

SENATE BILL NO. 463

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology

on _____)

(Patron Prior to Substitute--Senator Hackworth)

A BILL to amend and reenact §§ 2.2-204, 2.2-211, 19.2-389, 54.1-4400, 54.1-4402, 54.1-4403, 54.1-4407, 54.1-4412.1, 54.1-4413.4, 54.1-4421, and 54.1-4425 of the Code of Virginia and to repeal § 54.1-4420 of the Code of Virginia, relating to Board of Accountancy; powers and duties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-211, 19.2-389, 54.1-4400, 54.1-4402, 54.1-4403, 54.1-4407, 54.1-4412.1, 54.1-4413.4, 54.1-4421, and 54.1-4425 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Commonwealth of Virginia Innovation Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Energy, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, and Tobacco Region Revitalization Commission, ~~and Board of Accountancy~~. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-211. Position established; agencies for which responsible; additional powers.

A. The position of Secretary of Finance (the Secretary) is created. The Secretary shall be responsible for the following agencies: Department of Accounts, Department of Planning and Budget, Department of Taxation, Department of the Treasury, Board of Accountancy, and Virginia Resources

27 Authority. The Governor, by executive order, may assign any other state executive agency to the Secretary
28 of Finance, or reassign any agency listed.

29 B. To the greatest extent practicable, the agencies assigned to the Secretary shall pay all amounts
30 due and owing by the Commonwealth through electronic transfers of funds from the general fund or
31 appropriate special fund to the bank account of the payee or a party identified by law to receive funds on
32 behalf of the payee. All wire transfer costs associated with the electronic transfer shall be paid by the
33 payee subject to exemptions authorized by the State Treasurer affecting the investment, debt, and
34 intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and
35 authorities.

36 **§ 19.2-389. Dissemination of criminal history record information.**

37 A. Criminal history record information shall be disseminated, whether directly or through an
38 intermediary, only to:

39 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
40 purposes of the administration of criminal justice and the screening of an employment application or
41 review of employment by a criminal justice agency with respect to its own employees or applicants, and
42 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-
43 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, 4,
44 and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes
45 of this subdivision, criminal history record information includes information sent to the Central Criminal
46 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
47 time employee of the State Police, a police department or sheriff's office that is a part of or administered
48 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and
49 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for
50 the purposes of the administration of criminal justice;

51 2. Such other individuals and agencies that require criminal history record information to
52 implement a state or federal statute or executive order of the President of the United States or Governor
53 that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon

54 such conduct, except that information concerning the arrest of an individual may not be disseminated to a
55 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest
56 and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

57 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
58 provide services required for the administration of criminal justice pursuant to that agreement which shall
59 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
60 security and confidentiality of the data;

61 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
62 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
63 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
64 security of the data;

65 5. Agencies of state or federal government that are authorized by state or federal statute or
66 executive order of the President of the United States or Governor to conduct investigations determining
67 employment suitability or eligibility for security clearances allowing access to classified information;

68 6. Individuals and agencies where authorized by court order or court rule;

69 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
70 owned, operated or controlled by any political subdivision, and any public service corporation that
71 operates a public transit system owned by a local government for the conduct of investigations of
72 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
73 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
74 conviction record would be compatible with the nature of the employment, permit, or license under
75 consideration;

76 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)
77 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered
78 a position of employment whenever, in the interest of public welfare or safety and as authorized in the
79 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
80 with a conviction record would be compatible with the nature of the employment under consideration;

81 8. Public or private agencies when authorized or required by federal or state law or interstate
82 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult
83 members of that individual's household, with whom the agency is considering placing a child or from
84 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,
85 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall
86 not be further disseminated to any party other than a federal or state authority or court as may be required
87 to comply with an express requirement of law;

88 9. To the extent permitted by federal law or regulation, public service companies as defined in §
89 56-1, for the conduct of investigations of applicants for employment when such employment involves
90 personal contact with the public or when past criminal conduct of an applicant would be incompatible
91 with the nature of the employment under consideration;

92 10. The appropriate authority for purposes of granting citizenship and for purposes of international
93 travel, including, but not limited to, issuing visas and passports;

94 11. A person requesting a copy of his own criminal history record information as defined in § 9.1-
95 101 at his cost, except that criminal history record information shall be supplied at no charge to a person
96 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)
97 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent
98 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual
99 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line
100 program as defined in § 15.2-1713.1;

101 12. Administrators and board presidents of and applicants for licensure or registration as a child
102 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
103 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
104 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
105 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall
106 not be further disseminated by the facility or agency to any party other than the data subject, the
107 Commissioner of Social Services' representative or a federal or state authority or court as may be required

108 to comply with an express requirement of law for such further dissemination; however, nothing in this
109 subdivision shall be construed to prohibit the Commissioner of Social Services' representative from
110 issuing written certifications regarding the results of a background check that was conducted before July
111 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

112 13. The school boards of the Commonwealth for the purpose of screening individuals who are
113 offered or who accept public school employment and those current school board employees for whom a
114 report of arrest has been made pursuant to § 19.2-83.1;

115 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
116 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and
117 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in
118 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

119 15. Licensed nursing homes, hospitals and home care organizations for the conduct of
120 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-
121 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-
122 162.9:1, subject to the limitations set out in subsection E;

123 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
124 investigations of applicants for compensated employment in licensed assisted living facilities and licensed
125 adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

126 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set
127 forth in § 4.1-103.1;

128 18. The State Board of Elections and authorized officers and employees thereof and general
129 registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with
130 respect to voter registration, limited to any record of felony convictions;

131 19. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or
132 his designees for individuals who are committed to the custody of or being evaluated by the Commissioner
133 pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-

134 182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation,
135 treatment, or discharge planning;

136 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
137 Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders
138 under § 18.2-51.4, 18.2-266, or 18.2-266.1;

139 21. Residential facilities for juveniles regulated or operated by the Department of Social Services,
140 the Department of Education, or the Department of Behavioral Health and Developmental Services for
141 the purpose of determining applicants' fitness for employment or for providing volunteer or contractual
142 services;

143 22. The Department of Behavioral Health and Developmental Services and facilities operated by
144 the Department for the purpose of determining an individual's fitness for employment pursuant to
145 departmental instructions;

146 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
147 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
148 records information on behalf of such governing boards or administrators pursuant to a written agreement
149 with the Department of State Police;

150 24. Public institutions of higher education and nonprofit private institutions of higher education
151 for the purpose of screening individuals who are offered or accept employment;

152 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-
153 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution
154 of higher education, for the purpose of assessing or intervening with an individual whose behavior may
155 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
156 history record information obtained pursuant to this section or otherwise use any record of an individual
157 beyond the purpose that such disclosure was made to the threat assessment team;

158 26. Executive directors of community services boards or the personnel director serving the
159 community services board for the purpose of determining an individual's fitness for employment, approval
160 as a sponsored residential service provider, permission to enter into a shared living arrangement with a

161 person receiving medical assistance services pursuant to a waiver, or permission for any person under
162 contract with the community services board to serve in a direct care position on behalf of the community
163 services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

164 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
165 determining an individual's fitness for employment, approval as a sponsored residential service provider,
166 permission to enter into a shared living arrangement with a person receiving medical assistance services
167 pursuant to a waiver, or permission for any person under contract with the behavioral health authority to
168 serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-
169 506.1, and 37.2-607;

170 28. The Commissioner of Social Services for the purpose of locating persons who owe child
171 support or who are alleged in a pending paternity proceeding to be a putative father, provided that only
172 the name, address, demographics and social security number of the data subject shall be released;

173 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.)
174 of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
175 purpose of determining if any applicant who accepts employment in any direct care position or requests
176 approval as a sponsored residential service provider, permission to enter into a shared living arrangement
177 with a person receiving medical assistance services pursuant to a waiver, or permission for any person
178 under contract with the provider to serve in a direct care position has been convicted of a crime that affects
179 his fitness to have responsibility for the safety and well-being of individuals with mental illness,
180 intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and
181 37.2-607;

182 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating
183 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
184 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

185 31. The Chairman of the Senate Committee on the Judiciary or the Chairman of the House
186 Committee for Courts of Justice for the purpose of determining if any person being considered for election
187 to any judgeship has been convicted of a crime;

188 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
189 determining an individual's fitness for employment in positions designated as sensitive under Department
190 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

191 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
192 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
193 Violent Predators Act (§ 37.2-900 et seq.);

194 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
195 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
196 companies, for the conduct of investigations of applications for employment or for access to facilities, by
197 contractors, leased laborers, and other visitors;

198 35. Any employer of individuals whose employment requires that they enter the homes of others,
199 for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

200 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
201 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
202 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
203 subject to the restriction that the data shall not be further disseminated by the agency to any party other
204 than a federal or state authority or court as may be required to comply with an express requirement of law
205 for such further dissemination, subject to limitations set out in subsection G;

206 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
207 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
208 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid
209 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program
210 administered by the Department of Medical Assistance Services;

211 38. The State Corporation Commission for the purpose of investigating individuals who are current
212 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
213 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title
214 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on

215 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of
216 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the
217 applicant or its designee;

218 39. The Department of Professional and Occupational Regulation for the purpose of investigating
219 individuals for initial licensure pursuant to § 54.1-2106.1;

220 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
221 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and
222 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§
223 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

224 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

225 42. The State Treasurer for the purpose of determining whether a person receiving compensation
226 for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

227 43. The Department of Education or its agents or designees for the purpose of screening individuals
228 seeking to enter into a contract with the Department of Education or its agents or designees for the
229 provision of child care services for which child care subsidy payments may be provided;

230 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members
231 of a juvenile's household when completing a predispositional or postdispositional report required by §
232 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

233 45. The State Corporation Commission, for the purpose of screening applicants for insurance
234 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

235 46. Administrators and board presidents of and applicants for licensure or registration as a child
236 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
237 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
238 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
239 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
240 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
241 representative, or a federal or state authority or court as may be required to comply with an express

242 requirement of law for such further dissemination; however, nothing in this subdivision shall be construed
243 to prohibit the Superintendent of Public Instruction's representative from issuing written certifications
244 regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or §
245 22.1-289.039;

246 47. The National Center for Missing and Exploited Children for the purpose of screening
247 individuals who are offered or accept employment or will be providing volunteer or contractual services
248 with the National Center for Missing and Exploited Children;~~and~~

249 48. The Executive Director or investigators of the Board of Accountancy for the purpose of the
250 enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

251 49. Other entities as otherwise provided by law.

252 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
253 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
254 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
255 designated in the order on whom a report has been made under the provisions of this chapter.

256 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn
257 to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
258 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
259 copy of conviction data covering the person named in the request to the person making the request;
260 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
261 making of such request. A person receiving a copy of his own conviction data may utilize or further
262 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
263 subject, the person making the request shall be furnished at his cost a certification to that effect.

264 B. Use of criminal history record information disseminated to noncriminal justice agencies under
265 this section shall be limited to the purposes for which it was given and may not be disseminated further,
266 except as otherwise provided in subdivision A 46.

267 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
268 history record information for employment or licensing inquiries except as provided by law.

269 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
270 Exchange prior to dissemination of any criminal history record information on offenses required to be
271 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
272 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where
273 time is of the essence and the normal response time of the Exchange would exceed the necessary time
274 period. A criminal justice agency to whom a request has been made for the dissemination of criminal
275 history record information that is required to be reported to the Central Criminal Records Exchange may
276 direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of
277 information regarding offenses not required to be reported to the Exchange shall be made by the criminal
278 justice agency maintaining the record as required by § 15.2-1722.

279 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
280 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
281 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

282 F. Criminal history information provided to licensed assisted living facilities and licensed adult
283 day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
284 for any offense specified in § 63.2-1720.

285 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
286 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition
287 of barrier crime in § 19.2-392.02.

288 H. Upon receipt of a written request from an employer or prospective employer, the Central
289 Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported
290 to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named
291 in the request to the employer or prospective employer making the request, provided that the person on
292 whom the data is being obtained has consented in writing to the making of such request and has presented
293 a photo-identification to the employer or prospective employer. In the event no conviction data is
294 maintained on the person named in the request, the requesting employer or prospective employer shall be

295 furnished at his cost a certification to that effect. The criminal history record search shall be conducted on
296 forms provided by the Exchange.

297 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
298 information pursuant to the rules of court for obtaining discovery or for review by the court.

299 **§ 54.1-4400. Definitions.**

300 As used in this chapter, unless the context ~~clearly indicates otherwise~~ requires a different meaning:

301 "Accredited institution" means a degree-granting institution of higher education accredited either
302 by (i) one of the ~~six major~~ regional accrediting organizations, including the Middle States Association of
303 Colleges and Schools, New England Association Commission of Schools and Colleges Higher Education,
304 North Central Association of Colleges and Schools Higher Learning Commission, Northwest Commission
305 on Colleges and Universities, Southern Association of Colleges and Schools Commission on Colleges,
306 and Western Association of Schools and Colleges WASC Senior College and University Commission,
307 or their successors; or (ii) an accrediting organization demonstrating to the Board periodically, as
308 prescribed by the Board, that its accreditation process and standards are substantially equivalent to the
309 accreditation process and standards of the ~~six major~~ regional accrediting organizations.

310 "Assurance" means any form of expressed or implied opinion or conclusion about the conformity
311 of a financial statement with any recognition, measurement, presentation, or disclosure principles for
312 financial statements.

313 "Attest services" means audit, review, or other ~~attest services for which~~ engagements performed
314 in accordance with the standards that have been established by the Public Company Accounting Oversight
315 Board, by the Auditing Standards Board or the Accounting and Review Services Committee of the
316 American Institute of Certified Public Accountants, or by any successor standard-setting authorities.

317 "Board" means the Virginia Board of Accountancy.

318 "Compilation services" means compiling financial statements in accordance with standards
319 established by the American Institute of Certified Public Accountants or by any successor standard-setting
320 authorities.

321 "Continuing professional education" means the education that a person obtains after passing the
322 CPA examination and that relates to services provided to or on behalf of an employer in academia,
323 government, or industry or to services provided to the public.

324 "CPA" means certified public accountant.

325 "CPA examination" means the national uniform CPA examination approved and administered by
326 the board of accountancy of a state or by the board's designee.

327 "CPA wall certificate" means the symbolic document suitable for wall display that is issued by the
328 board of accountancy of a state to a person meeting the requirements to use the CPA title in that state.

329 "Executive Director" means the Executive Director of the Board.

330 "Experience" means employment in academia, a firm, government, or an industry in any capacity
331 involving the substantial use of accounting, financial, tax, or other skills that are relevant, as determined
332 by the Board, to provide services to or on behalf of an employer or to the public, ~~as~~ Such experience must
333 be verified by an active, licensed CPA.

334 "Facilitated State Board Access" or "FSBA" means the sponsoring organization's process whereby
335 it provides the Board access to peer review results via a secure website.

336 "Financial statement" means a presentation of historical or prospective financial information about
337 one or more persons or entities.

338 "Financial statement preparation services" means engaging a licensee in public practice for
339 financial statement preparation services for which executed in accordance with the standards have been
340 established by the Statements on Standards for Accounting and Review Services of the American Institute
341 of Certified Public Accountants or by any successor standard-setting authorities.

342 "Firm" means an entity formed by one or more licensees as a sole proprietorship, a partnership, a
343 corporation, a limited liability company, or any other type of entity permitted by law with the purpose of
344 providing professional services to the public.

345 "License of another state" means the license that is issued by the board of accountancy of a state
346 other than Virginia that gives a person the privilege of using the CPA title in that state or that gives a firm

347 the privilege of providing attest services, compilation services, and financial statement preparation
348 services to persons and entities located in that state.

349 "Licensed" means holding a Virginia license or the license of another state.

350 "Licensee" means a person or firm holding a Virginia license or the license of another state.

351 "Peer review" means a review of a firm's attest services, compilation services, and financial
352 statements preparation services that is conducted in accordance with the applicable monitoring program
353 of the American Institute of Certified Public Accountants or its successor, or with another monitoring
354 program approved by the Board.

355 "Practice of public accounting" means ~~the giving of an assurance other than (i) by the person or~~
356 ~~persons about whom the financial information is presented or (ii) by one or more owners, officers,~~
357 ~~employees, or members of the governing body of the entity or entities about whom the financial~~
358 ~~information is presented~~ performance of professional services for a client by a licensee or licensee's firm.

359 "Professional services" means all services requiring substantial use of accountancy or related skills
360 that are performed by a licensee for a client or for an employer. Such services are subject to the guidance
361 of the standard-setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6
362 of § 54.1-4413.3 or by any equivalent standard-setting authority as approved by the Board.

363 "Providing services to or on behalf of an employer" means ~~providing to or on behalf of an entity~~
364 ~~services that require the substantial use of accounting, financial, tax, or other skills that are relevant, as~~
365 ~~determined by the Board~~ the performance of professional services while employed or engaged on a
366 contractual basis by a licensee to or on behalf of an entity. "Providing services to or on behalf of an
367 employer" does not include a person or firm engaged in the practice of public accounting.

368 "Providing services to the public" means providing services that are subject to the guidance of the
369 standard-setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6 of §
370 54.1-4413.3 or by an equivalent standard-setting authority as approved by the Board.

371 "Sponsoring organization" means a Board-approved professional society or other organization
372 responsible for the facilitation and administration of peer reviews through use of its peer review program
373 and applicable peer review standards.

374 "State" means any state of the United States, the District of Columbia, or any territory of the United
375 States that is a recognized jurisdiction by the National Association of State Boards of Accountancy or its
376 successor.

377 "Using the CPA title in Virginia" means ~~using the use of~~ "CPA," "Certified Public Accountant,"
378 or "public accountant" ~~(i) in any form or manner of verbal communication by any person, firm, or entity~~
379 ~~to persons or entities located in Virginia or (ii) in any form or manner of written communication to persons~~
380 ~~or entities located in Virginia, including but not limited to the use in any abbreviation, acronym, phrase,~~
381 ~~or title that appears in business cards, the CPA wall certificate, Internet postings, letterhead, reports, signs,~~
382 ~~tax returns, or any other document or device~~ portraying such person, firm, or entity as being licensed or
383 legally permitted to provide professional services in Virginia. Holding a Virginia license or the license of
384 another state constitutes using the CPA title in Virginia.

385 "Virginia license" means a license that is issued by the Board giving a person or firm the privilege
386 of using the CPA title in Virginia or a firm the privilege of providing attest services, compilation services,
387 and financial statement preparation services to persons and entities located in Virginia.

388 **§ 54.1-4402. Board; membership; qualifications; powers and duties.**

389 A. The Board of Accountancy established under the former § 54.1-2000 and previously operating
390 in the Department of Professional and Occupational Regulation is hereby continued and reestablished as
391 an independent board in the executive branch of state government.

392 B. The Board shall consist of seven members appointed by the Governor as follows: one member
393 shall be a public member who may be an accountant who is not licensed but otherwise meets the
394 requirements of clauses (i) and (ii) of § 54.1-107; one member shall be an educator in the field of
395 accounting who holds a Virginia license; four members shall be holders of Virginia licenses who have
396 been actively engaged in providing services to the public for at least three years prior to appointment to
397 the Board; and one member shall hold a Virginia license and for at least three years prior to appointment
398 to the Board shall have been actively engaged in providing services to the public or in providing services
399 to or on behalf of an employer in government or industry.

400 C. Members of the Board shall serve for terms of four years. The Governor may remove any
401 member as provided in subsection A of § 2.2-108. Any member of the Board whose Virginia license is
402 revoked or suspended shall automatically cease to be a member of the Board.

403 D. The Board shall restrict the practice of public accounting and the use of the CPA title in Virginia
404 to licensed persons and firms as specified in §§ 54.1-4409.1 and 54.1-4412.1.

405 E. The Board shall restrict the provision of attest services, compilation services, and financial
406 statement preparation services to persons or ~~entities~~ firms located in Virginia and as specified in § 54.1-
407 4412.1. However, this shall not affect the privilege of a person who is not licensed to include a statement
408 on financial statements indicating that no assurance is provided on the financial statements, to say that
409 financial statements have been compiled, or to use the compilation language as prescribed by subsections
410 B and C of § 54.1-4401.

411 F. The Board shall take such actions as may be authorized by this chapter to ensure the continued
412 competence of persons or firms using the CPA title in Virginia and firms providing attest services,
413 compilation services, or financial statement preparation services to persons or entities located in Virginia
414 and to aid the public in determining their qualifications.

415 G. The Board shall take such actions as may be authorized by this chapter to ensure that persons
416 or firms holding a Virginia license or using the CPA title in Virginia and firms providing attest services,
417 compilation services, or financial statement preparation services to persons or entities located in Virginia
418 adhere to the standards of conduct and practice in § 54.1-4413.3 and regulations promulgated by the
419 Board.

420 H. The Board shall have the responsibility of enforcing this chapter and may by regulation establish
421 rules and procedures for the implementation of the provisions of this chapter.

422 **§ 54.1-4403. General powers and duties of the Board.**

423 The Board shall have the power and duty to:

424 1. Establish the qualifications of applicants for licensure, provided that all qualifications shall be
425 necessary to ensure competence and integrity.

426 2. Examine, or cause to be examined, the qualifications of each applicant for licensure, including
427 the preparation, administration, and grading of the CPA examination.

428 3. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.)
429 necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and
430 to effectively administer the regulatory system.

431 4. Levy and collect fees for the issuance, renewal, or reinstatement of Virginia licenses that are
432 sufficient to cover all expenses of the administration and operation of the Board.

433 5. Levy on holders of Virginia licenses special assessments necessary to cover expenses of the
434 Board.

435 6. Initiate or receive complaints concerning the conduct of ~~holders of Virginia licenses~~ or
436 ~~concerning their~~ violation of the provisions of this chapter or regulations promulgated by the Board by
437 holders of Virginia licenses, individuals, firms, or entities claiming to hold a Virginia license, or
438 unlicensed individuals, firms, or entities using the CPA title in Virginia, and to take appropriate
439 disciplinary action if warranted.

440 7. Initiate or receive complaints concerning the conduct of persons or firms who use the CPA title
441 in Virginia under the substantial equivalency provisions of § 54.1-4411 or firms that provide attest
442 services, compilation services, or financial statement preparation services to persons or entities located in
443 Virginia under the provisions of subsection C of § 54.1-4412.1, and to take appropriate disciplinary action
444 if warranted.

445 8. Initiate or receive complaints concerning violations of the provisions of this chapter or
446 regulations promulgated by the Board by persons or firms who use the CPA title in Virginia under the
447 substantial equivalency provisions of § 54.1-4411 or firms that provide attest services, compilation
448 services, or financial statement preparation services to persons or entities located in Virginia under the
449 provisions of subsection C of § 54.1-4412.1, and to take appropriate disciplinary action if warranted.

450 9. Revoke, suspend, or refuse to renew or reinstate a Virginia license for just causes as prescribed
451 by the Board.

452 10. Revoke or suspend, for just causes as prescribed by the Board, a person's or firm's privilege of
453 using the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or a firm's
454 privilege of providing attest services, compilation services, or financial statement preparation services to
455 persons or entities located in Virginia under the provisions of subsection C of § 54.1-4412.1.

456 11. Establish requirements for peer reviews.

457 12. Establish continuing professional educational requirements as a condition for issuance,
458 renewal, or reinstatement of a Virginia license.

459 13. Expand or interpret the standards of conduct and practice in § 54.1-4413.3.

460 14. Enter into contracts necessary or convenient for carrying out the provisions of this chapter or
461 the functions of the Board.

462 15. Permit certain biographical references to previous CPA licensure.

463 16. Promulgate additional guidance on using the CPA title in Virginia as necessary.

464 17. Do all things necessary and convenient for carrying into effect this chapter and regulations
465 promulgated by the Board.

466 **§ 54.1-4407. Enforcement of laws by the Executive Director or investigators; authority of**
467 **investigators appointed by the Executive Director.**

468 A. The Executive Director or investigators appointed by him shall:

469 1. Be sworn to enforce the statutes and regulations pertaining to the Board;

470 2. Have the authority to investigate violations of the statutes and regulations that the Executive
471 Director is required to enforce;

472 3. Have the authority to issue summonses for violations of the provisions of this chapter or
473 regulations promulgated by the Board.

474 B. In the event a person or entity that is issued a summons by the Executive Director or
475 investigators appointed by him fails or refuses to discontinue the unlawful acts or refuses to give a written
476 promise to appear at the time and place specified in the summons, the Executive Director or the
477 investigators may appear before a magistrate or other issuing authority having jurisdiction to obtain a
478 criminal warrant under § 19.2-72.

479 C. The Executive Director and all investigators appointed by the Executive Director are vested
480 with the authority to administer oaths or affirmations (i) for the purpose of receiving complaints and
481 conducting investigations of violations of the provisions of this chapter or any regulations promulgated
482 by the Board or (ii) in connection with any investigation conducted on behalf of the Board. The Executive
483 Director and the investigators are vested with the authority to (a) obtain, serve, and execute any warrant,
484 paper, or process issued by any court or magistrate or by the Board under the authority of the Executive
485 Director and (b) request and receive criminal history information under the provisions of § 19.2-389.

486 D. The authority of the Executive Director shall include the ability to request and receive reports
487 from the Central Criminal Records Exchange to be used for the purpose of the investigative and
488 enforcement authority of the Executive Director and not to be disseminated except as provided for in this
489 section.

490 **§ 54.1-4412.1. Licensing requirements for firms.**

491 A. Only a licensed firm can provide attest services, compilation services, or financial statement
492 preparation services to persons or entities located in Virginia. However, this shall not affect the privilege
493 of a person who is not licensed to include a statement on financial statements indicating that no assurance
494 is provided on the financial statements, to say that financial statements have been compiled, or to use the
495 compilation language, as prescribed by subsections B and C of § 54.1-4401.

496 B. A firm that provides attest services, compilation services, or financial statement preparation
497 services to persons or entities located in Virginia shall obtain a Virginia license if ~~the~~ such firm's principal
498 place of business ~~in which it provides those services~~ is in Virginia.

499 C. A firm ~~that is~~ whose principal place of business is not in Virginia is not required to obtain a
500 Virginia license but may provide attest services, compilation services, or financial statement preparation
501 services to persons or entities located in Virginia if the following provisions are met:

502 1. The firm holds the license of another state and can lawfully provide attest services, compilation
503 services, or financial statement preparation services to persons or entities in the state where its principal
504 place of business is located; and

505 2. The firm complies with ~~subdivisions~~ subsection D-1, 2, 4, 5, 6, and 7 and subsection F; and

506 3. The firm's personnel working on the engagement either (i) hold a Virginia license or (ii) hold
507 the license of another state and comply with the substantial equivalency provisions of § 54.1-4411; or

508 4. The firm's personnel working on the engagement are under the supervision of a person who
509 either (i) holds a Virginia license or (ii) holds the license of another state and complies with the substantial
510 equivalency provisions of § 54.1-4411.

511 D. For a firm to obtain and hold a Virginia license:

512 1. As determined on a firm-wide basis:

513 a. At least 51 percent of the owners of the firm shall be licensees, trustees of an eligible employee
514 stock ownership plan as defined in § 13.1-543, or a firm that meets this requirement; and

515 b. At least 51 percent of the voting equity interest in the firm shall be owned by persons who are
516 licensees, by trustees of an eligible employee stock ownership plan as defined in § 13.1-543, or by a firm
517 that meets this requirement.

518 If the death, retirement, or departure of an owner causes either of these requirements not to be met,
519 the requirement shall be met within one year after the death, retirement, or departure of the owner.

520 2. The Board shall prescribe requirements concerning the hours that owners who are not licensees
521 work in the firm and may prescribe other requirements for those persons.

522 3. All attest services, compilation services, and financial statement preparation services provided
523 for persons and entities located in Virginia shall be under the supervision of a person who either (i) holds
524 a Virginia license or (ii) holds the license of another state and complies with the substantial equivalency
525 provisions of § 54.1-4411.

526 4. Any person who releases or authorizes the release of reports on attest services, compilation
527 services, or financial statement preparation services provided for persons or entities located in Virginia
528 shall:

529 a. Either (i) hold a Virginia license or (ii) hold the license of another state and comply with the
530 substantial equivalency provisions of § 54.1-4411; and

531 b. Meet any additional requirements the Board prescribes.

532 5. The firm shall conduct its attest services, compilation services, and financial statement
533 preparation services in conformity with the standards of conduct and practice in § 54.1-4413.3 and
534 regulations promulgated by the Board.

535 6. If the services provided by the firm are within the scope of the practice-monitoring program of
536 the American Institute of Certified Public Accountants or its successor, the firm shall enroll in the program
537 or in another practice-monitoring program for attest services, compilation services, and financial statement
538 preparation services that is approved by the Board. In addition, if enrolled the firm shall:

539 a. Comply with any requirements prescribed by the Board in response to the results of peer
540 reviews; and

541 b. Participate in the American Institute of Certified Public Accountants', or sponsoring
542 organizations', Facilitated State Board Access process, or its successor process, or another process
543 approved by the Board for peer reviews.

544 7. The name of the firm shall not be false, misleading, or deceptive.

545 E. The Board shall prescribe the methods and fees for a firm to apply for the issuance, renewal, or
546 reinstatement of a Virginia license.

547 F. ~~An entity~~ A firm may not use the CPA title in Virginia unless it ~~meets the requirements of~~
548 subdivision D-1 holds a Virginia license or the license of another state as permitted in subsection C.

549 **§ 54.1-4413.4. Penalties.**

550 A. Penalties the Board may impose consist of:

551 1. Revoking a Virginia license or the privilege of using the CPA title in Virginia or providing attest
552 services, compilation services, or financial statement preparation services to persons or entities located in
553 Virginia;

554 2. Suspending or refusing to renew or reinstate a Virginia license or the privilege of using the CPA
555 title in Virginia or providing attest services, compilation services, or financial statement preparation
556 services to persons or entities located in Virginia;

557 3. Reprimanding, censuring, or limiting the scope of practice of any person, firm, or entity using a
558 Virginia license or the CPA title in Virginia or any firm providing attest services, compilation services, or
559 financial statement preparation services to persons or entities located in Virginia;

560 4. Placing any person, firm, or entity using a Virginia license or the CPA title in Virginia or any
561 firm providing attest services, compilation services, or financial statement preparation services to persons
562 or entities located in Virginia on probation, with or without terms, conditions, and limitations;

563 5. Requiring a firm holding a Virginia license to have an accelerated peer review conducted as the
564 Board may specify or to take other remedial actions;

565 6. Requiring a person holding a Virginia license to satisfactorily complete additional or specific
566 continuing professional education as the Board may specify;

567 7. Imposing a monetary penalty up to \$100,000 for each violation of the provisions of this chapter
568 or regulations promulgated by the Board; any monetary penalty may be sued for and recovered in the
569 name of the Commonwealth; and

570 8. Requiring any person, firm, or entity that violates § 54.1-4414 to discontinue any acts in
571 violation of that provision.

572 B. The Board may impose penalties on persons, firms, or entities using a Virginia license or the
573 CPA title in Virginia or firms or entities providing attest services, compilation services, or financial
574 statement preparation services to persons or entities located in Virginia for:

575 1. Violation of the provisions of this chapter or violation of any regulation, subpoena, or order of
576 the Board;

577 2. Fraud or deceit in obtaining, renewing, or applying for reinstatement or lifting the suspension
578 of a Virginia license;

579 3. Revocation, suspension, or refusal to reinstate the license of another state for disciplinary
580 reasons;

581 4. Revocation or suspension of the privilege of practicing before any state or federal agency or
582 federal court of law;

583 5. Dishonesty, fraud, or gross negligence in providing services to or on behalf of an employer, in
584 providing services to the public, or in providing attest services, compilation services, or financial statement
585 preparation services;

586 6. Dishonesty, fraud, or gross negligence in preparing the person's or firm's own state or federal
587 income tax return or financial statement;

588 7. Conviction of a felony, or of any crime involving moral turpitude, under the laws of the United
589 States, of Virginia, or of any other state if the acts involved would have constituted a crime under the laws
590 of Virginia; or

591 8. Lack of the competence required to provide services to the public for persons and entities located
592 in Virginia or to provide attest services, compilation services, and financial statement preparation services
593 to persons and entities located in Virginia, as determined by the Board.

594 C. The Board may also impose penalties on:

595 1. A person ~~who~~, firm, or entity that does not hold a Virginia license, or ~~who that~~ does not meet
596 the requirements to use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-
597 4411, and commits any of the acts prohibited by § 54.1-4414; or

598 2.~~An~~ A firm or entity that does not meet the criteria prescribed by subdivision D 1 of § 54.1-
599 4412.1 and commits any of the acts prohibited by § 54.1-4414.

600 **§ 54.1-4421. Biennial report.**

601 The Board shall submit a biennial report to the Governor and General Assembly on or before
602 November 1 of each even-numbered year. The biennial report shall contain, at a minimum, the following
603 information: (i) a description of the Board's activities, (ii) a report on the ~~audit of the~~ Board's financial
604 statements ~~for the biennium~~, (iii) statistical information regarding the administrative hearings and
605 decisions of the Board, and (iv) a general summary of all complaints received against persons and firms
606 and the procedures used to resolve the complaints.

607 **§ 54.1-4425. Time for filing complaints against CPAs or CPA firms.**

608 A. Except as otherwise provided in subsections B and C, any complaint against the holder of a
609 Virginia license for any violation of statutes or regulations pertaining to the Board or any of the programs

610 that may be in another title of the Code for which the Board has enforcement responsibility, in order to be
611 investigated by the Board, shall be made in writing, or otherwise made in accordance with Board
612 procedures, and received by the Board within three years of the act, omission, or occurrence giving rise
613 to the violation.

614 B. However, where a holder of a Virginia license has materially and willfully misrepresented,
615 concealed, or omitted any information and the information so misrepresented, concealed, or omitted is
616 material to the establishment of the violation, the complaint may be made at any time within two years
617 after discovery of the misrepresentation, concealment, or omission.

618 C. In cases where criminal charges have been filed involving matters that, if found to be true,
619 would also constitute a violation of the regulations or laws of the regulant's profession enforced by the
620 Board, an investigation may be initiated by the Board at any time within ~~two~~ three years following the
621 date ~~such criminal charges are filed~~ of conviction.

622 D. In order to be investigated by the Board, any complaint against an individual or firm using the
623 CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or against a firm or
624 entity providing attest services, compilation services, or financial statement preparation services under
625 subsection C of § ~~54.4412.1~~ 54.1-4412.1 for any violation of statutes or regulations pertaining to the Board
626 or any of the programs that may be in another title of this Code for which the Board has enforcement
627 responsibility shall be made in writing, or otherwise made in accordance with Board procedures, and
628 received by the Board within five years of the act, omission, or occurrence giving rise to the violation.

629 E. Public information obtained from any source may serve as the basis for a written complaint.
630 Nothing in this section shall be construed to require the filing of a complaint if the alleged violation of the
631 statute or regulation is discovered during an investigation authorized by law, and the acts, omissions, or
632 conditions constituting the alleged violations are witnessed by a sworn investigator appointed by the
633 Executive Director.

634 F. Nothing herein shall deny the right of any party to bring a civil cause of action in a court of law.

635 **2. That § 54.1-4420 of the Code of Virginia is repealed.**

636 **3. That the Board of Accountancy shall promulgate regulations to implement the provisions of this**
637 **act to be effective within 280 days of its enactment.**

638 #