

HOUSE BILL NO. 1758

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Webert)

A BILL to amend and reenact § 2.2-3705.7 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-1502.2, relating to Department of Planning and Budget; Virginia Regulatory Sandbox Program; created.

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

**1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-1502.2 as follows:**

**§ 2.2-1502.2. Virginia Regulatory Sandbox Program.**

A. As used in this section:

"Applicable agency" means a department or agency of the Commonwealth that by law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses, certificates of public need, or other types of authorization, which the Department determines would otherwise regulate a participant in the Program.

"Applicant" means an individual or business that is applying to participate in the Program.

"Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

"Consumer" means a person, business, or organization that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a sandbox participant.

"Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the Program.

27 "Department" means the Department of Planning and Budget.

28 "Director" means the Director of the Department.

29 "Financial product or service" means a product or service that supports the provision of banking  
30 or financial services, including those products or services that (i) require a state license or registration or  
31 (ii) include a business model, delivery mechanism, or element that may require a state license or other  
32 authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 6.2, or  
33 other related provisions. "Financial product or service" does not include those products and services  
34 governed by the Securities Act (§ 13.1-501 et seq.).

35 "Hackathon" means a conference or meeting in collaboration with industry specialists with the  
36 express intention of solving specific concerns of a market within the Commonwealth or a region of the  
37 Commonwealth.

38 "Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a  
39 new use of existing technology, including blockchain technology, to address a problem, provide a benefit,  
40 or otherwise offer a product, service, business model, or delivery mechanism to consumers.

41 "Innovative offering" means an offering that includes an innovation.

42 "Offering" means a product, production method, or service. "Offering" does not include those  
43 products and services governed by the Securities Act (§ 13.1-501 et seq.).

44 "Participant" means a person whose application to participate in the Program is approved in  
45 accordance with the provisions of this section.

46 "Product" means a commercially distributed good that is (i) tangible personal property, (ii) the  
47 result of a production process, and (iii) passed through the distribution channel before consumption.

48 "Production" means the method or process of creating or obtaining a good, which may include  
49 assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing,  
50 harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.

51 "Program" means the Virginia Regulatory Sandbox Program created by this section, which allows  
52 a person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws  
53 or regulations.

54 B. There is created within the Department the Virginia Regulatory Sandbox Program. With respect  
55 to the Program, the Department shall (i) administer the provisions of this section pursuant to the Program  
56 and (ii) act as a liaison between private businesses and applicable agencies to identify state laws or  
57 regulations that could potentially be waived or suspended under the Program.

58 The Department may:

59 1. Review state laws and regulations that may inhibit the creation and success of new businesses  
60 or industries and provide recommendations to the Governor and the General Assembly on modifying such  
61 state laws or regulations;

62 2. Create a framework for analyzing the risk level to the health, safety, and financial well-being of  
63 consumers related to permanently removing or temporarily waiving laws and regulations that may be  
64 inhibiting the creation or success of new and existing businesses or industries;

65 3. Propose potential reciprocity agreements between states that have established or are proposing  
66 to establish programs similar to that established in this section;

67 4. Make rules regarding the administration of the Program, including making rules regarding the  
68 application process and the reporting requirements of participants;

69 5. Create an advisory committee whose membership, appointed by the Director, shall represent a  
70 variety of business and industry interests, applicable agencies, and the General Assembly, and whose sole  
71 purpose is to make recommendations to the Department in the review of applications for participation in  
72 the Program; and

73 6. Cooperate and consult with applicable agencies in the administration of the Program.

74 C. In administering the Program, the Department (i) shall (a) consult with each applicable agency  
75 and (b) establish procedures to enable a person or business to obtain legal protections and limited access  
76 to the market in the Commonwealth to test an innovative offering without obtaining a license or other  
77 authorization that might otherwise be required and (ii) may (a) enter into agreements with or adopt the  
78 best practices of corresponding federal regulatory agencies or other states that are administering similar  
79 programs; (b) consult with businesses in the Commonwealth about existing or potential proposals for the  
80 Program; and (c) host or participate in industry hackathons or conferences to aid in the development of

81 innovative offerings for use within the Program. Nothing in this section shall be deemed to waive any  
82 licensure, certification, or registration requirements by the Department of Health Professions.

83 D. Any individual or business seeking to participate in the Program shall submit an application,  
84 on a form prescribed by the Department for this purpose, for the innovative offering that the applicant  
85 seeks to demonstrate. A separate application shall be submitted for each innovative offering. The  
86 Department may require payment of an application fee in an amount not to exceed \$50. The application  
87 for participation in the Program shall require the applicant to:

- 88 1. Confirm the applicant is subject to the jurisdiction of the Commonwealth;
- 89 2. Confirm that the applicant has established a physical or virtual location that is adequately  
90 accessible to the Department and from which the demonstration of an innovative offering will be  
91 developed and performed and where all required records, documents, and data will be maintained;
- 92 3. Confirm that the applicant has the necessary personnel, financial and technical expertise, and  
93 access to capital and a developed plan to test, monitor, and assess the demonstration of an innovative  
94 offering;
- 95 4. Disclose any criminal convictions of the applicant and any participating personnel;
- 96 5. Identify the applicable agencies that regulate the applicant's business or industry;
- 97 6. Provide a description of the innovative offering to be demonstrated. Such description shall  
98 include statements regarding the following:
  - 99 a. How the offering is subject to licensing, legal prohibition, or other authorization requirements  
100 outside of the Program, including a specific list of all state laws, regulations, and licensing or other  
101 requirements that the applicant is seeking to have waived or suspended during the demonstration period;
  - 102 b. How the offering would benefit consumers;
  - 103 c. How the offering is different from other offerings available in the Commonwealth;
  - 104 d. The potential risks to consumers that use or purchase the offering;
  - 105 e. How participating in the Program would enable a successful demonstration of the offering; and

106 f. How the applicant will end the demonstration and protect consumers if the demonstration fails,  
107 including providing evidence of sufficient liability coverage and financial reserves to protect consumers  
108 and to protect against insolvency by the applicant;

109 7. Provide a description of the proposed demonstration plan, including estimated time periods for  
110 initiating and concluding the demonstration and obtaining necessary licensure or authorizations after the  
111 conclusion of the demonstration;

112 8. Provide an overview of the applicant's ongoing duties, if any, and how the applicant will perform  
113 such duties after the conclusion of the demonstration; and

114 9. Provide any additional information requested or required by the Department.

115 E. 1. After an application is filed and before approving an application, the Department may seek  
116 any additional information from the applicant that the Department, from its own research or in consultation  
117 with the applicable agencies, determines is necessary, including (i) proof of sufficient assets, accounts,  
118 liability coverage, surety bond coverage, or other preparation by the applicant to ensure that consumers  
119 are protected and that the applicant will be able to cover ongoing duties, if any, when the demonstration  
120 ends or if the demonstration ends early and (ii) industry ratings and past performance of the applicant.

121 The Department shall inform the applicant as to whether the application is approved for entry into  
122 the Program no later than 90 days after a complete application is received by the Department. However,  
123 the Department and an applicant may mutually agree to extend the 90-day period for the Department to  
124 determine whether an application is approved. In reviewing an application pursuant to this subsection, the  
125 Department may consult with each applicable agency before admitting an applicant into the Program,  
126 including seeking information about whether:

127 a. The applicable agency has previously issued a license or other authorization to the applicant;

128 b. The applicable agency has previously investigated, sanctioned, or pursued legal action against  
129 the applicant;

130 c. Whether the applicant could obtain a license or other authorization from the applicable agency  
131 after exiting the Program; or

132 d. Whether certain licensures, authorizations, or other laws or regulations should not be waived  
133 even if the applicant is accepted into the Program.

134 2. No later than 30 days after the day on which applicable agency has been consulted or asked to  
135 review an application to the Program, the applicable agency shall provide a written report of its findings  
136 to the Director. The report shall (i) describe any identifiable, likely, and significant harm to the health,  
137 safety, or financial well-being of consumers that the relevant licensure, authorization, law, or regulation  
138 protects against and (ii) make a recommendation to the Department that the applicant's participation in the  
139 Program be approved or denied. If the applicable agency recommends that an applicant be denied  
140 participation in the Program, the written report shall include a description of the reason for the  
141 recommendation, including why a temporary waiver or suspension of the relevant licensure,  
142 authorizations, laws, or regulations would potentially significantly harm the health, safety, or financial  
143 well-being of consumers of the public and the likelihood of such harm occurring. If the applicable agency  
144 determines that the health, safety, or well-being of consumers or the public can be protected through less  
145 restrictive means than the existing licensure, authorizations, laws, or regulations, then the applicable  
146 agency shall provide a recommendation of how that can be achieved within the context of the Program. If  
147 an applicable agency fails to provide a written report as described in this subsection, the Director shall  
148 assume that the applicable agency does not object to the temporary waiver or suspension of the relevant  
149 licensure, authorizations, laws, or regulations for an applicant seeking to participate in the Program.

150 In reviewing an application pursuant to this subsection, the Department shall consider whether a  
151 competitor to the applicant is or has been a Program participant and, if so, weigh that as a factor in favor  
152 of allowing the applicant to also become a participant. An applicant becomes a Program participant if and  
153 when the Director, in consultation with the Joint Commission on Administrative Rules, approves  
154 admission into the Program and enters into a written agreement with the applicant describing the specific  
155 licensure, authorizations, laws, or regulations that are waived or suspended as part of participation in the  
156 Program. When an applicant is approved for participation in the Program, the director may provide notice  
157 of the approval to competitors of the applicant and to the public.

158 3. Notwithstanding any other provision of this section, and within the 90-day period described in  
159 this subsection, the Director may deny any application if the Director determines, in consultation with the  
160 Joint Commission on Administrative Rules, that:

161 a. The applicant's offering fails to comply with standards and specifications (i) required by federal  
162 law or regulation or (ii) previously approved for use by a federal agency;

163 b. An applicant or participant has been convicted of, entered a plea of nolo contendere for, or  
164 entered a plea of guilty or nolo contendere held in abeyance for a crime (i) involving theft, fraud, or  
165 dishonesty or (ii) that bears a substantial relationship to the applicant's ability to safely or competently  
166 participate in the Program; or

167 c. An applicant's participation in the program is deemed to create a substantial risk of harm to the  
168 health, safety, or financial well-being of the public, or create an unreasonable expense for taxpayers in the  
169 Commonwealth, including the Director's assessment of the applicant's ability to protect consumers in the  
170 case of a failed demonstration or at the end of the demonstration period.

171 If the Department denies an application submitted pursuant to this subsection, the Department shall  
172 provide to the applicant a written description of the reason for the denial within the same 90-day period  
173 described in this subsection.

174 If the Director determines that a participant has engaged in, is engaging in, or is about to engage  
175 in any practice or transaction that is in violation of this subsection, that constitutes a violation of a law or  
176 regulation for which suspension or waiver has not been granted, or that constitutes a violation of a state  
177 or federal criminal law, the Director may immediately remove the participant from the Program. The  
178 denial of an application submitted pursuant to this subsection is not subject to agency or judicial review.

179 Notwithstanding any other provision of this section, the Department may not enter into a written  
180 agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the  
181 Department of Taxation or that is described in Title 58.1.

182 F. 1. If the Director approves an application under subsection E, the participant has 24 months  
183 after the day on which the application was approved to demonstrate the offering described in the  
184 participant's application. The Department and a participant may mutually agree to extend such 24-month

185 period if deemed appropriate to the successful demonstration of an innovative offering. Such agreement  
186 shall not extend beyond 30 months from the participant's date of entry into the Program.

187 A participant demonstrating an innovative offering within the Program is subject to the following:

188 a. Consumers shall be residents of the Commonwealth;

189 b. No law or regulation may be waived or suspended if doing so would prevent a consumer from  
190 seeking restitution in the event that the consumer is harmed; and

191 c. The Department may, on a case-by-case basis, specify liability coverage requirements and  
192 minimum financial reserve requirements that the participant shall meet during the demonstration of the  
193 innovative offering.

194 This subsection does not restrict a participant who holds a license or other authorization in another  
195 jurisdiction from acting in accordance with that license or other authorization.

196 A participant, solely by way of being a participant in the Program, is deemed to possess an  
197 appropriate license or authorization under the laws of the Commonwealth for the purposes of any  
198 provision of federal law requiring state licensure or authorization for the duration of the demonstration  
199 period.

200 2. Notwithstanding any other provision of this section, a participant does not have immunity  
201 related to any criminal offense committed during the participant's participation in the Program; however:

202 a. A participant that is demonstrating an innovative offering within the context of the Program is  
203 not subject to state laws, regulations, licensing requirements, or authorization requirements that were  
204 identified in the written agreement between the Department and the participant pursuant to subsection E;

205 b. An attorney for the Commonwealth or the Attorney General may not file or pursue charges  
206 pertaining to a law or regulation identified in the written agreement between the Department and  
207 participant pursuant to subsection E that occurs during the demonstration period; and

208 c. A state agency may not file or pursue any punitive action against a participant, including a fine  
209 or license suspension or revocation, for the violation of a law or regulation that (i) is identified as being  
210 waived or suspended in the written agreement between the Department and the participant pursuant to  
211 subsection E and (ii) occurs during the demonstration period.



212 By written notice, the Department may end a participant's participation in the Program at any time  
213 and for any reason, including if the Director determines a participant is not operating in good faith to bring  
214 an innovative offering to market in the Commonwealth. The Department and the employees of any  
215 applicable agency or related department are not liable for any business losses, or the recouping of  
216 application expenses, related to the Program, including in the cases of (a) denying an applicant's  
217 application to participate in the Program for any reason or (b) ending a participant's participation in the  
218 Program at any time.

219 G. Prior to providing an innovative offering to a consumer, a participant shall disclose the  
220 following to the consumer:

- 221 1. The name and contact information of the participant;
- 222 2. That the offering is authorized pursuant to the Program;
- 223 3. That the offering is undergoing demonstration and may not function as intended, potentially  
224 exposing the consumer to risk;
- 225 4. That the provider of the offering is not immune from civil liability for any losses or damages  
226 caused by the offering;
- 227 5. That the participant is not immune from criminal prosecution for violations of state law or  
228 regulations that are not suspended or waived as permitted by the Program;
- 229 6. That the Commonwealth does not endorse or recommend the offering;
- 230 7. That the offering is a temporary demonstration that may be discontinued at the end of the  
231 demonstration period;
- 232 8. The expected end date of the demonstration period; and
- 233 9. That a consumer may contact the Department to file a complaint regarding the offering being  
234 demonstrated and provide the Department's telephone number and website address where a complaint  
235 may be filed.

236 Such required disclosures shall be provided to a consumer in a clear and conspicuous manner and,  
237 for an Internet or application-based offering, a consumer shall acknowledge receipt of the disclosure

238 before a transaction may be completed. The Department may require that a participant make additional  
239 disclosures to a consumer.

240 H. Not later than 30 days before the end of the Program demonstration period, a participant may  
241 request an extension of the testing period for the purpose of obtaining a license or other authorization  
242 required by law. The Department shall grant or deny a request for an extension by the end of the Program  
243 demonstration period. The Department may grant an extension in accordance with this subsection for not  
244 more than six months after the end of the Program demonstration period.

245 A participant that obtains an extension in accordance with this subsection shall provide the  
246 Department with a written report every three months that provides an update on efforts to obtain a license  
247 or other authorization required by law, including any submitted applications for licensure or other  
248 authorizations, rejected applications, or issued licenses or other authorizations.

249 I. A participant shall retain records, documents, and data produced in the ordinary course of  
250 business regarding the innovative offering demonstrated in the Program. If an innovative offering fails or  
251 ceases to provide an offering before the end of the demonstration period, the participant shall notify the  
252 Department and report on actions taken by the participant to ensure that consumers have not been harmed  
253 as a result.

254 The Department shall establish quarterly reporting requirements for a participant, including  
255 information about any consumer complaints. The Department may request records, documents, and data  
256 from a participant, and, upon the Department's request, a participant shall make such records, documents,  
257 and data available for inspection by the Department. The participant shall notify the Department and each  
258 applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a  
259 consumer. If the participant fails to notify the Department and each applicable agency of any incidents  
260 pursuant to this subsection, or the Department or an applicable agency has evidence that significant harm  
261 to a consumer has occurred, the Director may immediately remove the participant from the Program.

262 No later than 30 days after the day on which the participant exits the Program, the participant shall  
263 submit a written report to the Department providing an overview of the participant's demonstration,  
264 including any:

- 265 1. Incidents of harm to consumers;  
266 2. Legal action filed against the participant as a result of the participant's demonstration; and  
267 3. Complaints filed with the Department or an applicable agency as a result of the participant's  
268 demonstration.

269 By October 1 of each year, the Director shall report to the General Assembly (i) information  
270 regarding each Program participant, including which industries each participant represents and the  
271 anticipated or actual cost savings that each participant experienced; (ii) information regarding outcomes  
272 for consumers; and (iii) recommendations regarding the effectiveness of the Program or the permanent  
273 modification of any laws or regulations that should be permanently modified.

274 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and**  
275 **certain other limited exclusions.**

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

280 1. State income, business, and estate tax returns, personal property tax returns, and confidential  
281 records held pursuant to § 58.1-3.

282 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or  
283 the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the  
284 Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any  
285 political subdivision of the Commonwealth; or the president or other chief executive officer of any public  
286 institution of higher education in the Commonwealth. However, no information that is otherwise open to  
287 inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or  
288 incorporated within any working paper or correspondence. Further, information publicly available or not  
289 otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated,  
290 combined, or changed in format without substantive analysis or revision shall not be deemed working

291 papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or  
292 applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

293 As used in this subdivision:

294 "Members of the General Assembly" means each member of the Senate of Virginia and the House  
295 of Delegates and their legislative aides when working on behalf of such member.

296 "Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of  
297 policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those  
298 individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

299 "Working papers" means those records prepared by or for a public official identified in this  
300 subdivision for his personal or deliberative use.

301 3. Information contained in library records that can be used to identify (i) both (a) any library  
302 patron who has borrowed or accessed material or resources from a library and (b) the material or resources  
303 such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of  
304 clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such  
305 library patron.

306 4. Contract cost estimates prepared for the confidential use of the Department of Transportation in  
307 awarding contracts for construction or the purchase of goods or services, and records and automated  
308 systems prepared for the Department's Bid Analysis and Monitoring Program.

309 5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth,  
310 whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by  
311 the political subdivision.

312 6. Information furnished by a member of the General Assembly to a meeting of a standing  
313 committee, special committee, or subcommittee of his house established solely for the purpose of  
314 reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of  
315 formulating advisory opinions to members on standards of conduct, or both.

316 7. Customer account information of a public utility affiliated with a political subdivision of the  
317 Commonwealth, including the customer's name and service address, but excluding the amount of utility  
318 service provided and the amount of money charged or paid for such utility service.

319 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development  
320 Authority concerning individuals who have applied for or received loans or other housing assistance or  
321 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by  
322 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the  
323 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and  
324 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting  
325 list for housing assistance programs funded by local governments or by any such authority; or (iv) filed  
326 with any local redevelopment and housing authority created pursuant to § 36-4 or any other local  
327 government agency concerning persons who have applied for occupancy or who have occupied affordable  
328 dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own  
329 information shall not be denied.

330 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-  
331 1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a  
332 governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

333 10. Information on the site-specific location of rare, threatened, endangered, or otherwise  
334 imperiled plant and animal species, natural communities, caves, and significant historic and archaeological  
335 sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the  
336 information would jeopardize the continued existence or the integrity of the resource. This exclusion shall  
337 not apply to requests from the owner of the land upon which the resource is located.

338 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a  
339 proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a  
340 specific lottery game design, development, production, operation, ticket price, prize structure, manner of  
341 selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of  
342 drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such

343 information not been publicly released, published, copyrighted, or patented. Whether released, published,  
344 or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon  
345 the first day of sales for the specific lottery game to which it pertains.

346 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a  
347 local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of  
348 a trust established by one or more local public bodies to invest funds for post-retirement benefits other  
349 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the  
350 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors  
351 of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College  
352 Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security  
353 or other ownership interest in an entity, where such security or ownership interest is not traded on a  
354 governmentally regulated securities exchange, if disclosure of such information would (i) reveal  
355 confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the  
356 board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a  
357 local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement  
358 system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise  
359 of confidentiality of the future value of such ownership interest or the future financial performance of the  
360 entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of  
361 by the retirement system, a local finance board or board of trustees, the board of visitors of the University  
362 of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College  
363 Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information  
364 relating to the identity of any investment held, the amount invested, or the present value of such  
365 investment.

366 13. Financial, medical, rehabilitative, and other personal information concerning applicants for or  
367 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority  
368 under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

369 14. Information held by the Virginia Commonwealth University Health System Authority  
370 pertaining to any of the following: an individual's qualifications for or continued membership on its  
371 medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from  
372 third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use  
373 in awarding contracts for construction or the purchase of goods or services; information of a proprietary  
374 nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial  
375 statements not publicly available that may be filed with the Authority from third parties; the identity,  
376 accounts, or account status of any customer of the Authority; consulting or other reports paid for by the  
377 Authority to assist the Authority in connection with its strategic planning and goals; the determination of  
378 marketing and operational strategies where disclosure of such strategies would be harmful to the  
379 competitive position of the Authority; and information of a proprietary nature produced or collected by or  
380 for employees of the Authority, other than the Authority's financial or administrative records, in the  
381 conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether  
382 sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when  
383 such information has not been publicly released, published, copyrighted, or patented. This exclusion shall  
384 also apply when such information is in the possession of Virginia Commonwealth University.

385 15. Information held by the Department of Environmental Quality, the State Water Control Board,  
386 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active  
387 federal environmental enforcement actions that are considered confidential under federal law and (ii)  
388 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such  
389 information shall be disclosed after a proposed sanction resulting from the investigation has been proposed  
390 to the director of the agency. This subdivision shall not be construed to prevent the disclosure of  
391 information related to inspection reports, notices of violation, and documents detailing the nature of any  
392 environmental contamination that may have occurred or similar documents.

393 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or  
394 travel itinerary, including vehicle identification data or vehicle enforcement system information; video or  
395 photographic images; Social Security or other identification numbers appearing on driver's licenses; credit

396 card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility  
397 use.

398 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax  
399 identification number, state sales tax number, home address and telephone number, personal and lottery  
400 banking account and transit numbers of a retailer, and financial information regarding the nonlottery  
401 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,  
402 hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10  
403 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing  
404 to such disclosure.

405 18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a  
406 person regulated by the Board, where such person has tested negative or has not been the subject of a  
407 disciplinary action by the Board for a positive test result.

408 19. Information pertaining to the planning, scheduling, and performance of examinations of holder  
409 records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by  
410 or for the State Treasurer or his agents or employees or persons employed to perform an audit or  
411 examination of holder records.

412 20. Information held by the Virginia Department of Emergency Management or a local governing  
413 body relating to citizen emergency response teams established pursuant to an ordinance of a local  
414 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or  
415 operating schedule of an individual participant in the program.

416 21. Information held by state or local park and recreation departments and local and regional park  
417 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this  
418 subdivision shall operate to prevent the disclosure of information defined as directory information under  
419 regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g,  
420 unless the public body has undertaken the parental notification and opt-out requirements provided by such  
421 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such  
422 person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has



423 restricted or denied such access. For such information of persons who are emancipated, the right of access  
424 may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the  
425 information may waive, in writing, the protections afforded by this subdivision. If the protections are so  
426 waived, the public body shall open such information for inspection and copying.

427           22. Information submitted for inclusion in the Statewide Alert Network administered by the  
428 Department of Emergency Management that reveal names, physical addresses, email addresses, computer  
429 or internet protocol information, telephone numbers, pager numbers, other wireless or portable  
430 communications device information, or operating schedules of individuals or agencies, where the release  
431 of such information would compromise the security of the Statewide Alert Network or individuals  
432 participating in the Statewide Alert Network.

433           23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-  
434 913.

435           24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local  
436 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement  
437 system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

438           a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings  
439 Plan on the pursuit of particular investment strategies, or the selection or termination of investment  
440 managers, prior to the execution of such investment strategies or the selection or termination of such  
441 managers, if disclosure of such information would have an adverse impact on the financial interest of the  
442 retirement system or the Virginia College Savings Plan; and

443           b. Trade secrets provided by a private entity to the retirement system or the Virginia College  
444 Savings Plan if disclosure of such records would have an adverse impact on the financial interest of the  
445 retirement system or the Virginia College Savings Plan.

446           For the records specified in subdivision b to be excluded from the provisions of this chapter, the  
447 entity shall make a written request to the retirement system or the Virginia College Savings Plan:

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

- 450 (2) Identifying with specificity the data or other materials for which protection is sought; and
- 451 (3) Stating the reasons why protection is necessary.

452 The retirement system or the Virginia College Savings Plan shall determine whether the requested  
453 exclusion from disclosure meets the requirements set forth in subdivision b.

454 Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount  
455 of any investment held or the present value and performance of all asset classes and subclasses.

456 25. Information held by the Department of Corrections made confidential by former § 53.1-233.

457 26. Information maintained by the Department of the Treasury or participants in the Local  
458 Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the  
459 Department to establish accounts in accordance with § 2.2-4602.

460 27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident  
461 Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except  
462 that access shall not be denied to the person who is the subject of the information.

463 28. Information maintained in connection with fundraising activities by the Veterans Services  
464 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone  
465 number, social security number or other identification number appearing on a driver's license or other  
466 document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another  
467 jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be  
468 denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be  
469 construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the  
470 pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection  
471 with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall  
472 not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with  
473 the foundation for the performance of services or other work or (ii) the terms and conditions of such grants  
474 or contracts.

475 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in  
476 the training of state prosecutors or law-enforcement personnel, where such information is not otherwise

477 available to the public and the disclosure of such information would reveal confidential strategies,  
478 methods, or procedures to be employed in law-enforcement activities or materials created for the  
479 investigation and prosecution of a criminal case.

480 30. Information provided to the Department of Aviation by other entities of the Commonwealth in  
481 connection with the operation of aircraft where the information would not be subject to disclosure by the  
482 entity providing the information. The entity providing the information to the Department of Aviation shall  
483 identify the specific information to be protected and the applicable provision of this chapter that excludes  
484 the information from mandatory disclosure.

485 31. Information created or maintained by or on the behalf of the judicial performance evaluation  
486 program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

487 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases  
488 are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual  
489 child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child  
490 sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse,  
491 neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams  
492 established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed  
493 or published in statistical or other aggregated form that does not disclose the identity of specific  
494 individuals.

495 33. Information contained in the strategic plan, marketing plan, or operational plan prepared by  
496 the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target  
497 companies, specific allocation of resources and staff for marketing activities, and specific marketing  
498 activities that would reveal to the Commonwealth's competitors for economic development projects the  
499 strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest  
500 of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational  
501 plan shall not be redacted or withheld pursuant to this subdivision.

502 34. Information discussed in a closed session of the Physical Therapy Compact Commission or  
503 the Executive Board or other committees of the Commission for purposes set forth in subsection E of §  
504 54.1-3491.

505 35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the  
506 Authority), an advisory committee of the Authority, or any other entity designated by the Authority,  
507 relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment  
508 strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the  
509 Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such  
510 disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest  
511 of the Authority or a private entity.

512 36. Personal information provided to or obtained by the Virginia Lottery in connection with the  
513 voluntary exclusion program administered pursuant to § 58.1-4015.1.

514 37. Personal information provided to or obtained by the Virginia Lottery concerning the identity  
515 of any person reporting prohibited conduct pursuant to § 58.1-4043.

516 38. Any part of an application for participation in the Virginia Regulatory Sandbox Program  
517 pursuant to § 2.2-1502.2 that the Governor or his designee determines is nonpublic, confidential  
518 information that if disclosed would result in actual economic harm to the applicant. However, this  
519 subdivision shall not be construed to mean that a record evidencing a final contract or approval decision  
520 is excluded pursuant to this section.

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