

VIRGINIA CODE COMMISSION - REQUEST FOR INFORMATION RELATING TO PRINTING AND PUBLISHING OF THE CODE OF VIRGINIA

Request for Information - Headings and Minimum Specifications

Section I - Introduction and Instruction:

Agency contact: Mark J. Vucci (804) 698-1810; mvucci@dls.virginia.gov

Schedule: Return date for this RFI is October 1, 2018

Respondent is responsible for all costs of responding to this RFI including mailing and courier

This RFI is being issued by the Virginia Code Commission with the intent to procure the printing and publishing of the Code of Virginia and related services.

Trade secrets or proprietary information submitted as part of a response to this RFI shall not be subject to disclosure pursuant to subsection B of § 30-147 of the Code of Virginia so long as the respondent (i) invokes the protections of such subsection prior to or upon its submission of the data or other materials to be protected and (ii) states the reasons why protection is necessary.

Section II - Goals and Background:

The Virginia Code Commission (the Commission) is a legislative branch body established under § 30-145 of the Code of Virginia. This section requires that the Commission consist of not less than 11 nor more than 13 members. At the time of distribution of this RFI, the Commission consists of 13 members.

Among its duties, the Commission is charged under § 30-146 of the Code of Virginia with publishing a Code of the general and permanent statutes of the Commonwealth of Virginia. This section authorizes the Commission to arrange for the Code of Virginia to be printed and published (i) by or at the expense of the Commission and sold or otherwise distributed by the Commonwealth or (ii) privately under the direction and supervision of the Commission with sales and distribution of the Code to be completed by the publisher upon such terms, including price, as the Commission may provide.

The current contract for the printing and publishing of the Code of Virginia expires on August 31, 2020. At its May 7, 2018, meeting the Commission formed a work group consisting of Ms. Rita Davis, Mr. E.M. Miller, Jr., and Mr. Mark J. Vucci to ensure that a new contract for the printing and publishing of the Code of Virginia would be in place by the fall of 2019.

Section III - Response Format:

Responses to this RFI must be in Word format but may include attached diagrams, charts, schedules, etc.

Responses to this RFI should be directed to the attention of Ms. Rita Davis, Mr. E.M. Miller, Jr., and Mr. Mark J. Vucci and should be returned by October 1 by email, mail, or courier to Mark J.

Vucci. Responses sent by email should be sent to mvucci@dls.virginia.gov. If the response to this RFI is sent by mail, it must be postmarked by October 1 and mailed to:

Mark J. Vucci, Virginia Division of Legislative Services
Pocahontas Building, 900 East Main Street
Eighth Floor
Richmond, Virginia 23219

Section IV - Minimum Specifications:

1. The Commission is looking to enter into a 6-year agreement for the printing and publishing of the Code of Virginia beginning on September 1, 2020, and ending on September 1, 2026, with two 3-year renewal options. The renewal options must be agreed to by the Commission and the ultimate vendor. The first renewal option would cover the period beginning September 1, 2020, and ending September 1, 2023. The second renewal option would cover the period beginning September 1, 2023, and ending September 1, 2026. The Commission desires an agreement that is non-assignable and non-transferable, except with the consent of both parties.
2. Each respondent to this RFI must demonstrate to the work group that it (i) can produce and ship accurate printed copies of the changes to the Code of Virginia made during a Regular Session of the General Assembly of Virginia (the General Assembly) by July 1 of the same year, with such printed copies taking the form of pocket parts or cumulative supplements, (ii) can provide to the Division of Legislative Automated Systems on behalf of the Commission an electronic file accurately incorporating the changes to the Code of Virginia made during a Regular Session of the General Assembly by June 23 of the same year, (iii) can and will include in its printed pocket parts or cumulative supplements annotations to Code of Virginia sections including citations and annotations of relevant Virginia Supreme Court opinions, Virginia Court of Appeals opinions, Virginia Circuit Court opinions, federal court opinions, opinions of the Attorney General of Virginia, other relevant court opinions, law review articles, and other law-related annotations; annotations relating to relevant enactment clauses included in bills passed by the General Assembly and effective dates of changes to sections of the Code of Virginia; annotations describing the changes to a statute made by the General Assembly at the most recently ended Regular Session; and editorial citations, (iv) can produce and ship accurate printed replacement volumes or new volumes, annotated as described above, incorporating a Code of Virginia Title that has been recodified by the General Assembly, during the same year that the recodification bill was passed by the General Assembly, and (v) has the capacity and flexibility to work with the Commission to produce and ship accurate printed copies of the changes to the Code of Virginia (and to provide the Commission an electronic file of such changes) made during a Special Session of the General Assembly in accordance with a reasonable time frame designated by the Commission.
3. Along with the production and shipment of printed pocket parts and cumulative supplements to the Code of Virginia each year, the respondent must be able to produce and ship by July 1 of each year (i) an accurate printed Index to the Code of Virginia contained in one or more volume(s) updated to reflect changes to the Code of Virginia made during a Regular Session of the General Assembly that same year, (ii) an accurate printed version of the Rules of the Supreme Court of Virginia contained in one or more volumes annotated in a similar fashion as described above for pocket parts and cumulative supplements to the Code of Virginia, (iii)

current, accurate printed pocket parts or cumulative supplements of the changes to the Constitution of Virginia as a result of the action of Virginia voters at the preceding November election, annotated in a similar fashion as described above for pocket parts and cumulative supplements to the Code of Virginia, and (iv) current, accurate printed pocket parts or cumulative supplements that include legal ethics opinions, lawyer advertising and solicitation opinions, and unauthorized practice of law opinions (Legal Ethics Opinions) issued by the Standing Committee on Legal Ethics of the Virginia State Bar, annotated in a similar fashion as described above for pocket parts and cumulative supplements to the Code of Virginia.

4. All pocket parts, cumulative supplements, and replacement volumes produced and printed for the Code of Virginia and the Constitution of Virginia must include relevant citations and annotations to court opinions published prior to April 1 of the same year regardless of the year the court opinion was issued.

5. Each respondent must demonstrate to the work group that it can meet the annual demand of customers for the printed pocket parts, cumulative supplements, volumes, or replacement volumes, as applicable, to the Code of Virginia, the Constitution of Virginia, Legal Ethics Opinions, the Index to the Code of Virginia, and the Rules of the Supreme Court of Virginia.

6. Each respondent must demonstrate to the work group that it can and will produce and ship by October 1 each year accurate printed copies of replacement volumes, annotated as described above, for volumes of the Code of Virginia, the Constitution of Virginia, the Rules of the Supreme Court of Virginia, and Legal Ethics Opinions, in cases in which current volumes have become unmanageable due to the number of printed pocket parts or cumulative supplements.

7. Each respondent must agree to produce, print, and ship an Advanced Code Service for each calendar quarter. The Advanced Code Service will contain citations and annotations of important Virginia and federal court opinions interpreting the Constitution of Virginia and the Code of Virginia, which were issued by a court in the relevant quarter.

8. Respondent must agree that the printing and publishing of the Code of Virginia will be under the supervision and direction of the Commission.

a. Respondent agrees that the Commission, in consultation with the ultimate vendor, will make determinations of catchlines; title, chapter, article, and section numbering; font; type size; general appearance; and paper for the printing of the Code of Virginia, Constitution of Virginia, Index to the Code of Virginia, Rules of the Supreme Court of Virginia, and Legal Ethics Opinions.

b. Respondent must agree to publish Titles of the Code of Virginia in volumes with the specific Titles to appear in each volume determined by the Commission. The Commission will consult with the ultimate vendor in determining which Titles will appear in each volume of the Code of Virginia.

c. Respondent must agree to reprint at length and ship throughout the year pocket parts and cumulative supplements to correct minor errors and omissions and other editorial changes identified by the Commission.

d. Respondent must agree to participate in an electronic forum designed to allow publishers to ask questions relating to the correct language and numbering to be used for printing of the changes to the Code of Virginia made by the General Assembly. The Commission will delegate representatives to answer publisher questions.

e. The price charged to customers for cumulative supplements, volumes, replacement volumes, and the Advanced Code Service for the Code of Virginia and the Constitution of Virginia will be established annually by the Commission and the ultimate vendor. The Commission will not unreasonably withhold its approval of prices proposed by the ultimate vendor. Pricing for all other materials will be determined by the ultimate vendor.

9. Respondent must agree, if selected as the ultimate vendor, to furnish up to 685 complete, complimentary sets of printed pocket parts, cumulative supplements, new volumes, and replacement volumes to the Code of Virginia and the Constitution of Virginia, and for the Index to the Code of Virginia. The Respondent will bear all printing, publishing, mailing, and shipping costs for each complimentary set and will ship the complimentary sets to mailing addresses as provided by the Commission. For each year covered by the contract, the respondent must agree that the Commission, upon written notice, may increase the current number of complimentary sets by up to an additional 4 percent. The complimentary sets must be shipped by the deadlines established for delivery of the materials.

Respondent must agree, if selected as the ultimate vendor, to offer a discounted price for sales to Commonwealth of Virginia agencies of pocket parts, cumulative supplements, volumes, and replacement volumes relating to the Code of Virginia, the Constitution of Virginia, Legal Ethics Opinions, the Index to the Code of Virginia, and the Rules of the Supreme Court of Virginia.

10. Each year the respondent must agree to provide at no charge to the Virginia Division of Legislative Services by July 1 a searchable CD-ROM(s) that contains (i) the current, entire Code of Virginia and Constitution of Virginia, (ii) all formal opinions issued by the Attorney Generals of Virginia, (iii) Virginia Supreme Court, Court of Appeals, and Circuit Court opinions, and (iv) Supreme Court of the United States and other federal court opinions. The Code of Virginia, Constitution of Virginia, and Attorney General Opinions must include citations and annotations of relevant court opinions and other annotations. The CD-ROM(s) must be delivered to the Division by July 1. Respondent must agree to provide up to 35 such CD-ROM(s) each year to the Division at no charge. The Division will use such CD-ROM(s) solely for use in preparing legislative bills and conducting research related to legislative issues.

11. Respondent agrees to provide the Division of Legislative Services upon request with one complimentary copy of each Virginia specific legal publication or CD-ROM it publishes, other than a publication or CD-ROM already described above, during the term of the contract. The publication or CD-ROM published will be added to the Division's Reference Center legislative resources. The respondent also agrees to pay all postage and shipping charges associated with the delivery of the publication or CD-ROM to the Division.

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THIS AGREEMENT is made between the **VIRGINIA CODE COMMISSION**, hereafter "the Commission," and Matthew Bender & Company, Inc., a member of the LEXISNexis Group, a corporation organized under the laws of the State of New York, hereinafter "LEXIS".

WITNESSETH

WHEREAS, By Sections 30-146 and 30-147 of the Code of Virginia of 1950, the General Assembly of Virginia authorizes the Commission to codify into the Code of Virginia the acts of each session of the General Assembly, and to enter into such contract or contracts for such editorial work, printing, indexing and other work as may be necessary to maintain the Code;

NOW, THEREFORE, in consideration of the following premises and mutual promises, the Commission and LEXIS agree as follows:

FIRST: The term of this Agreement shall commence on September 1, 2009, and shall expire on August 31, 2016.

The Commission may terminate this Agreement for cause whenever the Commission determines that LEXIS has failed to perform one or more of its contracted duties and responsibilities in a timely and proper manner or in a manner satisfactory to the Commission, or if LEXIS fails to adhere to any of the terms of this Agreement, and LEXIS is unable to cure the failure within a reasonable period of time as may be specifically determined by the Commission. In the event of termination, LEXIS agrees to apply its best efforts to bring work in progress to an orderly conclusion in a manner and form consistent with this agreement, and satisfactorily to the Commission.

The provisions of this Agreement may be renewed for subsequent two (2) year terms not to exceed a total of two (2) additional terms by the agreement of the parties.

SECOND: (a) The preparation and publication of the Code of Virginia by LEXIS shall be under the supervision and direction of the Commission.

(b) Each year during the term of this Agreement, LEXIS shall prepare (i) an annotated supplement ("Supplement") to the Code of Virginia of 1950, consisting of pocket part or paperbound cumulative pamphlets for all current volumes except for the volumes to be replaced during the year, as shall be determined by the Commission, and (ii) updated index volumes ("Index Volumes") for the Code of Virginia of 1950.

(c) Each Supplement shall include all acts of a general and permanent nature passed by the General Assembly of Virginia subsequent to the publication of the current volumes of the Code of Virginia up through and including the then/current Regular Session. The same procedure and general format relative to catchlines, historical references, frontal analyses and annotations will be followed in the preparation of each Supplement as was followed in the preparation of the 2008 Cumulative Supplement. The codification, arrangement and numbering of such acts will

follow and conform to the codification, arrangement and numbering of the Code of Virginia of 1950.

(d) For each Supplement, the annotations found in the 1950 Code and supplements thereto will be supplemented so as to include all cases published prior to April 1 of each respective year of the contract period. This provision is also applicable to replacement volumes.

(e) A thorough, effective and logically organized general index will be prepared and published with each Supplement following the same plan, procedure, general makeup and appearance used in preparing the 2008 index replacements, Replacement Volumes 12 and 13, or such additional volumes as necessary to properly and appropriately index the Code of Virginia. The paper to be used in the Index, Supplement and all replacement volumes shall be as directed by the Commission and recommended by Lexis. The index will be revised to reflect all changes made through each Session of the General Assembly and any Reconvened Session of the General Assembly (if such session shall occur).

(f) In each Supplement, Sections of the 1950 Code in which minor errors or omissions have appeared will be republished at length, together with appropriate notes explaining the editorial changes made in such sections.

(g) The Commission and LEXIS will meet after September 1 annually and after recommendation by LEXIS, the Commission shall determine the Code volumes to be replaced during each particular year ("Replacement Volumes"). This process will follow the process that has been conducted in previous years. This meeting will be documented by official minutes of the Commission. The Commission and LEXIS will also meet annually to establish pricing for the printed copies of the Code of Virginia for residents of the Commonwealth and for purchase by other Commonwealth of Virginia agencies and personnel.

THIRD: (a) LEXIS agrees to furnish approximately 685 sets of each Supplement and the Index Volumes without cost to the Commission as soon as possible after the final adjournment of each Reconvened Session of the General Assembly during the contract period. It is contemplated that shipment of the Supplements and Index Volumes will be made on or before July 1 of each and every year, if all material under Section FIFTH is received on or before May 1, unless otherwise agreed upon by the parties.

(b) LEXIS agrees to distribute the estimated 685 sets of each Supplement and the Index Volumes pursuant to a list to be furnished by the Commission and to bear all costs associated with publishing and printing these sets and all postage and shipping charges therefore.

(c) LEXIS additionally agrees to furnish approximately 685 copies of each of the Replacement Volumes to the Commission without cost to the Commission.

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It is contemplated that delivery of the Replacement Volumes will be made on or before July 31 each year, unless otherwise agreed upon by the parties. In the event such Replacement Volumes are not shipped with the annual Supplement to the Code of Virginia then a pocket part or paperbound interim supplement for the Replacement Volumes shall be delivered with the Supplements. LEXIS agrees to bear all publishing, printing, postage and shipping charges associated with the estimated 685 copies of the Replacement Volumes.

(d) If, for any reason, publication of any Replacement Volume is delayed beyond the preparation date of annual electronic database update of the Code of Virginia, LEXIS agrees to provide the Commission with a magnetic tape and CD containing the delayed material within one month of the publication date.

(e) LEXIS agrees to sell an "Advance Code Service" (ACS) to the Commission or residents of the Commonwealth for such sums as shall be set annually by the Commission. LEXIS will produce the "Advanced Code Service" in a manner similar to that used prior to the execution of this Agreement.

(f) The Commission may increase or decrease the number of copies of the Supplement and Replacement Volumes as provided in paragraphs (b) and (c) upon written notice to LEXIS by an amount not exceeding 4% in any one year.

FOURTH: In that the Commission has determined that Volume 11 of the Code of Virginia will be replaced annually, LEXIS agrees to:

(a) Prepare and publish Volume 11 of the Code of Virginia and the November Supplement to Volume 11 with the update materials relating thereto, using the same page format used in the 2008 Edition and November 2008 Supplement.

(b) Pursuant to a list to be furnished by the Commission provide approximately 685 copies of Volume 11 and Supplement thereto to the Commission, without cost, and distribute according to the list.

(c) Bear all publishing, printing, postage, shipping and handling charges therefore.

(d) For residents of the Commonwealth charge such amount as shall be established by the Commission annually.

FIFTH: (a) As used in this sixth paragraph, the following terms shall have the following meanings: (1) "Copyrightable materials" shall have the same meaning as defined in an agreement between the Commission and LEXIS (then the Michie Company) dated March 31, 1981; and (2) "Political Subdivisions" means all counties, cities, towns, regional governments and other political subdivisions of the Commonwealth of Virginia created by general or special laws, and all agencies of the state government.

(b) LEXIS agrees to: (1) provide the Commission on, or before July 15 of each year, with an electronic database, containing proprietary information of LEXIS, of the Code of Virginia with annotations for the exclusive use of officers and employees of the Commonwealth and its political subdivisions only in performing research within the scope of the governmental duties; and (2) provide the Commission, for use exclusively by Legislative Branch Agencies, a reasonable number of copies of *LexisNexis CD - Virginia Primary Law (CD - ROM)* or its successor for use in bill preparation and research related to proposed legislation.

Use of the electronic database and the LexisNexis CD -Virginia Primary Law (CD-ROM), as regards copyrightable materials, shall be subject to the following limitations: (a) producing hard copies in excess of 10 copies of all or any part thereof is expressly prohibited unless prior written approval has been received from LEXIS; (b) the notice "©Copyright (date) by LEXIS - All rights reserved" should be displayed, where practicable, on computer terminal screens whenever an authorized user initially accesses the database again when the user leaves the database and it shall so appear near or with the title (Code of Virginia) and each major heading (titles) on visually perceptible printouts.

(c) LEXIS agrees to provide the Commission, on or before July 15 of each year, with an electronic database of the Code of Virginia, exclusive of any copyrightable information for the purpose of facilitating public inspection under the Freedom of Information Act and through information systems.

(d) The Commission agrees to deliver to LEXIS eight (8) printed copies of all acts passed at each annual Session, as the acts are passed and as soon after such passage as possible. The Commission also agrees to deliver to LEXIS electronic files, in a format to be mutually determined by both parties, of the Acts of Assembly as they are passed without insertion of stricken language, on or before May 1.

SIXTH: LEXIS agrees to cooperate with other Commission approved publishers for the sharing of information in a similar manner to the commonly referred "Code Commission Pilot Program of 2002" pursuant to certain agreement(s) to be executed by all such publishers, and the Commission agrees to waive any and all participation fees, if any, to the Program to LEXIS during the term of this Agreement.

SEVENTH: LEXIS agrees to furnish 200 sets of the *Revised Code of 1819* to be delivered to the Commission, and to bear all costs associated with publishing and printing these sets and all postage and shipping charges therefore. The Commission agrees to provide one set of the *Revised Code of 1819*, to be shipped upon the signing of this agreement, which shall be returned to the Commission. The parties recognize that these documents will be disassembled and will be returned unbound but using all reasonable care to protect the documents as possible. LEXIS retains the right to publish and sell the *Revised Code of 1819* to the public at a price to be determined solely by LEXIS. Such sets shall be distributed by LEXIS pursuant to a list to be furnished by the Commission and

LEXIS shall bear all costs associated with postage and shipping charges to such listed persons. Shipping of the *Revised Code of 1819* will be completed no later than thirty days (30) from April 1, 2009 by LEXIS.

EIGHTH: LEXIS agrees to furnish (upon request) one copy each of any Virginia specific legal publications or CDs published by LEXIS to the DLS Reference Library free of charge including shipping charges and postage.

NINTH: Assignment. Neither party may assign or transfer this Agreement nor any interest in this Agreement without the written consent of the other party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, a party may freely transfer or assign this Agreement to (i) any affiliated company or entity of that party, including without limitation, its parent company or any subsidiaries of its parent company, or (ii) any person or entity who acquires the entire business or a party or acquires a portion of the assets of a party that relate to this Agreement.

TENTH: Governing laws. This Agreement shall be construed in accordance with and governed by laws of the Commonwealth of Virginia. Suit, if any, must be brought in the City of Richmond, Commonwealth of Virginia.

IN WITNESS WHEREOF, The parties have executed this Agreement on the 11 and 11 days of January, 2009, respectively, ~~November, 2008,~~

WITNESS:

COMMONWEALTH OF VIRGINIA

By Matthew Landes
Chairman, Virginia Code Commission

WITNESS:

MATTHEW BENDER & COMPANY, INC.,
a member of the LEXISNexis Group

William M. Conway

MATTHEW BENDER LEGAL DEPT.
REVIEWED BY: RAF
DATE: 12/02

THIS AGREEMENT is made between the COMMONWEALTH OF VIRGINIA, hereinafter called "the Commonwealth," and THE MICHIE COMPANY, a Virginia corporation hereinafter called "Michie."

W I T N E S S E T H:

WHEREAS, the parties have on prior occasions entered into contracts specifying the terms upon which Michie will publish the Code of Virginia, hereinafter called "the Code," and

WHEREAS, such contracts failed to prescribe the extent of the copyright protection of Michie, and

WHEREAS, the Commonwealth is desirous of using the Code free of certain copyright claims,

NOW, THEREFORE, in consideration of the undertakings herein contained, the Commonwealth, acting by and through the Virginia Code Commission, and Michie agree as follows:

1. Michie may claim copyright protection in its name for any copyrightable material contained in the Code.
2. Michie waives any claim to copyright protection to the extent that it would preclude any agency of the Commonwealth from using, or licensing third parties to use, the data base maintained by the Division of Legislative Automated Systems, provided that such use or licensure must be approved by the General Assembly or the Code Commission.
3. No use or licensure shall be approved by the General Assembly or the Code Commission as required by Paragraph 2 if it involves the use of copyrightable material contained in the data base in the publication of a Code or other work which would compete with Michie publications.
4. Michie grants to the Commonwealth the royalty free right by any of its agencies to use copyrightable material contained in the volumes and supplements of the Code printed by Michie, except to use it or approve its use in the publication of a code or other work which would compete with Michie publications.

5. The term "copyrightable material" shall include cover design, preliminary pages, case annotations, cross-reference notes, editor's notes, collateral reference notes, effect-of-amendment notes, the Index, Foreword to the Index, Table of Comparative Sections, Table of Tax Code Sections, Table of Acts Through 1948 Not Previously Codified, Table of Acts Codified Subsequent to 1948, and Tables of Sections Amended or Repealed.

The term "copyrightable material" shall not include section numbers, catchlines, the text of any section, historical citations, article numbers, chapter numbers, Title numbers, frontal analyses, revisor's notes or the Tables of Comparative Sections for Certain Repealed and Revised Titles.

IN WITNESS WHEREOF, the parties have executed this Agreement this
the 31st day of March 1981.

COMMONWEALTH OF VIRGINIA

BY 
Acting-Chairman of the Virginia Code Commission

THE MICHIE COMPANY

BY 
President

RENEWAL AGREEMENT - CODE OF VIRGINIA AND RELATED PRODUCTS

THIS RENEWAL AGREEMENT is made between the VIRGINIA CODE COMMISSION, a legislative agency of the Virginia General Assembly, with offices in Richmond, Virginia (hereinafter the Commission), and Mathew Bender & Company, Inc., a member of the LexisNexis Group, a corporation organized under the laws of the State of New York (hereinafter LEXIS).

WITNESSETH

I. This RENEWAL AGREEMENT is a renewal of that contract entered into on January 11, 2009, (hereinafter the Contract) between the Commission and LEXIS, the subject matter of which included, but was not limited to, (i) the publication and distribution of the Code of Virginia; (ii) the publication and distribution of annotated supplements to the Code of Virginia; (iii) the publication and distribution of updated index volumes to the Code of Virginia; (iv) the production and sale of the Advanced Code Service by LEXIS; (v) the annual provision by LEXIS to the Commission of an electronic database of the Code of Virginia with annotations; (vi) the provision by LEXIS to the Commission of a reasonable number of copies of *LexisNexis CD - Virginia Primary Law (CD - ROM)*; (vii) the conditions under which information is to be shared among Commission approved publishers, with such sharing of information coordinated in a similar manner to the commonly referred "Code Commission Pilot Program of 2002"; (viii) the publication, distribution, and sale of the *Revised Code of 1819*; and (ix) the furnishing by LEXIS of one copy each of any Virginia specific legal publication or CD published by LEXIS to the Division of Legislative Services Reference Library.

II. The **FIRST** item of the Contract stipulates that the contract shall expire on August 31, 2016. However, the **FIRST** item of the Contract also provides that the Commission and LEXIS may mutually agree to renew the Contract for 2 subsequent two-year terms for a total renewal period of 4 years.

III. At a meeting on April 6, 2015, the Commission voted to renew the Contract for the first two-year term, which will extend the Contract to August 31, 2018. The Commission's vote was to renew the Contract under the same terms, conditions, and consideration as was agreed to by the Commission and LEXIS on January 11, 2009.

IV. LEXIS also desires that the Contract be renewed for two years to August 31, 2018, under the same terms, conditions, and consideration as was agreed to by the Commission and LEXIS on January 11, 2009.

NOW, THEREFORE, the Commission and LEXIS mutually agree to renew the Contract for a two-year period from August 31, 2016, to August 31, 2018, under the same terms, conditions, and consideration as was agreed to on January 11, 2009.

IN WITNESS WHEREOF, the Commission and LEXIS have executed this RENEWAL AGREEMENT on the 20th day of April 2016.

Witness:

Mark J. Vucci

Witness:

Brian Kennedy

Commonwealth of Virginia

By [Signature]
Chairman, Virginia Code Commission

Mathew Bender & Company, Inc., a member
of the LexisNexis Group

[Signature]
Anders P. Ganten, Sr. Director

RENEWAL AGREEMENT - CODE OF VIRGINIA AND RELATED PRODUCTS

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II. The FIRST item of the Contract stipulates that the contract shall expire on August 31, 2016. However, the FIRST item of the Contract also provides that the Commission and LEXIS may mutually agree to renew the Contract for 2 subsequent two-year terms for a total renewal period of 4 years.

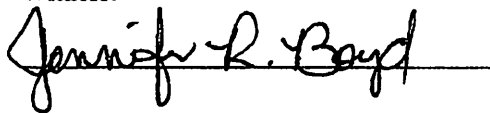
III. At a meeting on November 20, 2017, the Commission voted to renew the Contract for the second two-year term, which will extend the Contract to August 31, 2020. The Commission's vote was to renew the Contract under the same terms, conditions, and consideration as was agreed to by the Commission and LEXIS on January 11, 2009.

IV. LEXIS also desires that the Contract be renewed for two years to August 31, 2020, under the same terms, conditions, and consideration as was agreed to by the Commission and LEXIS on January 11, 2009.

NOW, THEREFORE, the Commission and LEXIS mutually agree to renew the Contract for a two-year period from August 31, 2018, to August 31, 2020, under the same terms, conditions, and consideration as was agreed to on January 11, 2009.

IN WITNESS WHEREOF, the Commission and LEXIS have executed this RENEWAL AGREEMENT on the 5th day of March, 2018.

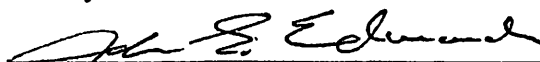
Witness:



Witness:


STEVE REUTROW

Commonwealth of Virginia
Virginia Code Commission
By:


John S. Edwards, Chairman

LexisNexis
By:


Anders P. Ganten, Sr. Director

VIRGINIA CODE COMMISSION

May 7, 2018

Richmond, Virginia 23219

Approved June 18, 2018

Members Present: John S. Edwards; Ryan T. McDougle; Gregory D. Habeeb; James A. Leftwich, Jr.; ~~Robert L. Calhoun~~; Rita Davis; Leslie L. Lilley; E.M. Miller, Jr.; Chris Nolen; Thomas M. Moncure, Jr.; Samuel T. Towell; Mark Vucci

Members Absent: Charles S. Sharp; ~~Robert L. Calhoun~~

Staff Present: Scott Meacham, Amigo Wade, Kristen Walsh, Karen Perrine, Anne Bloomsburg, Andrew Kubincanek, Lilli Hausenfluck, Division of Legislative Services (DLS)

Others Present: Senator Adam Ebbin; Tom Lisk, Chair, Administrative Law Advisory Committee; Brian Kennedy, LexisNexis; Janet Carpenter, Treasury Department; Ellen Coates, Office of the Attorney General

Call to order; welcome and introduction of new members: Senator Edwards, chair, called the meeting to order at 10:05 a.m. He introduced Delegate Leftwich; Rita Davis, Governor's designee; and Samuel Towell, Attorney General designee, and welcomed them to the Commission.

Approval of minutes: The minutes of the November 20, 2017, meeting of the Commission, as printed and distributed to the members, were approved without objection.

Election of vice chair: Senator Edwards asked for a motion to nominate a vice chair for the Commission. Delegate Leftwich nominated Delegate Habeeb, and Judge Lilley seconded the nomination. Delegate Habeeb accepted the nomination. He stated that the Commission should adopt a policy to rotate the chairmanship between the Senate and the House. The Commission elected Delegate Habeeb as vice chair of the Commission.

Reappoint members of the Administrative Law Advisory Committee (ALAC): Tom Lisk requested that the Commission reappoint four members of ALAC whose terms expire this month: Tom Lisk, Brooks Smith, Alex Skirpan, and Eric Page. At later meetings, Mr. Lisk will request additional reappointments or new appointments to fill vacancies. On motion of Mr. Nolen, properly seconded, the Commission reappointed the four individuals as requested.

Mr. Lisk will present ALAC's work plan at the next meeting.

Referral of Senate Joint Resolution 216 (2017) - repeal the constitutional prohibition on same-sex marriages and civil unions: Senate Bill 782 (2017), which repeals statutory prohibitions on same-sex marriages and civil unions, and Senate Joint Resolution 216 (2017), which repeals a similar provision in the Constitution of Virginia, were referred by the Senate Committee for Courts of Justice to the Commission. At its November 2017 meeting, the Commission approved a bill for introduction in the 2018 Session of the General Assembly to repeal §§ 20-45.2 and 20-45.3 of the Code of Virginia as obsolete. In light of the procedural policy of the House of Delegates not to consider constitutional amendments in short sessions, the Commission deferred action on SJR 216 until after the 2018 legislative session. Mark Vucci stated that in the 2018 legislative session, the Commission's bill (Senate Bill 50) and a similar bill introduced by Senator Ebbin (Senate Bill 3) were carried over to the 2019 session.

Senator Edwards reminded the Commission that it had received an opinion from the Attorney General indicating that §§ 20-45.2 and 20-45.3 were obsolete within the meaning of § 30-141 of the Code of Virginia and that the similar prohibition in Article I, § 15-A of the Constitution of Virginia violated the U.S. Constitution due to the United States Supreme Court's decision in *Obergefell v. Hodges*.

Senator Ebbin explained that his resolution provides the voters an opportunity to speak on this matter, and the earliest that will occur is November 3, 2020. The purpose of the resolution is to have the Constitution reflect the law of the land.

Senator McDougle stated that Senator Ebbin will need a new resolution for the 2019 session. The Commission briefly discussed whether a new resolution was necessary. Senator Ebbin indicated he would introduce a new resolution in the 2019 legislative session. Senator Edwards stated that the Commission's motion would be a motion to recommend a change in the Constitution. Delegate Habeeb stated that when the Commission adopts its 2019 legislative package, the Commission would support the statutory repeal and the change to the Constitution as part of the package.

On motion of Mr. Towell, seconded by Mr. Miller, the Commission recommended to the General Assembly that the Constitution be amended to remove the prohibitions on same-sex marriages and civil unions.

Code of Virginia publication contract: Mr. Vucci stated that the most recent contract with LexisNexis was signed in 2009 and contained an expiration date of August 31, 2016, with two two-year renewal options. The second two-year renewal option was approved last year, and the final contract expiration will be August 31, 2020. Mr. Vucci recommended forming a work group for a publication contract that should be in place by the end of 2019. The Commission designated Mr. Vucci, Mr. Miller, and Ms. Davis as members of the work group.

Contract renewal for publication of the Virginia Register of Regulations: Karen Perrine stated that the current contract with LexisNexis for publication of the Virginia Register of Regulations will expire June 1, 2018. The contract provides for renewal every two years. Staff recommends renewal on the same terms as the current contract, and LexisNexis is in agreement. On motion of Mr. Miller, duly seconded, the Commission approved renewal of the contract until June 1, 2020. Mr. Nolen abstained from voting; LexisNexis is a client of his law firm, although he does not personally represent or provide services to LexisNexis.

Recodification of Title 55, Property and Conveyances: Amigo Wade reviewed the current status of the recodification project and the schedule for 2018. Staff will present the complete recodification report in October and the final draft bill in November.

Mr. Wade, assisted by Kristen Walsh, presented proposed Subtitle V - Miscellaneous, Chapters 1 through 6. During the review, the Commission discussed or took action as follows:

Chapter 1 - Escheats.

Line 59: Delegate Leftwich questioned the replacement of "seised" with more modern terminology, as there is a body of law based on the word "seised." Mr. Wade said the recodification work group expressed no concerns about removal of that term but that staff will check with the work group.

Lines 101–104: Mr. Wade explained that the substantive change regarding the number of jurors required to concur in the verdict after an inquest is recommended because the section contains conflicting requirements. The Treasury Department and Office of the Attorney General agree with the recommendation to use a majority vote. Ms. Walsh stated there is no case law on this matter and that her research had indicated the intent of the General Assembly was to use a majority vote.

Mr. Miller proposed that the Commission recommend changing the number of jurors required to return a verdict to a majority as proposed by staff. The change will be highlighted in the recodification report as a substantive change. Ellen Coates, Assistant Attorney General, stated that it has been a very long time since this process has been used to escheat a property.

Senator McDougle proposed that the Commission recommend seven as the required number of jurors and draft a separate Commission bill to change seven to a majority. He stated that making substantive changes in Commission bills undermines the way General Assembly members consider those bills.

After discussion, Senator Edwards determined that the review of the remainder of the subtitle should continue and this issue would be revisited.

Line 161: Rita Davis questioned the impact of deleting the phrase "if in written form" on a holdover lease that converts from a yearly agreement in writing to a month-to-month without being in writing. After discussion, the Commission decided to retain the phrase "if in written form."

At the request of Judge Lilley, Ms. Coates and Janet Carpenter, Department of the Treasury, explained and clarified the escheat process. Ms. Carpenter stated that since the law changed some years ago allowing localities to sell property for back taxes within two years, her office has not seen any escheats.

Senator Edwards directed staff to obtain information and background from escheators and persons involved in the addition of "majority" in 1988.

Chapter 2 - Uniform Disposition of Unclaimed Property Act.

Line 2: Mr. Miller questioned the addition of "uniform" to the chapter title, as the Virginia statute has not kept pace with the Uniform Law Commission's uniform acts. Mr. Wade suggested replacing "uniform" with "Virginia," and the Commission concurred.

Line 513: Ms. Davis suggested retaining the phrase "in his discretion" to have a standard for review by a circuit court. Mr. Wade and Ms. Walsh explained that use of the word "may" on line 512 set the standard for review.

Lines 657–658: Mr. Vucci stated that before Senator McDougle left, he expressed a concern about the reference to "a newspaper of general circulation in the county or city where the property is to be sold," as many small localities no longer have papers. Mr. Wade explained that newspapers such as the *Richmond Times-Dispatch* and the *Virginia Pilot* would qualify, as each is a newspaper of "general circulation" in a locality.

Chapter 3 - Property Loaned to Museums. Mr. Wade advised that all changes in this chapter were technical.

Chapter 4 - Drift Property.

Lines 17–46: Mr. Wade stated that §§ 55-202 through 55-206 are repealed as obsolete.

Chapter 5 - Trespasses; Fences.

Line 80: Senator Edwards questioned changing "creep" to "pass." Mr. Vucci advised that Senator McDougle had the same question. After discussion, the Commission determined to leave "pass," as it includes "creep."

Line 130: Mr. Towell asked if the addition of the phrase "of general circulation in such county" imposed a greater publication burden. Ms. Walsh indicated that it would; staff was attempting to make it consistent with similar requirements in other sections. Mr. Wade added that this provision concerns an important declaration that requires adequate notice.

Lines 224–233: Mr. Towell asked if jurisdiction would always be in general district court, no matter the dollar value. Mr. Wade stated that staff will research the limits of damages. Ms. Davis stated that the changes seem to eliminate the requirement that an owner get a warrant within three days. Ms.

Walsh advised that the work group felt three days was not practical. Mr. Wade explained that the change also was to modernize the provision to reflect current practice and stated that staff will revisit the provision.

Lines 242–246: Delegate Leftwich stated that the changes regarding how a governing body may make local fence law appear to be substantive. Ms. Walsh stated that in the past, the Commission has included substantive changes in a recodification bill. The changes are listed prominently at the beginning of the recodification report in the Executive Summary. Ms. Walsh explained that "by ordinance" was added because under Title 15.2, counties act by ordinance, resolution, or motion and not by declaration, and the addition clarifies existing law. After discussion, Senator Edwards directed staff to check with stakeholders, such as the Virginia Municipal League and the Virginia Association of Counties.

Line 402: Mr. Wade stated that this reference to "a newspaper having general circulation" will be reviewed with similar provisions previously discussed.

Chapter 6 - Virginia Self-Service Storage Act.

Delegate Leftwich asked whether portable storage units, often called PODS, fall under this Act, particularly those that are transferred to a large warehouse for storage. Ms. Walsh stated that staff will research the issue and report to the Commission at a later meeting.

Lines 180–183: Ms. Walsh informed the Commission that there are six savings clauses in the Code of Virginia and generally they are very old. In this case, the date is July 1, 1981. The Commission discussed whether there could be a rental agreement entered into before July 1, 1981, that is still in effect somewhere in Virginia. After discussion, the Commission determined not to repeal the savings clause provision.

Status of 2018 Code Commission–related bills: Karen Perrine reviewed the chart of Code Commission–related bills in the 2018 Session of the General Assembly. The bills recommended by the Commission relating to Title 23.1 recodification cleanup, obsolete election laws, obsolete provisions and venue in criminal cases in Title 16.2 or 17.1, notification of withholding orders, and time frame for a hearing officer's report passed. As previously discussed, Senate Bill 50 was continued to 2019 in the Senate Committee for Courts of Justice.

House Bill 246 regarding the duties of the Commission was continued to 2019 in the Senate Committee on Rules. House Bill 413 and Senate Bill 603 were based on the report regarding the use of gender-specific and gender-neutral language that was presented to the Commission at its October 2017 meeting; neither bill passed.

Other business: Mark Vucci stated that the terms of Mr. Nolen and Judge Lilley on the Commission expire this summer. Under § 30-145 A 5 of the Code of Virginia, the Commission may recommend the appointment of a citizen member. Both appointments are made by the Speaker of the House. Mr. Moncure moved that the Commission request that the Speaker reappoint Mr. Nolen and Judge Lilley. Mr. Towell seconded, and the motion passed.

Public comment, adjournment: Senator Edwards opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting was adjourned.

The next meeting is Monday, June 18, 2018, at 10 a.m. in the Speaker's Conference Room, 6th Floor, Pocahontas Building.