law enforcement personnel and assist court systems in the  
7341 efficient disposition of traffic violations.

7342 (c) The purpose of the compact is to:

7343 (1) Provide a means through which the party jurisdictions may participate in a reciprocal program  
7344 to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

7345 (2) Provide for the fair and impartial treatment of traffic violators operating within party  
7346 jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party  
7347 jurisdiction.

#### 7348 Article II Definitions

7349 (a) In the Nonresident Violator Compact, the following words have the meaning indicated, unless  
7350 the context requires otherwise.

7351 (b) Definitions.

7352 (1) "Citation" means any summons, ticket, or other official document issued by a police officer for  
7353 a traffic violation containing an order which requires the motorist to respond.

7354 (2) "Collateral" means any cash or other security deposited to secure an appearance for trial,  
7355 following the issuance by a police officer of a citation for a traffic violation.

7356 (3) "Compliance"\* means the act of answering a citation, summons or subpoena through  
7357 appearance at court, a tribunal, and/or payment of fines and costs.

7358 (4) "Court" means a court of law or traffic tribunal.

7359 (5) "Driver's License" means any license or privilege to operate a motor vehicle issued under the  
7360 laws of the home jurisdiction.

7361 (6) "Home Jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

7362 (7) "Issuing Jurisdiction" means the jurisdiction in which the traffic citation was issued to the  
7363 motorist.

7364 (8) "Jurisdiction" means a state, territory, or possession of the United States, the District of  
7365 Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

7366 (9) "Motorist" means driver of a motor vehicle operating in a party jurisdiction other than the home  
7367 jurisdiction.

7368 (10) "Personal Recognizance" means an agreement by a motorist made at the time of issuance of  
7369 the traffic citation that he will comply with the terms of that traffic citation.

7370 (11) "Police Officer" means any individual authorized by the party jurisdiction to issue a citation  
7371 for a traffic violation.

7372 (12) "Terms of the Citation" means those options expressly stated upon the citation.

7373 \*For purposes of the Nonresident Violator Compact the posting of collateral or bail has not been  
7374 considered in this definition.

#### 7375 Article III Procedure for Issuing Jurisdiction

7376 (a) When issuing a citation for a traffic violation, a police officer shall issue the citation to a  
7377 motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the  
7378 exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure  
7379 appearance, if the officer receives the motorist's personal recognizance that he ~~or she~~ will comply with the  
7380 terms of the citation.

7381 (b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is  
7382 required, it should take place immediately following issuance of the citation.

7383 (c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official  
7384 shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation  
7385 was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction

7386 and shall contain information as specified in the Compact Manual as minimum requirements for effective  
7387 processing by the home jurisdiction.

7388 (d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to  
7389 the licensing authority in the home jurisdiction of the motorist, the information in a form and content as  
7390 contained in the Compact Manual.

7391 (e) The licensing authority of the issuing jurisdiction need not suspend the privilege of a motorist  
7392 for whom a report has been transmitted.

7393 (f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if  
7394 the date of transmission is more than six months after the date on which the traffic citation was issued.

7395 (g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation  
7396 where the date of issuance of the citation predates the most recent of the effective dates of entry for the  
7397 two jurisdictions affected.

#### 7398 Article IV Procedure for Home Jurisdiction

7399 (a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing  
7400 jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a  
7401 suspension action in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's  
7402 license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished  
7403 to the home jurisdiction licensing authority. Due process safeguards will be accorded.

7404 (b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and  
7405 make reports to issuing jurisdictions as provided in the Compact Manual.

#### 7406 Article V Applicability of Other Laws

7407 Except as expressly required by provisions of this compact, nothing contained herein shall be  
7408 construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to  
7409 drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other  
7410 cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

#### 7411 Article VI Compact Administrator Procedures



7412 (a) For the purpose of administering the provisions of this compact and to serve as a governing  
7413 body for the resolution of all matters relating to the operation of this compact, a Board of Compact  
7414 Administrators is established. The board shall be composed of one representative from each party  
7415 jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by  
7416 the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the  
7417 jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the  
7418 performance of his functions as a board member by an alternate. An alternate may not be entitled to serve  
7419 unless written notification of his identity has been given to the board.

7420 (b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action  
7421 of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on  
7422 the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party  
7423 jurisdictions are represented.

7424 (c) The board shall elect annually, from its membership, a chairman and vice chairman.

7425 (d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws  
7426 of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its  
7427 bylaws.

7428 (e) The board may accept for any of its purposes and functions under this compact any and all  
7429 donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise,  
7430 from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize, and  
7431 dispose of the same.

7432 (f) The board may contract with, or accept services or personnel from any governmental or  
7433 intergovernmental agency, person, firm, or corporation, or any private nonprofit organization or  
7434 institution.

7435 (g) The board shall formulate all necessary procedures and develop uniform forms and documents  
7436 for administering the provisions of this compact. All procedures and forms adopted pursuant to board  
7437 action shall be contained in the Compact Manual.

7438 Article VII Entry into Compact and Withdrawal

7439 (a) This compact shall become effective when it has been adopted by at least two jurisdictions.

7440 (b)(1) Entry into the compact shall be made by a Resolution of Ratification executed by the  
7441 authorized officials of the applying jurisdiction and submitted to the chairman of the board.

7442 (2) The resolution shall be in a form and content as provided in the Compact Manual and shall  
7443 include statements that in substance are as follows:

7444 (i) A citation of the authority by which the jurisdiction is empowered to become a party to this  
7445 compact.

7446 (ii) Agreement to comply with the terms and provisions of the compact.

7447 (iii) That compact entry is with all jurisdiction then party to the compact and with any jurisdiction  
7448 that legally becomes a party to the compact.

7449 (3) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be  
7450 less than 60 days after notice has been given by the chairman of the Board of Compact Administrators or  
7451 by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction  
7452 has been received.

7453 (c) A party jurisdiction may withdraw from this compact by official written notice to the other  
7454 party jurisdictions, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given.  
7455 The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal  
7456 shall affect the validity of this compact as to the remaining party jurisdictions.

#### 7457 Article VIII Exceptions

7458 The provisions of this compact shall not apply to parking or standing violations, highway weight  
7459 limit violations, and violations of law governing the transportation of hazardous materials.

#### 7460 Article IX Amendments to the Compact

7461 (a) This compact may be amended from time to time. Amendments shall be presented in resolution  
7462 form to the chairman of the Board of Compact Administrators and may be initiated by one or more party  
7463 jurisdictions.

7464 (b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall  
7465 become effective 30 days after the date of the last endorsement.

7466 (c) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt  
7467 of the proposed amendment shall constitute endorsement.

7468 Article X Construction and Severability

7469 This compact shall be liberally construed so as to effectuate the purposes stated herein. The  
7470 provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this  
7471 compact is declared to be contrary to the construction of any party jurisdiction or of the United States or  
7472 the applicability thereof to any government agency, person, or circumstance, the compact shall not be  
7473 affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto,  
7474 the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and  
7475 effect as to the jurisdiction affected as to all severable matters.

7476 Article XI Title

7477 This compact shall be known as the Nonresident Violator Compact of 1977.

7478 **Drafting note: Technical change consistent with Va. Code § 1-216. Similar construction is**  
7479 **used by other member states to the compact. See, e.g., W. Va. Code Ann. § 17B-1C-1 ("if the officer**  
7480 **receives the motorist's signed personal recognizance that he will comply with the terms of the**  
7481 **citation"). Moreover, non-substantive differences in the text of an interstate compact do not affect**  
7482 **the validity or enforcement of the terms of the compact. As the opening paragraph of this section**  
7483 **provides, the compact is effective among jurisdictions that adopt its provisions "in the form**  
7484 **substantially" as adopted in Virginia. See *Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d**  
7485 **27, 29 (1993) (emphasis added) (noting that compacts "constitute an agreement between the**  
7486 **Commonwealth of Virginia and other states, territories and the United States, who join in a compact**  
7487 **by enacting substantially the same provisions"). Cf. *Sassoon v. Stynchombe*, 654 F.2d 371, 373 n.4 (5th**  
7488 **Cir. 1981) (noting that the enacted versions of the Interstate Agreement on Detainers under federal**  
7489 **and Georgia law contained differences, but were "substantively identical").**

7490 **§ 46.2-1096. Exceptions for certain children.**

7491 Whenever any physician licensed to practice medicine in the Commonwealth or any other state  
7492 determines, through accepted medical procedures, that use of a child restraint system by a particular child

7493 would be impractical by reason of the child's weight, physical unfitness, or other medical reason, the child  
7494 shall be exempt from the provisions of this article. Any person transporting a child so exempted shall carry  
7495 on his-~~or her~~ person or in the vehicle a signed written statement of the physician identifying the child so  
7496 exempted and stating the grounds therefor.

7497 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7498 **§ 51.1-512.1. Optional life insurance for the spouse and minor dependents of employees.**

7499 A. The Board shall, under the terms and conditions specified by the Board, make available to any  
7500 active insured employee optional life, accidental death, and dismemberment insurance on the employee's  
7501 spouse and minor dependents in the following amounts:

7502 1. For the spouse of an active insured employee: an amount up to 50 percent of the maximum  
7503 amount of optional insurance available to the employee under § 51.1-512.

7504 2. For any minor dependent of an active insured employee in increments specified by the Board.  
7505 The Board shall adjust these amounts periodically to account for changes in the purchasing power of  
7506 money over time.

7507 B. All optional insurance on an employee's spouse shall cease upon the earliest of (i) the date the  
7508 employee's basic coverage ceases, (ii) the entry of a final divorce decree terminating the marriage of the  
7509 employee and the employee's spouse, or (iii) the date the insurance being continued in retirement  
7510 terminates pursuant to subsections C and D. All optional insurance on an employee's minor dependent  
7511 shall cease upon the earliest of (a) the minor dependent attains the age of 21, unless the minor dependent  
7512 is a full-time student at an institution of higher education, then age 25 or unless the minor dependent is  
7513 under a mental or physical disability, in which event coverage shall not terminate until three months  
7514 following cessation of the disability, (b) marriage of the minor dependent, or (c) the date the employee's  
7515 basic coverage ceases.

7516 C. Subject to foregoing limitations, the optional amount of life insurance in force on the spouse or  
7517 minor dependent of an employee who retires for disability on an immediate retirement allowance may be  
7518 continued, subject to payment of any required premium by the employee, during continuance of such  
7519 disability but not beyond the end of the month in which the employee's normal retirement date occurs.

7520 D. Subject to the foregoing limitations, the optional amount of life insurance in force on the spouse  
7521 or minor dependent of an employee who retires for service on an immediate retirement allowance, or for  
7522 an employee who retired for disability on an immediate retirement allowance when his normal retirement  
7523 date occurs, may be continued, subject to payment of any required premium by the employee, and  
7524 provided the employee had such spouse or dependent insurance for a period of at least 60 continuous  
7525 months prior to retirement, or prior to reaching normal retirement date for a disability retirement. Life  
7526 insurance on the spouse that is eligible to be continued shall be an amount specified by the Board and  
7527 available to the retiree under § 51.1-512 and shall begin to reduce when the retiree's normal retirement  
7528 date occurs under the terms and conditions specified by the Board. Life insurance on dependent children  
7529 that is eligible to be continued shall be in increments as specified by the Board. The Board shall adjust  
7530 these amounts periodically to account for changes in the purchasing power of money over time. All  
7531 optional life insurance on a retiree's spouse or dependent ceases at the earliest of (i) the retiree attaining  
7532 age 80, (ii) the death of the retiree, (iii) for a spouse, the entry of a final divorce decree terminating the  
7533 marriage of the retiree and the retiree's spouse, (iv) for a minor insured dependent, the date the dependent  
7534 attains the age of 21, unless the minor insured dependent is a full-time college student, then the date the  
7535 dependent attains age 25, unless the minor insured dependent is under a mental or physical disability, in  
7536 which case coverage shall not terminate until three months following cessation of the disability, or (v) for  
7537 a minor insured dependent, the date of his marriage. All accidental death and dismemberment insurance  
7538 ceases at retirement.

7539 E. The cost of the optional insurance shall be determined periodically by the Board on the basis it  
7540 considers appropriate. The Board may discontinue the optional insurance plan at any time upon  
7541 determination that employee participation is not sufficient to continue the plan on a sound actuarial basis.

7542 F. The amount of optional life, accidental death, and dismemberment insurance in force on an  
7543 employee's spouse or minor dependent at the date of his ~~or her~~ death shall be paid as provided in this  
7544 chapter. All accidental death and dismemberment insurance ceases at retirement. The amount of optional  
7545 life insurance in force on the retiree's spouse or minor dependent at the date of his death shall be paid as  
7546 provided in this chapter.

7547 G. The Board shall determine the form and content of the accounting reports to be made by the  
7548 insurance company with respect to the optional insurance. Any expenses incurred by the Retirement  
7549 System for operating and administering the optional insurance programs provided in this section may be  
7550 recovered by the Board from the advance premium deposit reserve required by subsection B of § 51.1-  
7551 514.

7552 H. As used in this section, an employee's "minor dependent" means a child member of the  
7553 employee's or retiree's family who is eligible for coverage under the family membership program offered  
7554 under policies and procedures of the Department of Human Resource Management governing health  
7555 insurance plans administered pursuant to § 2.2-1204 or 2.2-2818.

7556 I. The provisions of this chapter applicable to the provision of group insurance policies to insure  
7557 eligible employees or retirees shall apply to optional insurance insuring the spouses and minor dependents  
7558 of eligible employees or retirees pursuant to this section, with the respective differences having been  
7559 considered.

7560 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7561 **§ 51.5-53. Definitions.**

7562 As used in this chapter, unless the context clearly requires a different meaning:

7563 "Assistive technology" means any item, piece of equipment or device that enables an individual  
7564 with a disability to improve his-~~or her~~ independence and quality of life.

7565 "Authority" means the Assistive Technology Loan Fund Authority established pursuant to this  
7566 chapter.

7567 "Board" means the Board of Directors of the Assistive Technology Loan Fund Authority.

7568 "Bonds" means notes, bonds, certificates, and other evidence of indebtedness or obligation of the  
7569 Authority.

7570 "Fund" means the Assistive Technology Loan Fund established pursuant to this chapter.

7571 "Qualifying borrower" means any person who demonstrates that a loan made pursuant to this  
7572 chapter will assist one or more persons with disabilities to improve their independence or become more

7573 productive members of the community. The person must demonstrate creditworthiness and repayment  
7574 abilities to the satisfaction of the Board.

7575 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7576 **§ 54.1-915. Pilot first meeting vessel at sea to have preference.**

7577 The first pilot who meets a vessel coming in, which his branch entitles him to conduct, shall have  
7578 the right to take charge of and conduct ~~her~~ it into port.

7579 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7580 **§ 54.1-922. Liability for pilotage and other allowances.**

7581 The master and the owner of every vessel shall each be liable to the pilot for his pilotage and other  
7582 allowances, and also the consignee or supercargo of any vessel not owned by a resident of the  
7583 Commonwealth. If the consignee or supercargo refuses to become responsible to the pilot for his fees, the  
7584 master or owner of the vessel shall, before ~~she~~ it leaves ~~her~~ its port of departure, deposit with some  
7585 responsible person, subject to the order of the pilot, the amount of the pilotage due him.

7586 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

7587 **§ 54.1-2975. Sterilization operations for certain children incapable of informed consent.**

7588 It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy,  
7589 salpingectomy, or other surgical sexual sterilization procedure on a person fourteen years of age or older  
7590 and less than eighteen years of age when:

7591 1. A petition has been filed in the circuit court of the county or city wherein the child resides by  
7592 the parent or parents having custody of the child or by the child's guardian, spouse, or next friend  
7593 requesting that the operation be performed;

7594 2. The court has made the child a party defendant, served the child, the child's guardian, if any, the  
7595 child's spouse, if any, and the child's parent who has custody of the child with notice of the proceedings  
7596 and appointed for the child an attorney-at-law to represent and protect the child's interests;

7597 3. The court has determined that a full, reasonable, and comprehensible medical explanation as to  
7598 the meaning, consequences, and risks of the sterilization operation to be performed and as to alternative  
7599 methods of contraception has been given by the physician to the child upon whom the operation is to be

7600 performed, to the child's guardian, if any, to the child's spouse, if any, and, if there is no spouse, to the  
7601 parent who has custody of the child;

7602 4. The court has determined by clear and convincing evidence that the child's mental abilities are  
7603 so impaired that the child is incapable of making his ~~or her~~ own decision about sterilization and is unlikely  
7604 to develop mentally to a sufficient degree to make an informed judgment about sterilization in the  
7605 foreseeable future;

7606 5. The court, to the greatest extent possible, has elicited and taken into account the views of the  
7607 child concerning the sterilization, giving the views of the child such weight in its decision as the court  
7608 deems appropriate;

7609 6. The court has complied with the requirements of § 54.1-2977; and

7610 7. The court has entered an order authorizing a qualified physician to perform the operation not  
7611 earlier than thirty days after the date of the entry of the order, and thirty days have elapsed. The court  
7612 order shall state the date on and after which the sterilization operation may be performed.

7613 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7614 **§ 54.1-3040.7. (Contingent effective date -- see note) Establishment of the Interstate**  
7615 **Commission of Nurse Licensure Compact Administrators.**

7616 A. The party states hereby create and establish a joint public entity known as the Interstate  
7617 Commission of Nurse Licensure Compact Administrators (Commission).

7618 1. The Commission is an instrumentality of the party states.

7619 2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely  
7620 and exclusively, in a court of competent jurisdiction where the principal office of the Commission is  
7621 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents  
7622 to participate in alternative dispute resolution proceedings.

7623 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

7624 B. Membership, voting, and meetings.

7625 1. Each party state shall have and be limited to one administrator. The head of the state licensing  
7626 board or designee shall be the administrator of this Compact for each party state. Any administrator may



7627 be removed or suspended from office as provided by the law of the state from which the Administrator is  
7628 appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the  
7629 party state in which the vacancy exists.

7630 2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and  
7631 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the  
7632 Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The  
7633 bylaws may provide for an administrator's participation in meetings by telephone or other means of  
7634 communication.

7635 3. The Commission shall meet at least once during each calendar year. Additional meetings shall  
7636 be held as set forth in the bylaws or rules of the commission.

7637 4. All meetings shall be open to the public, and public notice of meetings shall be given in the  
7638 same manner as required under the rulemaking provisions in § 54.1-3040.8.

7639 5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

7640 a. Noncompliance of a party state with its obligations under this Compact;

7641 b. The employment, compensation, discipline, or other personnel matters, practices, or procedures  
7642 related to specific employees or other matters related to the Commission's internal personnel practices and  
7643 procedures;

7644 c. Current, threatened, or reasonably anticipated litigation;

7645 d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

7646 e. Accusing any person of a crime or formally censuring any person;

7647 f. Disclosure of trade secrets or commercial or financial information that is privileged or  
7648 confidential;

7649 g. Disclosure of information of a personal nature where disclosure would constitute a clearly  
7650 unwarranted invasion of personal privacy;

7651 h. Disclosure of investigatory records compiled for law-enforcement purposes;

7652 i. Disclosure of information related to any reports prepared by or on behalf of the Commission for  
7653 the purpose of investigation of compliance with this Compact; or

7654 j. Matters specifically exempted from disclosure by federal or state statute.

7655 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal  
7656 counsel or designee shall certify that the meeting may be closed and shall reference each relevant  
7657 exempting provision. The Commission shall keep minutes that fully and clearly describe all matters  
7658 discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons  
7659 therefor, including a description of the views expressed. All documents considered in connection with an  
7660 action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain  
7661 under seal, subject to release by a majority vote of the Commission or order of a court of competent  
7662 jurisdiction.

7663 C. The Commission shall, by a majority vote of the administrators, prescribe bylaws or rules to  
7664 govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers  
7665 of this Compact, including but not limited to:

7666 1. Establishing the fiscal year of the Commission;

7667 2. Providing reasonable standards and procedures:

7668 a. For the establishment and meetings of other committees; and

7669 b. Governing any general or specific delegation of any authority or function of the Commission;

7670 3. Providing reasonable procedures for calling and conducting meetings of the Commission,  
7671 ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such  
7672 meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the  
7673 privacy of individuals, and proprietary information, including trade secrets. The Commission may meet  
7674 in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As  
7675 soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing  
7676 the vote of each administrator, with no proxy votes allowed;

7677 4. Establishing the titles, duties, and authority and reasonable procedures for the election of the  
7678 officers of the Commission;

7679           5. Providing reasonable standards and procedures for the establishment of the personnel policies  
7680 and programs of the Commission. Notwithstanding any civil service or other similar laws of any party  
7681 state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and

7682           6. Providing a mechanism for winding up the operations of the Commission and the equitable  
7683 disposition of any surplus funds that may exist after the termination of this Compact after the payment or  
7684 reserving of all of its debts and obligations.

7685           D. The Commission shall publish its bylaws and rules, and any amendments thereto, in a  
7686 convenient form on the website of the Commission.

7687           E. The Commission shall maintain its financial records in accordance with the bylaws.

7688           F. The Commission shall meet and take such actions as are consistent with the provisions of this  
7689 Compact and the bylaws.

7690           G. The Commission shall have the following powers:

7691           1. To promulgate uniform rules to facilitate and coordinate implementation and administration of  
7692 this Compact. The rules shall have the force and effect of law and shall be binding in all party states;

7693           2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided  
7694 that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

7695           3. To purchase and maintain insurance and bonds;

7696           4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees  
7697 of a party state or nonprofit organizations;

7698           5. To cooperate with other organizations that administer state compacts related to the regulation  
7699 of nursing, including but not limited to sharing administrative or staff expenses, office space, or other  
7700 resources;

7701           6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such  
7702 individuals appropriate authority to carry out the purposes of this Compact and to establish the  
7703 Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel,  
7704 and other related personnel matters;

7705 7. To accept any and all appropriate donations, grants, and gifts of money, equipment, supplies,  
7706 materials, and services and to receive, utilize, and dispose of the same, provided that at all times the  
7707 Commission shall avoid any appearance of impropriety or conflict of interest;

7708 8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve,  
7709 or use, any property, whether real, personal or mixed, provided that at all times the Commission shall  
7710 avoid any appearance of impropriety;

7711 9. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any  
7712 property, whether real, personal, or mixed;

7713 10. To establish a budget and make expenditures;

7714 11. To borrow money;

7715 12. To appoint committees, including advisory committees comprised of administrators, state  
7716 nursing regulators, state legislators or their representatives, and consumer representatives and other such  
7717 interested persons;

7718 13. To provide and receive information from, and to cooperate with, law-enforcement agencies;

7719 14. To adopt and use an official seal; and

7720 15. To perform such other functions as may be necessary or appropriate to achieve the purposes  
7721 of this Compact consistent with the state regulation of nurse licensure and practice.

7722 H. Financing of the Commission.

7723 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its  
7724 establishment, organization, and ongoing activities.

7725 2. The Commission may also levy on and collect an annual assessment from each party state to  
7726 cover the cost of its operations, activities, and staff in its annual budget as approved each year. The  
7727 aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by  
7728 the Commission, which shall promulgate a rule that is binding upon all party states.

7729 3. The Commission shall not incur obligations of any kind prior to securing the funds adequate to  
7730 meet the same, nor shall the Commission pledge the credit of any of the party states, except by, and with  
7731 the authority of, such party state.

7732 4. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts  
7733 and disbursements of the Commission shall be subject to the audit and accounting procedures established  
7734 under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be  
7735 audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in  
7736 and become part of the annual report of the Commission.

7737 I. Qualified immunity, defense, and indemnification.

7738 1. The administrators, officers, executive director, employees, and representatives of the  
7739 Commission shall be immune from suit and liability, either personally or in their official capacity, for any  
7740 claim for damage to or loss of property or personal injury or other civil liability caused by or arising out  
7741 of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is  
7742 made had a reasonable basis for believing occurred, within the scope of Commission employment, duties  
7743 or responsibilities, provided that nothing in this subdivision shall be construed to protect any such person  
7744 from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton  
7745 misconduct of that person.

7746 2. The Commission shall defend any administrator, officer, executive director, employee, or  
7747 representative of the Commission in any civil action seeking to impose liability arising out of any actual  
7748 or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or  
7749 responsibilities, or that the person against whom the claim is made had a reasonable basis for believing  
7750 occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing  
7751 herein shall be construed to prohibit that person from retaining his-~~or her~~ own counsel and provided further  
7752 that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or  
7753 wanton misconduct.

7754 3. The Commission shall indemnify and hold harmless any administrator, officer, executive  
7755 director, employee, or representative of the Commission for the amount of any settlement or judgment  
7756 obtained against that person arising out of any actual or alleged act, error, or omission that occurred within  
7757 the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable  
7758 basis for believing occurred within the scope of Commission employment, duties, or responsibilities,

7759 provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or  
7760 wanton misconduct of that person.

7761 **Drafting note: Technical change consistent with Va. Code § 1-216. Non-substantive**  
7762 **differences in the text of an interstate compact do not affect the validity or enforcement of the terms**  
7763 **of the compact. See *Delgado v. Commonwealth*, 16 Va. App. 50, 53, 428 S.E.2d 27, 29 (1993)**  
7764 **(emphasis added) (noting that compacts "constitute an agreement between the Commonwealth of**  
7765 **Virginia and other states, territories and the United States, who join in a compact *by enacting***  
7766 ***substantially the same provisions*"). Cf. *Sassoon v. Stynchombe*, 654 F.2d 371, 373 n.4 (5th Cir. 1981)**  
7767 **(noting that the enacted versions of the Interstate Agreement on Detainers under federal and**  
7768 **Georgia law contained differences, but were "substantively identical").**

7769 **§ 55-42.1. How infant spouse may release interests in spouse's property.**

7770 Notwithstanding the disability of infancy, on or after January 1, 1991, an infant spouse, whether  
7771 married before or after January 1, 1991, may release his-~~or her~~ marital rights in the other spouse's real or  
7772 personal property by uniting in any contract, deed, or other instrument executed by the other spouse or by  
7773 a commissioner of a court pursuant to a decree entered under §§ 8.01-67 through 8.01-77 or any other law  
7774 with respect to the infant's property.

7775 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7776 **§ 56-231.31. Payment of certain patronage capital to spouse or next of kin of deceased person.**

7777 When there is held by any cooperative any patronage capital to the credit of a deceased person, in  
7778 an amount not exceeding \$10,000, upon whose estate there shall have been no qualification, it shall be  
7779 lawful for such electric cooperative, after 120 days from the death of such person, to pay such balance to  
7780 his-~~or her~~ spouse, and if none, to his-~~or her~~ next of kin, whose receipt therefor shall be a full discharge and  
7781 acquittance to such electric cooperative to all persons whomsoever on account of such patronage capital.

7782 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

7783 **§ 56-231.44. Board of directors.**

7784 A. Each cooperative shall have a board of directors consisting of at least five directors, which shall  
7785 constitute the governing body of such cooperative. The board, other than those named in the articles of

7786 incorporation, shall be elected annually by the members. The bylaws may provide in lieu of electing the  
7787 whole number of directors annually, that the directors may be divided into classes and that the terms of  
7788 office of the several classes need not be uniform. Each director shall hold office for the term for which he  
7789 ~~or she~~ is elected and until his ~~or her~~ successor is elected except in cases of ex officio directors.

7790 The directors shall be elected by the members of the cooperative. At a minimum, there shall be at  
7791 least one director elected from the membership, officers, directors or employees of each member of the  
7792 cooperative that is itself a cooperative subject to any article of this chapter. Additional directors may be  
7793 elected from the membership, from the members, officers, directors or employees of any member of the  
7794 cooperative, or from employees of the cooperative. The board of directors shall have the authority to fix  
7795 the compensation of the directors.

7796 B. The board of directors of a cooperative shall have the power to do all things necessary or  
7797 incidental in conducting the business of such cooperative, including, but not limited to the power:

7798 1. To adopt and amend bylaws for the management and regulation of the affairs of such cooperative  
7799 unless otherwise provided in the articles of incorporation or bylaws, subject to the rights of the members  
7800 to alter or repeal such bylaws. The bylaws of a cooperative may make provisions not inconsistent with  
7801 law or its articles of incorporation, regulating:

- 7802 a. The admission, suspension or expulsion of members;
- 7803 b. The transfer or classification of membership;
- 7804 c. The fees and dues of members and the termination of membership on nonpayment of dues;
- 7805 d. The number, times and manner of choosing or electing, qualifications, terms of office, official  
7806 designations, powers, duties and compensation of its directors and officers;
- 7807 e. The filling of a vacancy in the board or in any office;
- 7808 f. The number of board members or member-delegates constituting a quorum at meetings;
- 7809 g. The date of the annual meeting and the giving of notice thereof and the holding of special  
7810 meetings and the giving of notice thereof;
- 7811 h. The terms and conditions upon which such cooperative is to render service to its members;
- 7812 i. The disposition of capital contributions; and

7813 j. The establishment of classes of membership, the qualifications therefor and the rights and  
7814 obligations thereof.

7815 2. To appoint agents and employees and to fix their compensation and the compensation of the  
7816 officers of the cooperative.

7817 3. To execute all instruments.

7818 4. To make its own rules and regulations as to its procedure.

7819 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

7820 **§ 56-501.1. Payment of certain patronage capital to spouse or next of kin of deceased person.**

7821 When there is held by any telephone cooperative, engaged in the business of furnishing telephone  
7822 service, any patronage capital to the credit of a deceased person, in an amount not exceeding \$500, upon  
7823 whose estate there shall have been no qualification, it shall be lawful for such telephone cooperative, after  
7824 120 days from the death of such person, to pay such balance to his-~~or her~~ spouse, and if none, to his-~~or her~~  
7825 next of kin, whose receipt therefor shall be a full discharge and acquittance to such telephone cooperative  
7826 to all persons whomsoever on account of such patronage capital.

7827 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

7828 **§ 58.1-525. Notification of intention to set off and right to hearing.**

7829 A. The claimant agency, upon receipt of notification from the Department that a debtor is entitled  
7830 to a refund, within ten days shall mail a written notification to the debtor at his-~~or her~~ last known address  
7831 and shall send evidence of same in the manner required by rules promulgated by the Tax Commissioner  
7832 to the Department of its assertion of rights to the refund or any part thereof. The notification shall inform  
7833 the debtor of the claimant agency's intention to direct the Department to apply the refund or any portion  
7834 thereof against the debt certified as due and owing.

7835 B. The contents of the written notification to the debtor and the Department's notification of the  
7836 setoff claim shall clearly set forth the basis for the claim to the refund, the intention to apply the refund  
7837 against the debt to the claimant agency, the debtor's opportunity to give written notice of intent to contest  
7838 the validity of the claim before the claimant agency within thirty days of the date of the mailing of the  
7839 notice, the mailing address to which the application for a hearing must be sent, and the fact that failure to



7840 apply for a hearing in writing within the thirty-day period will be deemed a waiver of the opportunity to  
7841 contest the claim causing final setoff by default.

7842 C. The written application by the debtor for a hearing shall be effective upon mailing the  
7843 application postage prepaid and properly addressed to the claimant agency.

7844 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7845 **§ 58.1-3221.2. Classification of certain energy-efficient buildings for tax purposes.**

7846 A. Energy-efficient buildings, not including the real estate or land on which they are located, are  
7847 hereby declared to be a separate class of property and shall constitute a classification for local taxation  
7848 separate from other classifications of real property. The governing body of any county, city, or town may,  
7849 by ordinance, levy a tax on the value of such buildings at a different rate from that of tax levied on other  
7850 real property. The rate of tax imposed by any county, city, or town on such buildings shall not exceed that  
7851 applicable to the general class of real property.

7852 B. For purposes of this section, an energy-efficient building is any building that exceeds the energy  
7853 efficiency standards prescribed in the Virginia Uniform Statewide Building Code by 30 percent. Energy-  
7854 efficient building certification for purposes of this subsection shall be determined by any qualified  
7855 architect, professional engineer, or licensed contractor who is not related to the taxpayer and who shall  
7856 certify to the taxpayer that he ~~or she~~ has qualifications to provide the certification.

7857 C. Notwithstanding the provisions of subsection B, for purposes of this section, an energy-efficient  
7858 building may also be any building that (i) meets or exceeds performance standards of the Green Globes  
7859 Green Building Rating System of the Green Building Initiative, (ii) meets or exceeds performance  
7860 standards of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System  
7861 of the U.S. Green Building Council, (iii) meets or exceeds performance standards or guidelines under the  
7862 EarthCraft House Program, or (iv) is an Energy Star qualified home, the energy efficiency of which meets  
7863 or exceeds performance guidelines for energy efficiency under the Energy Star program developed by the  
7864 United States Environmental Protection Agency. Energy-efficient building certification for purposes of  
7865 this subsection shall be determined by (a) the granting of a certification under one of the programs in  
7866 clauses (i) through (iv) that certifies the building meets or exceeds the performance standards or guidelines

7867 of the program, or (b) a qualified architect or professional engineer designated by the county, city, or town  
7868 who shall determine whether the building meets or exceeds the performance standards or guidelines under  
7869 any program described in clauses (i) through (iv).

7870 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7871 **§ 59.1-138. Record of sales required; signing by purchasers; sales to persons under eighteen**  
7872 **prohibited.**

7873 (a) Any person selling any explosives covered by this chapter shall keep a record of all such  
7874 explosives sold, showing the kind and quantity sold, the name and address of the purchaser, and the date  
7875 of each sale. The person selling such explosives shall also require any person purchasing such explosives  
7876 to sign such record at the time of such purchase.

7877 (b) No person shall sell, deliver, give away, or otherwise dispose of any explosives to any  
7878 individual under eighteen years of age, whether such individual is acting for himself, ~~herself~~, or for any  
7879 other person.

7880 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7881 **§ 59.1-443.1. Recording date of birth as condition of accepting checks prohibited.**

7882 A. As used in this section:

7883 "Check" shall have the same meaning as defined in § 8.3A-104.

7884 B. Except as provided in subsection C, no person who accepts checks for the transaction of  
7885 business shall, as a condition of accepting the check, record, or request or require a person to record, his  
7886 ~~or her~~ date of birth upon the check or otherwise.

7887 C. This section does not require a person to accept checks for the transaction of business. Nothing  
7888 in this section shall apply to (i) the collection or use of a date of birth that is unrelated to accepting payment  
7889 by check or (ii) a requirement that the person paying by check provide the year of his birth.

7890 **Drafting note: Technical change consistent with Va. Code § 1-216.**

7891 **§ 59.1-444.2. Security freezes.**

7892 A. As used in this section, "security freeze" means a notice placed in a consumer's credit report, at  
7893 the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency  
7894 from releasing the consumer's credit report or score relating to the extension of credit.

7895 B. A consumer may request that a security freeze be placed on his ~~or her~~ credit report by sending  
7896 a request in writing by certified mail, or such other secure method authorized by a consumer reporting  
7897 agency, to a consumer reporting agency at an address designated by the consumer reporting agency to  
7898 receive such requests. This subsection does not prevent a consumer reporting agency from advising a third  
7899 party that a security freeze is in effect with respect to the consumer's credit report.

7900 C. A consumer reporting agency shall place a security freeze on a consumer's credit report no later  
7901 than three business days after receiving from the consumer:

- 7902 1. A written request described in subsection B;
- 7903 2. Proper identification; and
- 7904 3. Payment of a fee not to exceed \$10, if applicable.

7905 A consumer reporting agency shall place a security freeze on a consumer's credit report no later  
7906 than one business day after receiving such a request, if such request is made electronically at an address  
7907 designated by the consumer reporting agency to receive such requests.

7908 D. The consumer reporting agency shall send a written confirmation of the placement of the  
7909 security freeze to the consumer within 10 business days. Upon placing the security freeze on the  
7910 consumer's credit report, the consumer reporting agency shall provide the consumer with a unique personal  
7911 identification number or password, or similar device to be used by the consumer when providing  
7912 authorization for the release of his credit report for a specific period of time or for a specific party.

7913 E. If the consumer wishes to allow his credit report to be accessed for a specific period of time or  
7914 for a specific party while a freeze is in place, he shall contact the consumer reporting agency using a point  
7915 of contact designated by the consumer reporting agency, request that the freeze be temporarily lifted, and  
7916 provide the following:

- 7917 1. Proper identification;

7918 2. The unique personal identification number or password provided by the consumer reporting  
7919 agency pursuant to subsection D; and

7920 3. The proper information regarding the time period or the specific party for which the report shall  
7921 be available to users of the credit report.

7922 F. A consumer reporting agency:

7923 1. Shall comply with a request made under subsection E:

7924 a. Within three business days after receiving the request if the request is made at a postal address  
7925 designated by the agency to receive such requests; or

7926 b. Within 15 minutes after the consumer's request is received by the consumer reporting agency  
7927 through the electronic contact method chosen by the consumer reporting agency in accordance with this  
7928 section;

7929 2. Is not required to temporarily lift a security freeze within the time provided in subdivision 1 b  
7930 if:

7931 a. The consumer fails to meet the requirements of subsection E; or

7932 b. The consumer reporting agency's ability to temporarily lift the security freeze within 15 minutes  
7933 is prevented by:

7934 (1) An act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or  
7935 phenomena;

7936 (2) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism,  
7937 labor strikes or disputes disrupting operations, or similar occurrence;

7938 (3) Operational interruption, including electrical failure, unanticipated delay in equipment or  
7939 replacement part delivery, computer hardware or software failures inhibiting response time, or similar  
7940 disruption;

7941 (4) Governmental action, including emergency orders or regulations, judicial or law-enforcement  
7942 action, or similar directives;

7943 (5) Regularly scheduled maintenance, during other than normal business hours, of, or updates to,  
7944 the consumer reporting agency's systems; or

7945 (6) Commercially reasonable maintenance of, or repair to, the consumer reporting agency's  
7946 systems that is unexpected or unscheduled; and

7947 3. May develop procedures involving the use of telephone, fax, the Internet, or other electronic  
7948 media to receive and process a request from a consumer to temporarily lift a freeze on a credit report  
7949 pursuant to subsection E in an expedited manner.

7950 G. A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's  
7951 credit report only in the following cases:

7952 1. Upon a consumer request, pursuant to subsection E or subsection J; or

7953 2. If the consumer's credit report was frozen due to a material misrepresentation of fact by the  
7954 consumer. If a consumer reporting agency intends to remove a freeze upon a consumer's credit report  
7955 pursuant to this subdivision, the consumer reporting agency shall notify the consumer in writing prior to  
7956 removing the freeze on the consumer's credit report.

7957 H. If a third party requests access to a consumer credit report on which a security freeze is in effect,  
7958 and this request is in connection with an application for credit or any other use, and the consumer does  
7959 not allow his-~~or her~~ credit report to be accessed for that period of time, the third party may treat the  
7960 application as incomplete.

7961 I. If a consumer requests a security freeze, the consumer reporting agency shall disclose the process  
7962 of placing and temporarily lifting a freeze, and the process for allowing access to information from the  
7963 consumer's credit report for a period of time while the freeze is in place.

7964 J. A security freeze shall remain in place until the consumer requests, using a point of contact  
7965 designated by the consumer reporting agency, that the security freeze be removed. A consumer reporting  
7966 agency shall remove a security freeze within three business days of receiving a request for removal from  
7967 the consumer, who provides:

7968 1. Proper identification; and

7969 2. The unique personal identification number or password or similar device provided by the  
7970 consumer reporting agency pursuant to subsection D.

7971 K. A consumer reporting agency shall require proper identification of the person making a request  
7972 to place or remove a security freeze.

7973 L. The provisions of this section do not apply to the use of a consumer credit report by any of the  
7974 following:

7975 1. A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of  
7976 a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a  
7977 financial obligation owing by the consumer to that person or entity in conjunction with the proposed  
7978 purchase of the financial obligation, with which the consumer has or had prior to assignment an account  
7979 or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument,  
7980 for the purposes of reviewing the account or collecting the financial obligation owing for the account,  
7981 contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes  
7982 activities related to account maintenance, monitoring, credit line increases, and account upgrades and  
7983 enhancements;

7984 2. A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has  
7985 been granted for purposes of facilitating the extension of credit or other permissible use;

7986 3. Any state or local agency, law-enforcement agency, trial court, or private collection agency  
7987 acting pursuant to a court order, warrant, or subpoena;

7988 4. A child support agency acting pursuant to Title IV-D of the Social Security Act (42 U.S.C. §  
7989 654 et seq.);

7990 5. The Commonwealth or its agents or assigns acting to investigate fraud or acting to investigate  
7991 or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities  
7992 provided such responsibilities are consistent with a permissible purpose under 15 U.S.C. § 1681b;

7993 6. The use of credit information for the purposes of prescreening or postscreening as provided for  
7994 by the federal Fair Credit Reporting Act;

7995 7. Any person or entity administering a credit file monitoring subscription or similar service to  
7996 which the consumer has subscribed;

7997 8. Any person or entity for the purpose of providing a consumer with a copy of his credit report or  
7998 score upon the consumer's request;

7999 9. Any person or entity for use in setting or adjusting a rate, adjusting a claim, or underwriting for  
8000 insurance purposes; or

8001 10. Any employer in connection with any application for employment with the employer.

8002 M. This section does not prevent a consumer reporting agency from charging a fee of no more than  
8003 \$10 to a consumer to place each freeze, except that a consumer reporting agency may not charge a fee to  
8004 a victim of identity theft who has submitted a valid police report to the consumer reporting agency.

8005 N. If a security freeze is in place, a consumer reporting agency shall not change any of the  
8006 following official information in a consumer credit report without sending a written confirmation of the  
8007 change to the consumer within 30 days of the change being posted to the consumer's file: name, date of  
8008 birth, social security number, and address. Written confirmation is not required for technical modifications  
8009 of a consumer's official information, including name and street abbreviations, complete spellings, or  
8010 transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent  
8011 to both the new address and to the former address.

8012 O. The following entities are not required to place a security freeze on a credit report:

8013 1. A consumer reporting agency that acts only as a reseller of credit information by assembling  
8014 and merging information contained in the database of another consumer reporting agency or multiple  
8015 consumer credit reporting agencies, and does not maintain a permanent database of credit information  
8016 from which new consumer credit reports are produced. However, a consumer reporting agency acting as  
8017 a reseller shall honor any security freeze placed on a consumer credit report by another consumer reporting  
8018 agency;

8019 2. A check services or fraud prevention services company, which issues reports on incidents of  
8020 fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds  
8021 transfers, or similar methods of payments;

8022 3. A deposit account information service company, which issues reports regarding account  
8023 closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a

8024 consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request  
8025 for a deposit account at the inquiring bank or financial institution; and

8026 4. A consumer reporting agency's database or file that consists of information concerning, and used  
8027 for, one or more of the following: criminal record information, fraud prevention or detection, personal  
8028 loss history information, and employment, tenant, or background screening.

8029 P. At any time a consumer is required to receive a summary of rights required under 15 U.S.C. §  
8030 1681g (d), the following notice shall be included:

8031 "Virginia Consumers Have the Right to Obtain a Security Freeze.

8032 You have a right to place a "security freeze" on your credit report, which will prohibit a consumer  
8033 reporting agency from releasing information in your credit report without your express authorization. A  
8034 security freeze must be requested in writing by certified mail. The security freeze is designed to prevent  
8035 credit, loans, and services from being approved in your name without your consent. However, you should  
8036 be aware that using a security freeze to take control over who gets access to the personal and financial  
8037 information in your credit report may delay, interfere with, or prohibit the timely approval of any  
8038 subsequent request or application you make regarding a new loan, credit, mortgage, government services  
8039 or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature,  
8040 Internet credit card transaction, or other services, including an extension of credit at point of sale. When  
8041 you place a security freeze on your credit report, you will be provided a personal identification number or  
8042 password to use if you choose to remove the freeze on your credit report or authorize the release of your  
8043 credit report for a period of time or for a specific party after the freeze is in place. To provide that  
8044 authorization you must contact the consumer reporting agency and provide all of the following:

8045 1. The personal identification number or password;

8046 2. Proper identification to verify your identity; and

8047 3. The proper information regarding the period of time or the specific party for which the report  
8048 shall be available.



8049 A consumer reporting agency must authorize the release of your credit report no later than three  
8050 business days after receiving the above information. A consumer credit reporting agency must authorize  
8051 the release of your credit report no later than 15 minutes after receiving the request.

8052 A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting  
8053 on behalf of the person or entity, with which you have an existing account, that requests information in  
8054 your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes  
8055 activities related to account maintenance, monitoring, credit line increases, and account upgrades and  
8056 enhancements.

8057 You have a right to bring civil action against anyone, including a consumer reporting agency, who  
8058 improperly obtains access to a file, knowingly or willfully misuses file data, or fails to correct inaccurate  
8059 file data.

8060 Unless you are a victim of identity theft with a police report to verify the crimes, a consumer  
8061 reporting agency has the right to charge you up to \$10 to place a freeze on your credit report."

8062 Q. Any person who willfully fails to comply with any requirement imposed under this section or  
8063 § 59.1-444.3 with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- 8064 1. Any actual damages sustained by the consumer as a result of the failure or damages of not less  
8065 than \$100 and not more than \$1,000;
- 8066 2. Such amount of punitive damages as the court may allow; and
- 8067 3. In the case of any successful action to enforce any liability under this section, the costs of the  
8068 action together with reasonable attorney fees as determined by the court.

8069 R. Any person who obtains a consumer report, requests a security freeze, requests the temporary  
8070 lift of a freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses  
8071 or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual  
8072 damages sustained by the consumer reporting agency or \$1,000, whichever is greater.

8073 S. Any person who is negligent in failing to comply with any requirement imposed under this  
8074 section with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- 8075 1. Any actual damages sustained by the consumer as a result of the failure; and

8076 2. In the case of any successful action to enforce any liability under this section, the costs of the  
8077 action together with reasonable attorney fees as determined by the court.

8078 T. Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in  
8079 connection with an action under this section was filed in bad faith or for purposes of harassment, the court  
8080 shall award to the prevailing party attorney fees reasonable in relation to the work expended in responding  
8081 to the pleading, motion, or other paper.

8082 U. Notwithstanding any other provision of law:

8083 1. The exclusive authority to bring an action for any violation of subdivision F 1 b shall be with  
8084 the Attorney General. In any action brought under this subsection, the Attorney General may cause an  
8085 action to be brought in the name of the Commonwealth to enjoin the violation and to recover damages for  
8086 aggrieved consumers consistent with the limits stated in subsections Q and S for such violations.

8087 2. In any action brought under this subsection, if the court finds a willful violation, the court may,  
8088 in its discretion, also award a civil penalty of not more than \$1,000 per violation, to be deposited in the  
8089 Literary Fund of the Commonwealth.

8090 3. In any action brought under this subsection, the Attorney General may recover any costs, the  
8091 reasonable expenses incurred in investigating and preparing the case, and attorney fees.

8092 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

8093 **§ 60.2-608. Child support intercept of unemployment benefits.**

8094 A. Any individual filing a new claim for unemployment compensation shall, at the time of filing  
8095 such claim, disclose whether or not the individual owes child support obligations as defined under  
8096 subsection G of this section. If any such individual discloses that he-~~or she~~ owes child support obligations,  
8097 and is determined to be eligible for unemployment compensation, the Commission shall notify the state  
8098 or local child support enforcement agency enforcing such obligation that the individual has been  
8099 determined to be eligible for unemployment compensation.

8100 B. The Commission shall deduct and withhold the following from any unemployment  
8101 compensation payable to such an individual:

8102 1. The amount specified by the individual to the Commission to be deducted and withheld under  
8103 this subsection, if neither the provisions of subdivision 2 of this subsection nor the provisions of  
8104 subdivision 3 of this subsection are applicable;

8105 2. The amount, if any, determined pursuant to an agreement submitted to the Commission under §  
8106 454 (20) (B) (i) of the Social Security Act by the state or local child support enforcement agency, unless  
8107 the provisions of subdivision 3 of this subsection are applicable; or

8108 3. Any amount otherwise required to be so deducted and withheld from such unemployment  
8109 compensation pursuant to legal process, as defined in § 462 (e) of the Social Security Act, properly served  
8110 upon the Commission.

8111 C. Any amount deducted and withheld under subsection B shall be paid by the Commission to the  
8112 appropriate state or local child support enforcement agency.

8113 D. Any amount deducted and withheld under subsection B shall be treated as if it were paid to the  
8114 individual as unemployment compensation and paid by such individual to the state or local child support  
8115 enforcement agency in satisfaction of the individual's child support obligations.

8116 E. For purposes of subsections A through D of this section, "unemployment compensation" means  
8117 any compensation payable under this title, including amounts payable by the Commission pursuant to an  
8118 agreement under any federal law providing for compensation, assistance, or allowances with respect to  
8119 unemployment.

8120 F. This section applies only if appropriate arrangements have been made for reimbursement by the  
8121 state or local child support enforcement agency for the administrative costs incurred by the Commission  
8122 under this section which are attributable to child support obligations being enforced by the state or local  
8123 child support enforcement agency.

8124 G. The term "child support obligations" as defined for purposes of this section includes only  
8125 obligations which are being enforced pursuant to a plan described in § 454 of the Social Security Act  
8126 which has been approved by the Secretary of Health and Human Services under Part D of Title IV (42  
8127 U.S.C. 651 et seq.) of the Social Security Act.

8128 H. The term "state or local child support enforcement agency" as used in this section means any  
8129 agency of any state or a political subdivision thereof operating pursuant to a plan described in subsection  
8130 G of this section.

8131 **Drafting note: Technical change consistent with Va. Code § 1-216.**

8132 **§ 60.2-608.2. Withholding of benefits; food stamp overissuance.**

8133 A. Any individual filing a new claim for unemployment compensation shall, at the time of filing  
8134 such claim, disclose whether or not the individual owes an uncollected overissuance of food stamp  
8135 coupons, as such is defined in § 13(c) (1) of the Food Stamp Act of 1977, 7 U.S.C. § 2022 (c) (1). If any  
8136 such individual discloses that he ~~or she~~ owes food stamp obligations and is determined to be eligible for  
8137 unemployment compensation, the Commission shall notify the state food stamp agency enforcing such  
8138 obligation that the individual has been determined to be eligible for unemployment compensation.

8139 B. The Commission shall deduct and withhold the following from any unemployment  
8140 compensation payable to an individual who owes an uncollected overissuance:

8141 1. The amount specified by the individual to the Commission to be deducted and withheld under  
8142 this subsection, if neither the provisions of subdivision 2 nor the provisions of subdivision 3 of this  
8143 subsection are applicable; or

8144 2. The amount, if any, determined pursuant to an agreement submitted to the Commission by the  
8145 state food stamp agency under § 13(c) (3) (A) of the Food Stamp Act of 1977, 7 U.S.C. § 2022 (c) (3) (A);  
8146 or

8147 3. Any amount otherwise required to be so deducted and withheld from such unemployment  
8148 compensation pursuant to § 13(c) (3) (B) of the Food Stamp Act of 1977, 7 U.S.C. § 2022 (c) (3) (B).

8149 C. Any amount deducted and withheld under subsection B shall be paid by the Commission to the  
8150 appropriate state food stamp agency.

8151 D. Any amount deducted and withheld under subsection B shall for all purposes be treated as if it  
8152 were paid to the individual as unemployment compensation and paid by such individual to the state food  
8153 stamp agency as repayment of the individual's uncollected overissuance.

8154 E. For purposes of subsections A through D of this section, the term "unemployment  
8155 compensation" means any compensation payable under this title including amounts payable by the  
8156 Commission pursuant to an agreement under any federal law providing for compensation, assistance, or  
8157 allowances with respect to unemployment.

8158 F. The provisions of this section shall be applicable only if appropriate arrangements have been  
8159 made for reimbursement by the state food stamp agency for the administrative costs incurred by the  
8160 Commission under this subsection which are attributable to the repayment of uncollected overissuances  
8161 to the state food stamp agency.

8162 **Drafting note: Technical change consistent with Va. Code § 1-216.**

8163 **§ 60.2-618. Disqualification for benefits.**

8164 An individual shall be disqualified for benefits upon separation from the last employing unit for  
8165 whom he has worked 30 days or 240 hours or from any subsequent employing unit:

8166 1. (Effective until January 1, 2021) For any week benefits are claimed until he has performed  
8167 services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii) for 240 hours,  
8168 and subsequently becomes totally or partially separated from such employment, if the Commission finds  
8169 such individual is unemployed because he left work voluntarily without good cause.

8170 If (a) at the time of commencing employment with such employing unit an individual is enrolled  
8171 in an accredited academic program of study provided by an institution of higher education for students  
8172 that have been awarded a baccalaureate degree, which academic program culminates in the awarding of a  
8173 master's, doctoral, or professional degree; (b) the individual's employment with such employing unit  
8174 commenced and ended during the period between spring and fall semesters of the academic program in  
8175 which the individual is enrolled; and (c) the individual returned to such academic program following his  
8176 separation from such employing unit, there shall be a rebuttable presumption that the individual left work  
8177 voluntarily.

8178 As used in this chapter, "good cause" shall not include (1) voluntarily leaving work with an  
8179 employer to become self-employed or (2) voluntarily leaving work with an employer to accompany or to  
8180 join his-~~or her~~ spouse in a new locality, except where an individual leaves employment to accompany a

8181 spouse to the location of the spouse's new duty assignment if (A) the spouse is on active duty in the military  
8182 or naval services of the United States; (B) the spouse's relocation to a new military-related assignment is  
8183 pursuant to a permanent change of station order; (C) the location of the spouse's new duty assignment is  
8184 not readily accessible from the individual's place of employment; and (D) except for members of the  
8185 Virginia National Guard relocating to a new assignment within the Commonwealth, the spouse's new duty  
8186 assignment is located in a state that, pursuant to statute, does not deem a person accompanying a military  
8187 spouse as a person leaving work voluntarily without good cause. An individual shall not be deemed to  
8188 have voluntarily left work solely because the separation was in accordance with a seniority-based policy.

8189 1. (Effective January 1, 2021) For any week benefits are claimed until he has performed services  
8190 for an employer (i) during 30 days, whether or not such days are consecutive, or (ii) for 240 hours, and  
8191 subsequently becomes totally or partially separated from such employment, if the Commission finds such  
8192 individual is unemployed because he left work voluntarily without good cause.

8193 If (a) at the time of commencing employment with such employing unit an individual is enrolled  
8194 in an accredited academic program of study provided by an institution of higher education for students  
8195 that have been awarded a baccalaureate degree, which academic program culminates in the awarding of a  
8196 master's, doctoral, or professional degree; (b) the individual's employment with such employing unit  
8197 commenced and ended during the period between spring and fall semesters of the academic program in  
8198 which the individual is enrolled; and (c) the individual returned to such academic program following his  
8199 separation from such employing unit, there shall be a rebuttable presumption that the individual left work  
8200 voluntarily.

8201 As used in this chapter, "good cause" shall not include (1) voluntarily leaving work with an  
8202 employer to become self-employed or (2) voluntarily leaving work with an employer to accompany or to  
8203 join his-~~or her~~ spouse in a new locality. An individual shall not be deemed to have voluntarily left work  
8204 solely because the separation was in accordance with a seniority-based policy.

8205 2. a. For any week benefits are claimed until he has performed services for an employer (i) during  
8206 30 days, whether or not such days are consecutive, or (ii) for 240 hours, and subsequently becomes totally

8207 or partially separated from such employment, if the Commission finds such individual is unemployed  
8208 because he has been discharged for misconduct connected with his work.

8209 b. For the purpose of this subdivision, "misconduct" includes, but shall not be limited to:

8210 (1) An employee's confirmed positive test for a nonprescribed controlled substance, identified as  
8211 such in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, where such test was conducted at the direction of  
8212 his employer in conjunction with the employer's administration and enforcement of a known workplace  
8213 drug policy. Such test shall have been performed, and a sample collected, in accordance with scientifically  
8214 recognized standards by a laboratory accredited by the United States Department of Health and Human  
8215 Services, or the College of American Pathology, or the American Association for Clinical Chemistry, or  
8216 the equivalent, or shall have been a United States Department of Transportation-qualified drug screen  
8217 conducted in accordance with the employer's bona fide drug policy. The Commission may consider  
8218 evidence of mitigating circumstances in determining whether misconduct occurred.

8219 (2) An employee's intentionally false or misleading statement of a material nature concerning past  
8220 criminal convictions made in a written job application furnished to the employer, where such statement  
8221 was a basis for the termination and the employer terminated the employee promptly upon the discovery  
8222 thereof. The Commission may consider evidence of mitigating circumstances in determining whether  
8223 misconduct occurred.

8224 (3) A willful and deliberate violation of a standard or regulation of the Commonwealth, by an  
8225 employee of an employer licensed or certified by the Commonwealth, which violation would cause the  
8226 employer to be sanctioned or have its license or certification suspended by the Commonwealth. The  
8227 Commission may consider evidence of mitigating circumstances in determining whether misconduct  
8228 occurred.

8229 (4) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or  
8230 one or more unapproved absences following a written reprimand or warning relating to more than one  
8231 unapproved absence. The Commission may consider evidence of mitigating circumstances in determining  
8232 whether misconduct occurred.

8233 (5) An employee's loss of or failure to renew a license or certification that is a requisite of the  
8234 position held by the employee, provided the employer is not at fault for the employee's loss of or failure  
8235 to renew the license or certification. The Commission may consider evidence of mitigating circumstances  
8236 in determining whether misconduct occurred.

8237 3. a. If it is determined by the Commission that such individual has failed, without good cause,  
8238 either to apply for available, suitable work when so directed by the employment office or the Commission  
8239 or to accept suitable work when offered him. The disqualification shall commence with the week in which  
8240 such failure occurred, and shall continue for the period of unemployment next ensuing until he has  
8241 performed services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii)  
8242 for 240 hours, and subsequently becomes totally or partially separated from such employment.

8243 b. In determining whether or not any work is suitable for an individual, the Commission shall  
8244 consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training,  
8245 his experience, his length of unemployment and the accessibility of the available work from his residence.

8246 c. No work shall be deemed suitable and benefits shall not be denied under this title to any  
8247 otherwise eligible individual for refusing to accept new work under any of the following conditions:

8248 (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

8249 (2) If the wages, hours, or other conditions of the work offered are substantially less favorable to  
8250 the individual than those prevailing for similar work in the locality; or

8251 (3) If as a condition of being employed the individual would be required to join a company union  
8252 or to resign from or refrain from joining any bona fide labor organization.

8253 d. No individual shall be qualified for benefits during any week that such individual, in connection  
8254 with an offer of suitable work, has a confirmed positive test for a nonprescribed controlled substance,  
8255 identified as such in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, if the test is required as a condition of  
8256 employment and (i) performed, and a sample is collected, in accordance with scientifically recognized  
8257 standards by a laboratory accredited by the United States Department of Health and Human Services, or  
8258 the College of American Pathology, or the American Association for Clinical Chemistry, or the equivalent,  
8259 or (ii) a United States Department of Transportation-qualified drug screen conducted in accordance with



8260 the employer's bona fide drug policy. The disqualification shall commence with the week in which such  
8261 a test was conducted, and shall continue for the period of unemployment next ensuing until he has  
8262 performed services for an employer (i) during 30 days, whether or not such days are consecutive, or (ii)  
8263 for 240 hours, and subsequently becomes totally or partially separated from such employment.

8264 4. For 52 weeks, beginning with the date of the determination or decision, if the Commission finds  
8265 that such individual, within 36 calendar months immediately preceding such determination or decision,  
8266 has made a false statement or representation knowing it to be false, or has knowingly failed to disclose a  
8267 material fact, to obtain or increase any benefit or payment under this title, the unemployment  
8268 compensation of any other state, or any other program of the federal government which is administered in  
8269 any way under this title, either for himself or any other person. Overpayments that have been fraudulently  
8270 obtained and any penalty assessed against the individual pursuant to § 60.2-636 shall be recoverable as  
8271 provided in § 60.2-633.

8272 5. If such separation arose as a result of an unlawful act which resulted in a conviction and after  
8273 his release from prison or jail until he has performed services for an employer for (i) 30 days, whether or  
8274 not such days are consecutive, or (ii) 240 hours, and subsequently becomes totally or partially separated  
8275 from such employment.

8276 6. If such separation arose as a condition of the individual's parole or release from a custodial or  
8277 penal institution and such individual was participating in the Diversion Center Incarceration Program  
8278 pursuant to § 19.2-316.3.

8279 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

8280 **§ 62.1-201. Board of Directors.**

8281 A. All powers, rights and duties conferred by this chapter or other provisions of law upon the  
8282 Authority shall be exercised by a board of directors consisting of the State Treasurer or his designee, the  
8283 State Health Commissioner or his designee, the Director of the Department of Environmental Quality or  
8284 his designee, the Director of the Department of Aviation or his designee, and seven members appointed  
8285 by the Governor, subject to confirmation by the General Assembly. The members of the Board of Directors  
8286 appointed by the Governor shall serve terms of four years each, except that the original terms of three

8287 members appointed by the Governor shall end on June 30, 1985, 1986, and 1987, respectively, as  
8288 designated by the Governor. Any appointment to fill a vacancy on the Board of Directors shall be made  
8289 for the unexpired term of the member whose death, resignation or removal created the vacancy. All  
8290 members of the Board of Directors shall be residents of the Commonwealth. Members may be appointed  
8291 to successive terms on the Board of Directors. Each member of the Board of Directors shall be reimbursed  
8292 for his-~~or her~~ reasonable expenses incurred in attendance at meetings or when otherwise engaged in the  
8293 business of the Authority and shall be compensated at the rate provided in § 2.2-2813 for each day or  
8294 portion thereof in which the member is engaged in the business of the Authority.

8295 B. The Governor shall designate one member of the Board of Directors as chairman; he shall be  
8296 the chief executive officer of the Authority. The Board of Directors may elect one member as vice-  
8297 chairman; he shall exercise the powers of chairman in the absence of the chairman or as directed by the  
8298 chairman. The State Treasurer or his designee, the Director of the Department of Environmental Quality  
8299 or his designee, the Director of the Department of Aviation or his designee, and the State Health  
8300 Commissioner or his designee shall not be eligible to serve as chairman or vice-chairman.

8301 C. Meetings of the Board of Directors shall be held at the call of the chairman or of any five  
8302 members. Six members of the Board of Directors shall constitute a quorum for the transaction of the  
8303 business of the Authority. An act of the majority of the members of the Board of Directors present at any  
8304 regular or special meeting at which a quorum is present shall be an act of the Board of Directors. No  
8305 vacancy on the Board of Directors shall impair the right of a majority of a quorum of the members of the  
8306 Board of Directors to exercise all the rights and perform all the duties of the Authority.

8307 D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth  
8308 shall be deemed to have forfeited or shall have forfeited his-~~or her~~ office or employment by reason of  
8309 acceptance of membership on the Board of Directors or by providing service to the Authority.

8310 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

8311 **§ 63.2-1603. Protection of adults; definitions.**

8312 As used in this article:

8313 "Adult" means any person 60 years of age or older, or any person 18 years of age or older who is  
8314 incapacitated and who resides in the Commonwealth; provided, however, "adult" may include qualifying  
8315 nonresidents who are temporarily in the Commonwealth and who are in need of temporary or emergency  
8316 protective services.

8317 "Emergency" means that an adult is living in conditions that present a clear and substantial risk of  
8318 death or immediate and serious physical harm to himself or others.

8319 "Incapacitated person" means any adult who is impaired by reason of mental illness, intellectual  
8320 disability, physical illness or disability, advanced age or other causes to the extent that the adult lacks  
8321 sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning  
8322 his-~~or her~~ well-being.

8323 **Drafting note: Technical change consistent with Va. Code § 1-216.**

8324 **§ 63.2-1919. Requirement to provide financial statements.**

8325 Any noncustodial parent in the Commonwealth whose absence or failure to provide support and  
8326 maintenance is the basis upon which an application is filed for child support services or public assistance  
8327 and any custodial parent who applies for public assistance or child support services shall be required to  
8328 complete a statement of his-~~or her~~ current monthly income, his-~~or her~~ total income over the past twelve  
8329 months, amounts due from or to such person or parent under any court or administrative orders for support  
8330 of a child or child and spouse, the number of dependents for whom he-~~or she~~ is providing support, the  
8331 amount he-~~or she~~ is contributing regularly toward the support of all children or custodial parents for whom  
8332 application is made, and such other information as is pertinent to determining his-~~or her~~ ability to support  
8333 his-~~or her~~ children or custodial parent. Such noncustodial parent shall certify under penalty of perjury the  
8334 correctness of the statement. Such statement shall be provided upon demand made by the Department or  
8335 any attorney representing the Department. Additional statements shall be filed annually thereafter with  
8336 the Department as long as a debt to the Department exists or as long as there is an authorization for the  
8337 Department to collect or enforce a support obligation. Failure to comply with this section shall constitute  
8338 a Class 4 misdemeanor.

8339 **Drafting note: Technical changes consistent with Va. Code § 1-216.**

**§ 64.2-308.13. Right of election personal to surviving spouse; incapacitated surviving spouse.**

A. The right of election may be exercised only by or on behalf of a surviving spouse who is living when the election for the elective share is filed in the court under subsection A of § 64.2-308.12. If the election is not made by the surviving spouse personally, it may be made on the surviving spouse's behalf by his-~~or~~-her conservator or agent under the authority of a durable power of attorney.

B. If the election is made on behalf of a surviving spouse who is an incapacitated person, and the court enters an order determining the amounts due to the surviving spouse, the court must set aside that portion of the elective share amount due from the decedent's probate estate and recipients of the decedent's non-probate transfers to others under subsections C and D of § 64.2-308.10 and must appoint a trustee to administer that property for the support of the surviving spouse. For the purposes of this subsection, an election on behalf of a surviving spouse by a conservator or agent under a durable power of attorney is presumed to be on behalf of a surviving spouse who is an incapacitated person. The trustee must administer the trust in accordance with the following terms or such other terms as the court determines appropriate:

1. Expenditures of income and principal may be made in the manner, when, and to the extent that the trustee determines suitable and proper for the surviving spouse's support, without court order but with regard to other support, income, and property of the surviving spouse and benefits of medical or other forms of assistance from any state or federal government or governmental agency for which the surviving spouse must qualify on the basis of need.

2. During the surviving spouse's incapacity, neither the surviving spouse nor anyone acting on behalf of the surviving spouse has a power to terminate the trust; but if the surviving spouse regains capacity, the surviving spouse then acquires the power to terminate the trust and acquire full ownership of the trust property free of trust, by delivering to the trustee a writing signed by the surviving spouse declaring the termination.

3. Upon the surviving spouse's death, the trustee shall transfer the unexpended trust property in the following order: (i) under the residuary clause, if any, of the will of the predeceased spouse against whom the elective share was taken, as if that predeceased spouse died immediately after the surviving spouse; or (ii) to the predeceased spouse's heirs under Chapter 2 (§ 64.2-200 et seq.).

8367 4. The trust shall be treated as a testamentary trust subject to the provisions governing testamentary  
8368 trustees under Title 64.2.

8369 **Drafting note: Technical change consistent with Va. Code § 1-216.**

8370 **§ 64.2-557. Form for notice to show cause under § 64.2-556.**

8371 Any notice to show cause published or posted in pursuance of the requirements of § 64.2-556 may  
8372 be substantially in the form following:

8373 Virginia: In the \_\_\_\_\_ Court of \_\_\_\_\_

8374 the \_\_\_\_\_ day of \_\_\_\_\_

8375 Re: \_\_\_\_\_, deceased.

8376 SHOW CAUSE ORDER

8377 It appearing that a report of the accounts of \_\_\_\_\_, Personal Representative of  
8378 the estate of \_\_\_\_\_, deceased, and of the debts and demands against ~~(his) (her)~~ the  
8379 decedent's estate has been filed in the Clerk's Office, and that six months have elapsed since the  
8380 qualification, on motion of \_\_\_\_\_, (a distributee;) (a legatee;) (the personal  
8381 representative;) IT IS ORDERED that the creditors of, and all others interested in, the estate do show  
8382 cause, if any they can, on the \_\_\_\_\_ day of \_\_\_\_\_ (before this Court at its courtroom)  
8383 at \_\_\_\_\_ against the payment and delivery of the Estate of \_\_\_\_\_,  
8384 deceased, to (the distributees) (the legatees) (without requiring refunding bonds) (with or without  
8385 refunding bonds as the Court prescribes).

8386 A Copy -- Teste:  
8387 \_\_\_\_\_

8388 Clerk

8389 \_\_\_\_\_, p.q.

8390 **Drafting note: Technical change consistent with Va. Code § 1-216.**

8391 **§ 67-1403. Board of the Authority.**

8392 A. The Authority shall be governed by a board of directors consisting of 17 members appointed as  
8393 follows:

- 8394 1. The Director of the Department of Mines, Minerals and Energy or his designee;
- 8395 2. The President and Chief Executive Officer of the Virginia Economic Development Partnership
- 8396 or his designee;
- 8397 3. The Chancellor of the Virginia Community College System or his designee;
- 8398 4. The President of Virginia Commonwealth University or his designee;
- 8399 5. The President of the University of Virginia or his designee;
- 8400 6. The President of Virginia Polytechnic Institute and State University or his designee;
- 8401 7. The President of George Mason University or his designee;
- 8402 8. Two individuals to represent an institution of higher education in the Commonwealth not already
- 8403 represented on the Board, at least one of which shall be a private institution of higher education;
- 8404 9. Six individuals, each to represent a single business entity located in the Commonwealth that is
- 8405 engaged in activities directly related to the nuclear energy industry;
- 8406 10. One individual to represent a nuclear energy-related nonprofit organization; and
- 8407 11. One individual to represent a Virginia-based federal research laboratory.
- 8408 B. The members of the Board described in subdivisions A 1 through A 7 shall serve terms
- 8409 coincident with their terms of office.
- 8410 C. The 10 members of the Board described in subdivisions A 8 through A 11 shall be appointed
- 8411 by the Governor. The original terms of five of such members shall end on June 30, 2015, and the original
- 8412 term of the five other such members shall end on June 30, 2017, all as designated by the Governor. After
- 8413 the initial staggering of terms, such members shall be appointed for terms of four years. Vacancies in the
- 8414 membership of the Board shall be filled in the same manner as the original appointments for the unexpired
- 8415 portion of the term. Members of the Board described in subdivisions A 8 through A 11 may serve two
- 8416 successive terms on the Board.
- 8417 D. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the
- 8418 member whose death, resignation, or removal created the vacancy.
- 8419 E. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine
- 8420 members of the Board shall constitute a quorum for the transaction of the business of the Authority. An

8421 act of the majority of the members of the Board present at any regular or special meeting at which a  
8422 quorum is present shall be an act of the Board.

8423 F. Immediately after appointment, the members of the Board shall enter upon the performance of  
8424 their duties.

8425 G. The Board shall annually elect from among its members a chairman, a vice-chairman, and a  
8426 treasurer. The Board shall also elect annually a secretary, who need not be a member of the Board, and  
8427 may also elect such other subordinate officers who need not be members of the Board, as it deems proper.  
8428 The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the  
8429 absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who  
8430 shall preside at such meetings.

8431 H. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth  
8432 shall be deemed to have forfeited or shall have forfeited his-~~or her~~ office or employment by reason of  
8433 acceptance of membership on the Board or by providing service to the Authority or to the Consortium.

8434 I. On or before November 15 of each year, the Authority shall submit its updated strategic plan,  
8435 an annual summary of its activities, and recommendations for the support and expansion of the nuclear  
8436 energy industry in Virginia to the Governor and the Chairmen of the House Appropriations Committee,  
8437 the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

8438 **Drafting note: Technical change consistent with Va. Code § 1-216.**

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