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Wade, Amigo

### **SUMMARY**

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

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**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

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

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

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

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

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

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

**§ 2.2-4001. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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### **SUMMARY**

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



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Wade, Amigo

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

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

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

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

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

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

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

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

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

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

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

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

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# CODE OF VIRGINIA

## 1950

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### 2016 Cumulative Supplement

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### ANNOTATED

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*Prepared under the Supervision of*

The Virginia Code Commission

BY

The Editorial Staff of the Publishers



### VOLUME 1

2014 REPLACEMENT

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

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



## Virginia Code Commission Responsibilities in Publishing the Code of Virginia

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

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**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

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

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

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

**§ 13.1-543. Definitions.**

A. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

## 126 § 13.1-1102. Definitions.

127 A. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

228 D. All terms shall begin July 1.

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

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

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

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

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

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

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

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

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

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

261 The Council shall:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

**§ 23.1-712. Payroll deductions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

589 A. Each covered institution may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

A. For purposes of this section:

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

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

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

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

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

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

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

**§ 23.1-2631. Executive director.**

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

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

**§ 23.1-2702. Powers and duties.**

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

B. The board may confer degrees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

**§ 23.1-3208. Regulations.**

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

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

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

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

**§ 23.1-3217. Board of trustees.**

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

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

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

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

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

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

**§ 25.1-100. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1259 #

To Whom It May Concern:

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

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

Sincerely,

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

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

## Gender-Specific Terms Sections Reviewed

2.2-213	16.1-69.40	38.2-3323	59.1-443.1
2.2-419	16.1-69.48:1	38.2-3407.12	59.1-444.2
2.2-1147.1	16.1-243	38.2-3432.1	60.2-219
2.2-3101	16.1-252	38.2-4019	60.2-608
2.2-3106	16.1-253	38.2-4107	60.2-608.2
2.2-3119	16.1-257	38.2-4132	60.2-618
2.2-3130	16.1-275	38.2-6200	62.1-201
2.2-4368	16.1-296	40.1-11.1	64.2-308.13
3.2-3300	16.1-302	40.1-28.9	64.2-557
4.1-212	17.1-400	40.1-122	64.2-900
8.01-40	22.1-30	46.2-334.01	64.2-905
8.01-52.1	22.1-79.6	46.2-335	64.2-1614
8.01-53	22.1-203	46.2-1096	64.2-1616
8.01-225	22.1-287	46.2-1500	64.2-1900
8.01-298	22.1-288.2	51.1-512.1	64.2-2401
8.01-341.1	22.1-294	51.5-53	67-1403
8.01-512.3	22.1-305	54.1-1101	
8.01-581.20:1	22.1-315	54.1-2800	
8.01-623	22.1-360	54.1-2986	
8.2A-103	27-40	54.1-3040.7	
8.2A-108	29.1-301	56-231.31	
8.2A-109	29.1-530.5	56-231.44	
8.2A-220	30-19.4	56-501.1	
8.2A-221	30-101	57-27.3	
8.2A-306	32.1-102.3:2	58.1-324	
8.2A-310	32.1-127.1:03	58.1-326	
8.2A-401	32.1-138	58.1-339.8	
8.2A-504	32.1-162.1	58.1-341	
8.2A-507	32.1-162.16	58.1-344.3	
8.2A-511	32.1-283	58.1-344.4	
8.9A-102	32.1-369	58.1-490	
13.1-704	32.1-370	58.1-499	
15.2-1507	32.1-371	58.1-520	
15.2-1512.2	33.2-3100	58.1-525	
15.2-2244	37.2-718	58.1-2403	
15.2-2611	38.2-602	58.1-3221.2	
15.2-3542	38.2-2204	59.1-21.10	
15.1-5405	38.2-2212	59.1-138	
15.2-6020	38.2-2903	59.1-332	
15.2-6024	38.2-2906	59.1-352.1	
16.1-69.23	38.2-3105	59.1-365	

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SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1           **§ 2.2-1147.1. Right to breast-feed.**

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

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

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

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

9           1. through 3. [Repealed.]

10          4. A mariner actually employed in maritime service;

11          5. through 7. [Repealed.]

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

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

17          10. Any person over 70 years of age;

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

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

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



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

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

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

47           **Drafting note: No change recommended.**  
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49           **§ 2.2-3130. Attendance requirements.**

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

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

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

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

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

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

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

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

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73        **§ 2.2-4368. Definitions.**

74        As used in this article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

143 (1) Be a party to an action;

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

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

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

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

152 he shall not take cognizance thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

225 **§ 64.2-900. Definitions.**

226 As used in this chapter:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

## **Title 55.1 Proposed Subtitles**

### **Subtitle I Real Estate Conveyances**

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

### **Subtitle II Real Estate Settlements and Recordation**

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

### **Subtitle III Rental Conveyances**

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

## **Title 55.1 Proposed Subtitles**

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

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

**Title 55 Recodification Work Group  
By Selected Sub-Work Group**

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Brian M. Gordon (Virginia Apartment and Office Building Association)  
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Lucia Anna Trigiani (Mercer Trigiani)  
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Hon. John Frey (Clerk of the Circuit Court, Fairfax County)  
Mary Broz Vaughan (DPOR)  
Lucia Anna Trigiani (Mercer Trigiani)  
Edward Mullen (Reed Smith)  
David Mercer (Mercer Trigiani)  
Benjamin D. Leigh (Atwill, Troxell & Leigh, P.C.)  
Phil Abraham (Vectre Corporation)  
Ann K. Crenshaw (Kaufman & Canoles)  
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## **Subtitle III. Rental Conveyances**



For presentation 11/21/16

### **Part A. Residential Tenancies**

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

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

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

### **Part B. Commercial and Other Tenancies**

**Chapter XX (4) Manufactured Home Lot Rental Act**

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

**Chapter XX (6) Commercial Tenancies**

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

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

**PART B.****COMMERCIAL AND OTHER TENANCIES.**

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

**CHAPTER ~~13.3~~ XX. [4]****MANUFACTURED HOME LOT RENTAL ACT.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

The landlord shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. A landlord shall not demand or collect:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

**Drafting note: No change.**

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

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

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

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

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

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

**Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

2. The tenant is in default in rent; or

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

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

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

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

1. Nonpayment of rent;

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

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

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

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

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

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

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

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

§ 55.1-xxx. Transfer of deposits upon purchase.

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

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

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

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

**Drafting note: Technical changes.**

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

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

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

CHAPTER XX. [6]COMMERCIAL TENANCIES.

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

Article 1.In General.

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

§ 55.1-xxx. Applicability.

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

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

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

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

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

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

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

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

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

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

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

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

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

63 A. As used in this section:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

§ 55.1-xxx. Transfer of deposits upon purchase.

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

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

Article 2.

Assignments.

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

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

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

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

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

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

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

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

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

**Drafting note: Existing § 55-220 is duplicated here and in Chapter XX [1] as § 55.1-xxx because it applies to both residential and commercial tenancies. A technical change is made.**

§ 55.1-xxx. When attornment void.

The attornment of a tenant to any stranger is void, unless it is with the consent of the landlord of such tenant or pursuant to or in consequence of the judgment, order, or decree of a court.

**Drafting note: Existing § 55-221 is duplicated here and in Chapter XX [1] as § 55.1-xxx because it applies to both residential and commercial tenancies. A technical change is made.**

Article 3.

Landlord Obligations.

**Drafting note: Proposed Article 3 relocates or duplicates sections from existing Chapter 13 relating to the obligations of landlords in commercial tenancy agreements.**

§ 55.1-xxx. Notice to terminate a tenancy; on whom served; when necessary.

A tenancy from year to year may be terminated by either party giving three months' notice, in writing, prior to the end of any year of the tenancy, of his intention to terminate the same. A tenancy from month to month may be terminated by either party giving 30 days' notice in writing, prior to the next rent due date, of his intention to terminate the same, unless the rental agreement provides for a different notice period. Written notice of termination shall be given in accordance with this chapter.

**Drafting note: Existing subsection A of § 55-222 is duplicated here and in Chapter XX [3] as § 55.1-xxx because it applies to both residential tenancies not governed by the VRLTA and commercial tenancies.**

§ 55.1-xxx. Buildings destroyed or lessee deprived of possession; covenant to pay rent or repair; reduction of rent.

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

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

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

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

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

#### Article 4.

#### Landlord Remedies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

328 #

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

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

**Chapter 2. Houses of Prostitution, etc.**

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

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

## Chart of Title 62.1 Obsolete Statutes Recommended for Repeal

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

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

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

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

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

## Chart of Title 5.1-Related Obsolete Statutes Recommended for Repeal

11/21/16

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

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Jamerson, Beth

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

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

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

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

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

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

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

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



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Jamerson, Beth

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91 #

## Virginia Code Commission Legislation - 2017 Session of the General Assembly

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