

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3701, 2.2-3705.2, 2.2-3705.6, 2.2-3705.7, and 2.2-3711 of the Code
2 of Virginia, relating to the Virginia Freedom of Information Act; definition of trade secret.

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

4 **1. That §§ 2.2-3701, 2.2-3705.2, 2.2-3705.6, 2.2-3705.7, and 2.2-3711 of the Code of Virginia are**
5 **amended and reenacted as follows:**

6 **§ 2.2-3701. Definitions.**

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

8 "Closed meeting" means a meeting from which the public is excluded.

9 "Electronic communication" means the use of technology having electrical, digital, magnetic,
10 wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

11 "Emergency" means an unforeseen circumstance rendering the notice required by this chapter
12 impossible or impracticable and which circumstance requires immediate action.

13 "Information" as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means
14 the content within a public record that references a specifically identified subject matter, and shall not be
15 interpreted to require the production of information that is not embodied in a public record.

16 "Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or
17 through electronic communication means pursuant to § 2.2-3708.2, as a body or entity, or as an informal
18 assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent
19 membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any
20 public body. Neither the gathering of employees of a public body nor the gathering or attendance of two
21 or more members of a public body (a) at any place or function where no part of the purpose of such
22 gathering or attendance is the discussion or transaction of any public business, and such gathering or
23 attendance was not called or prearranged with any purpose of discussing or transacting any business of
24 the public body, or (b) at a public forum, candidate appearance, or debate, the purpose of which is to
25 inform the electorate and not to transact public business or to hold discussions relating to the transaction

26 of public business, even though the performance of the members individually or collectively in the conduct
27 of public business may be a topic of discussion or debate at such public meeting, shall be deemed a
28 "meeting" subject to the provisions of this chapter.

29 "Open meeting" or "public meeting" means a meeting at which the public may be present.

30 "Public body" means any legislative body, authority, board, bureau, commission, district or agency
31 of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and
32 counties, municipal councils, governing bodies of counties, school boards and planning commissions;
33 governing boards of public institutions of higher education; and other organizations, corporations or
34 agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the
35 Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established
36 pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other
37 entity however designated, of the public body created to perform delegated functions of the public body
38 or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it
39 has private sector or citizen members. Corporations organized by the Virginia Retirement System are
40 "public bodies" for purposes of this chapter.

41 For the purposes of the provisions of this chapter applicable to access to public records,
42 constitutional officers and private police departments as defined in § 9.1-101 shall be considered public
43 bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose
44 public records as other custodians of public records.

45 "Public records" means all writings and recordings that consist of letters, words or numbers, or
46 their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic
47 impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data
48 compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or
49 in the possession of a public body or its officers, employees or agents in the transaction of public business.

50 "Regional public body" means a unit of government organized as provided by law within defined
51 boundaries, as determined by the General Assembly, which unit includes two or more localities.

52 "Scholastic records" means those records containing information directly related to a student or an
53 applicant for admission and maintained by a public body that is an educational agency or institution or by
54 a person acting for such agency or institution.

55 "Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-
56 336 et seq.).

57 **§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

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

62 1. Confidential information, including victim identity, provided to or obtained by staff in a rape
63 crisis center or a program for battered spouses.

64 2. Information that describes the design, function, operation, or access control features of any
65 security system, whether manual or automated, which is used to control access to or use of any automated
66 data processing or telecommunications system.

67 3. Information that would disclose the security aspects of a system safety program plan adopted
68 pursuant to Federal Transit Administration regulations by the Commonwealth's designated Rail Fixed
69 Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release
70 of which would jeopardize the success of an ongoing investigation of a rail accident or other incident
71 threatening railway safety.

72 4. Information concerning security plans and specific assessment components of school safety
73 audits, as provided in § 22.1-279.8.

74 Nothing in this subdivision shall be construed to prevent the disclosure of information relating to
75 the effectiveness of security plans after (i) any school building or property has been subjected to fire,
76 explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered
77 or been threatened with any personal injury.

78 5. Information concerning the mental health assessment of an individual subject to commitment as
79 a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment
80 Review Committee; except that in no case shall information identifying the victims of a sexually violent
81 predator be disclosed.

82 6. Subscriber data provided directly or indirectly by a communications services provider to a public
83 body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911
84 system if the data is in a form not made available by the communications services provider to the public
85 generally. Nothing in this subdivision shall prevent the disclosure of subscriber data generated in
86 connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public
87 records about the use of the system in response to a specific crime, emergency or other event as to which
88 a citizen has initiated a 911 call.

89 For the purposes of this subdivision:

90 "Communications services provider" means the same as that term is defined in § 58.1-647.

91 "Subscriber data" means the name, address, telephone number, and any other information
92 identifying a subscriber of a communications services provider.

93 7. Subscriber data collected by a local governing body in accordance with the Enhanced Public
94 Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal,
95 medical, or financial nature provided to a local governing body in connection with a 911 or E-911
96 emergency dispatch system or an emergency notification or reverse 911 system if such records are not
97 otherwise publicly available.

98 Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection
99 with specific calls to a 911 emergency system, where the requester is seeking to obtain public records
100 about the use of the system in response to a specific crime, emergency or other event as to which a citizen
101 has initiated a 911 call.

102 For the purposes of this subdivision:

103 "Communications services provider" means the same as that term is defined in § 58.1-647.

104 "Subscriber data" means the name, address, telephone number, and any other information
105 identifying a subscriber of a communications services provider.

106 8. Information held by the Virginia Military Advisory Council or any commission created by
107 executive order for the purpose of studying and making recommendations regarding preventing closure
108 or realignment of federal military and national security installations and facilities located in Virginia and
109 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
110 local governing body, that would (i) reveal strategies under consideration or development by the Council
111 or such commission or organizations to prevent the closure or realignment of federal military installations
112 located in Virginia or the relocation of national security facilities located in Virginia, to limit the adverse
113 economic effect of such realignment, closure, or relocation, or to seek additional tenant activity growth
114 from the Department of Defense or federal government or (ii) disclose trade secrets, ~~as defined in the~~
115 ~~Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, provided to the Council or such commission or
116 organizations in connection with their work.

117 In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in
118 writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information
119 for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in
120 this subdivision shall be construed to prevent the disclosure of all or part of any record, other than a trade
121 secret that has been specifically identified as required by this subdivision, after the Department of Defense
122 or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of
123 competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or
124 expansion of the military installation or tenant activities, or the relocation of the national security facility,
125 for which records are sought.

126 9. Information, as determined by the State Comptroller, that describes the design, function,
127 operation, or implementation of internal controls over the Commonwealth's financial processes and
128 systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment
129 of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize
130 the security of the Commonwealth's financial assets. However, records relating to the investigation of and

131 findings concerning the soundness of any fiscal process shall be disclosed in a form that does not
132 compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of
133 Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control
134 deficiencies discovered during the course of an audit.

135 10. Information relating to the Statewide Agencies Radio System (STARS) or any other similar
136 local or regional public safety communications system that (i) describes the design, function,
137 programming, operation, or access control features of the overall system, components, structures,
138 individual networks, and subsystems of the STARS or any other similar local or regional communications
139 system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or
140 regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps,
141 encryption, or programming maintained by or utilized by STARS or any other similar local or regional
142 public safety communications system.

143 11. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if
144 disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or
145 comparable portable communication devices provided to its personnel for use in the performance of their
146 official duties.

147 12. Information concerning the disaster recovery plans or the evacuation plans in the event of fire,
148 explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the
149 Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of
150 Health. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to
151 the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or
152 other catastrophic event.

153 13. Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184, 22.1-
154 79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public
155 institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher
156 education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and
157 threat assessment components.

158 14. Information contained in (i) engineering, architectural, or construction drawings; (ii)
159 operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other
160 records that reveal any of the following, the disclosure of which would jeopardize the safety or security
161 of any person; governmental facility, building, or structure or persons using such facility, building, or
162 structure; or public or private commercial office, multifamily residential, or retail building or its
163 occupants:

164 a. Critical infrastructure information or the location or operation of security equipment and systems
165 of any public building, structure, or information storage facility, including ventilation systems, fire
166 protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems,
167 telecommunications equipment and systems, or utility equipment and systems;

168 b. Vulnerability assessments, information not lawfully available to the public regarding specific
169 cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building
170 structure, information technology system, or software program;

171 c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or
172 operational or transportation plans or protocols; or

173 d. Interconnectivity, network monitoring, network operation centers, master sites, or systems
174 related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public
175 safety communications system.

176 The same categories of records of any person or entity submitted to a public body for the purpose
177 of antiterrorism response planning or cybersecurity planning or protection may be withheld from
178 disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies
179 with specificity the records or portions thereof for which protection is sought, and (c) states with
180 reasonable particularity why the protection of such records from public disclosure is necessary to meet the
181 objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information
182 security and resilience. Such statement shall be a public record and shall be disclosed upon request.

183 Any public body receiving a request for records excluded under clauses (a) and (b) of this
184 subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such
185 request and the response made by the public body in accordance with § 2.2-3704.

186 Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural
187 or environmental soundness of any such facility, building, or structure or (2) an inquiry into the
188 performance of such facility, building, or structure after it has been subjected to fire, explosion, natural
189 disaster, or other catastrophic event.

190 As used in this subdivision, "critical infrastructure information" means the same as that term is
191 defined in 6 U.S.C. § 131.

192 15. Information held by the Virginia Commercial Space Flight Authority that is categorized as
193 classified or sensitive but unclassified, including national security, defense, and foreign policy
194 information, provided that such information is exempt under the federal Freedom of Information Act, 5
195 U.S.C. § 552.

196 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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

201 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-
202 132.4 or 62.1-134.1.

203 2. Financial statements not publicly available filed with applications for industrial development
204 financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

205 3. Proprietary information, voluntarily provided by private business pursuant to a promise of
206 confidentiality from a public body, used by the public body for business, trade, and tourism development
207 or retention; and memoranda, working papers, or other information related to businesses that are
208 considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining

209 is involved and where disclosure of such information would adversely affect the financial interest of the
210 public body.

211 4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-
212 239 et seq.), as such Act existed prior to July 1, 1992.

213 5. Fisheries data that would permit identification of any person or vessel, except when required by
214 court order as specified in § 28.2-204.

215 6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections
216 provided to the Department of Rail and Public Transportation, provided such information is exempt under
217 the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered
218 by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided
219 in confidence to the Surface Transportation Board and the Federal Railroad Administration.

220 7. Proprietary information related to inventory and sales, voluntarily provided by private energy
221 suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy
222 contingency planning purposes or for developing consolidated statistical information on energy supplies.

223 8. Confidential proprietary information furnished to the Board of Medical Assistance Services or
224 the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of
225 Chapter 10 of Title 32.1.

226 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and
227 cost projections provided by a private transportation business to the Virginia Department of Transportation
228 and the Department of Rail and Public Transportation for the purpose of conducting transportation studies
229 needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st
230 Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the
231 federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by
232 the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in
233 confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the
234 exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

235 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets
236 or proprietary information by any person in connection with a procurement transaction or by any person
237 who has submitted to a public body an application for prequalification to bid on public construction
238 projects in accordance with subsection B of § 2.2-4317.

239 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity,
240 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed
241 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education
242 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public
243 prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17
244 notwithstanding, the financial interest or bargaining position of the public entity would be adversely
245 affected and (ii) the basis for the determination required in clause (i) is documented in writing by the
246 responsible public entity; and

247 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or
248 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§
249 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et
250 seq.) if disclosure of such information would reveal (i) trade secrets of the private entity ~~as defined in the~~
251 ~~Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~; (ii) financial information of the private entity, including
252 balance sheets and financial statements, that are not generally available to the public through regulatory
253 disclosure or otherwise; or (iii) other information submitted by the private entity where if such information
254 was made public prior to the execution of an interim agreement or a comprehensive agreement, the
255 financial interest or bargaining position of the public or private entity would be adversely affected. In
256 order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this
257 chapter, the private entity shall make a written request to the responsible public entity:

258 (1) Invoking such exclusion upon submission of the data or other materials for which protection
259 from disclosure is sought;

260 (2) Identifying with specificity the data or other materials for which protection is sought; and

261 (3) Stating the reasons why protection is necessary.

262 The responsible public entity shall determine whether the requested exclusion from disclosure is
263 necessary to protect the trade secrets or financial information of the private entity. To protect other
264 information submitted by the private entity from disclosure, the responsible public entity shall determine
265 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement
266 would adversely affect the financial interest or bargaining position of the public or private entity. The
267 responsible public entity shall make a written determination of the nature and scope of the protection to
268 be afforded by the responsible public entity under this subdivision. Once a written determination is made
269 by the responsible public entity, the information afforded protection under this subdivision shall continue
270 to be protected from disclosure when in the possession of any affected jurisdiction or affected local
271 jurisdiction.

272 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed
273 to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b)
274 information concerning the terms and conditions of any interim or comprehensive agreement, service
275 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and
276 the private entity; (c) information concerning the terms and conditions of any financing arrangement that
277 involves the use of any public funds; or (d) information concerning the performance of any private entity
278 developing or operating a qualifying transportation facility or a qualifying project.

279 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"
280 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation
281 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined
282 in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education
283 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

284 12. Confidential proprietary information or trade secrets, not publicly available, provided by a
285 private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to
286 a fund administered in connection with financial assistance rendered or to be rendered by the Virginia
287 Resources Authority where, if such information were made public, the financial interest of the private
288 person or entity would be adversely affected.

289 13. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, or confidential
290 proprietary information that is not generally available to the public through regulatory disclosure or
291 otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-
292 2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality
293 from the franchising authority, to the extent the information relates to the bidder's, applicant's, or
294 franchisee's financial capacity or provision of new services, adoption of new technologies or
295 implementation of improvements, where such new services, technologies, or improvements have not been
296 implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such
297 information were made public, the competitive advantage or financial interests of the franchisee would be
298 adversely affected.

299 In order for trade secrets or confidential proprietary information to be excluded from the provisions
300 of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the
301 data or other materials for which protection from disclosure is sought, (b) identify the data or other
302 materials for which protection is sought, and (c) state the reason why protection is necessary.

303 No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the
304 bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the
305 applicable franchising authority serves on the management board or as an officer of the bidder, applicant,
306 or franchisee.

307 14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of
308 charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to
309 subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming
310 Board related to approval of electronic and mechanical equipment.

311 15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board
312 pursuant to § 3.2-1215.

313 16. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1,~~
314 submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier E-911 Cost

315 Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of wireless E-
316 911 service.

317 17. Information relating to a grant or loan application, or accompanying a grant or loan application,
318 to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.)
319 of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§
320 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business
321 or research-related information produced or collected by the applicant in the conduct of or as a result of
322 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when
323 such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful
324 to the competitive position of the applicant.

325 18. Confidential proprietary information and trade secrets developed and held by a local public
326 body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television
327 services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such
328 information would be harmful to the competitive position of the locality.

329 In order for confidential proprietary information or trade secrets to be excluded from the provisions
330 of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with
331 specificity the information for which protection is sought, and (c) state the reasons why protection is
332 necessary. However, the exemption provided by this subdivision shall not apply to any authority created
333 pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

334 19. Confidential proprietary information and trade secrets developed by or for a local authority
335 created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide
336 qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of
337 Title 56, where disclosure of such information would be harmful to the competitive position of the
338 authority, except that information required to be maintained in accordance with § 15.2-2160 shall be
339 released.

340 20. Trade secrets ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~ or financial
341 information of a business, including balance sheets and financial statements, that are not generally

342 available to the public through regulatory disclosure or otherwise, provided to the Department of Small
343 Business and Supplier Diversity as part of an application for certification as a small, women-owned, or
344 minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade
345 secrets or financial information to be excluded from the provisions of this chapter, the business shall (i)
346 invoke such exclusion upon submission of the data or other materials for which protection from disclosure
347 is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons
348 why protection is necessary.

349 21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health
350 Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

351 22. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, including, but
352 not limited to, financial information, including balance sheets and financial statements, that are not
353 generally available to the public through regulatory disclosure or otherwise, and revenue and cost
354 projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose
355 of an audit, special investigation, or any study requested by the Office of the State Inspector General in
356 accordance with law.

357 In order for the information specified in this subdivision to be excluded from the provisions of this
358 chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- 359 a. Invoking such exclusion upon submission of the data or other materials for which protection
360 from disclosure is sought;
- 361 b. Identifying with specificity the data or other materials for which protection is sought; and
- 362 c. Stating the reasons why protection is necessary.

363 The State Inspector General shall determine whether the requested exclusion from disclosure is
364 necessary to protect the trade secrets or financial information of the private entity. The State Inspector
365 General shall make a written determination of the nature and scope of the protection to be afforded by it
366 under this subdivision.

367 23. Information relating to a grant application, or accompanying a grant application, submitted to
368 the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets ~~as defined in the~~

369 ~~Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, (b) financial information of a grant applicant that is not a
370 public body, including balance sheets and financial statements, that are not generally available to the
371 public through regulatory disclosure or otherwise, or (c) research-related information produced or
372 collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,
373 scientific, technical, technological, or scholarly issues, when such information has not been publicly
374 released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the
375 applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff
376 exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply
377 to grants that are consistent with the powers of and in furtherance of the performance of the duties of the
378 Commission pursuant to § 3.2-3103.

379 In order for the information specified in this subdivision to be excluded from the provisions of this
380 chapter, the applicant shall make a written request to the Commission:

381 a. Invoking such exclusion upon submission of the data or other materials for which protection
382 from disclosure is sought;

383 b. Identifying with specificity the data, information or other materials for which protection is
384 sought; and

385 c. Stating the reasons why protection is necessary.

386 The Commission shall determine whether the requested exclusion from disclosure is necessary to
387 protect the trade secrets, financial information, or research-related information of the applicant. The
388 Commission shall make a written determination of the nature and scope of the protection to be afforded
389 by it under this subdivision.

390 24. a. Information held by the Commercial Space Flight Authority relating to rate structures or
391 charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure
392 of such information would adversely affect the financial interest or bargaining position of the Authority
393 or a private entity providing the information to the Authority; or

394 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure
395 of such information would (i) reveal (a) trade secrets of the private entity ~~as defined in the Uniform Trade~~

396 ~~Secrets Act (§ 59.1-336 et seq.)~~; (b) financial information of the private entity, including balance sheets
397 and financial statements, that are not generally available to the public through regulatory disclosure or
398 otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial
399 interest or bargaining position of the Authority or private entity.

400 In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded
401 from the provisions of this chapter, the private entity shall make a written request to the Authority:

402 (1) Invoking such exclusion upon submission of the data or other materials for which protection
403 from disclosure is sought;

404 (2) Identifying with specificity the data or other materials for which protection is sought; and

405 (3) Stating the reasons why protection is necessary.

406 The Authority shall determine whether the requested exclusion from disclosure is necessary to
407 protect the trade secrets or financial information of the private entity. To protect other information
408 submitted by the private entity from disclosure, the Authority shall determine whether public disclosure
409 would adversely affect the financial interest or bargaining position of the Authority or private entity. The
410 Authority shall make a written determination of the nature and scope of the protection to be afforded by
411 it under this subdivision.

412 25. Information of a proprietary nature furnished by an agricultural landowner or operator to the
413 Department of Conservation and Recreation, the Department of Environmental Quality, the Department
414 of Agriculture and Consumer Services, or any political subdivision, agency, or board of the
415 Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part
416 of a state or federal regulatory enforcement action.

417 26. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, provided to
418 the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such
419 trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this
420 exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii)
421 identify the data or materials for which protection is sought, and (iii) state the reasons why protection is
422 necessary.

423 27. Information of a proprietary nature furnished by a licensed public-use airport to the Department
424 of Aviation for funding from programs administered by the Department of Aviation or the Virginia
425 Aviation Board, where if such information was made public, the financial interest of the public-use airport
426 would be adversely affected.

427 In order for the information specified in this subdivision to be excluded from the provisions of this
428 chapter, the public-use airport shall make a written request to the Department of Aviation:

429 a. Invoking such exclusion upon submission of the data or other materials for which protection
430 from disclosure is sought;

431 b. Identifying with specificity the data or other materials for which protection is sought; and

432 c. Stating the reasons why protection is necessary.

433 28. Information relating to a grant or loan application, or accompanying a grant or loan application,
434 submitted to the Virginia Research Investment Committee established pursuant to Article 8 (§ 23.1-3130
435 et seq.) of Chapter 31 of Title 23.1, to the extent that such records would (i) reveal (a) trade secrets~~as~~
436 ~~defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.);~~ (b) financial information of a party to a
437 grant or loan application that is not a public body, including balance sheets and financial statements, that
438 are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related
439 information produced or collected by a party to the application in the conduct of or as a result of study or
440 research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such
441 information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the
442 competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other
443 information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of §
444 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or
445 prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-
446 3133.

447 In order for the information submitted by the applicant and specified in this subdivision to be
448 excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

- 449 a. Invoking such exclusion upon submission of the data or other materials for which protection
450 from disclosure is sought;
- 451 b. Identifying with specificity the data, information, or other materials for which protection is
452 sought; and
- 453 c. Stating the reasons why protection is necessary.

454 The Virginia Research Investment Committee shall determine whether the requested exclusion
455 from disclosure is necessary to protect the trade secrets, financial information, or research-related
456 information of the party to the application. The Committee shall make a written determination of the
457 nature and scope of the protection to be afforded by it under this subdivision.

458 29. Proprietary information, voluntarily provided by a private business pursuant to a promise of
459 confidentiality from a public body, used by the public body for a solar services agreement, where
460 disclosure of such information would (i) reveal (a) trade secrets of the private business ~~as defined in the~~
461 ~~Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~; (b) financial information of the private business, including
462 balance sheets and financial statements, that are not generally available to the public through regulatory
463 disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect
464 the financial interest or bargaining position of the public body or private business.

465 In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the
466 provisions of this chapter, the private business shall make a written request to the public body:

- 467 a. Invoking such exclusion upon submission of the data or other materials for which protection
468 from disclosure is sought;
- 469 b. Identifying with specificity the data or other materials for which protection is sought; and
- 470 c. Stating the reasons why protection is necessary.

471 30. Information contained in engineering and construction drawings and plans submitted for the
472 sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such
473 information would identify specific trade secrets or other information that would be harmful to the
474 competitive position of the owner or lessee. However, such information shall be exempt only until the

475 building is completed. Information relating to the safety or environmental soundness of any building shall
476 not be exempt from disclosure.

477 31. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, including, but
478 not limited to, financial information, including balance sheets and financial statements that are not
479 generally available to the public through regulatory disclosure or otherwise, and revenue and cost
480 projections supplied by a private or nongovernmental entity to the Virginia Department of Transportation
481 for the purpose of an audit, special investigation, or any study requested by the Virginia Department of
482 Transportation in accordance with law.

483 In order for the records specified in this subdivision to be excluded from the provisions of this
484 chapter, the private or nongovernmental entity shall make a written request to the Department:

- 485 a. Invoking such exclusion upon submission of the data or other materials for which protection
486 from disclosure is sought;
- 487 b. Identifying with specificity the data or other materials for which protection is sought; and
- 488 c. Stating the reasons why protection is necessary.

489 The Virginia Department of Transportation shall determine whether the requested exclusion from
490 disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia
491 Department of Transportation shall make a written determination of the nature and scope of the protection
492 to be afforded by it under this subdivision.

493 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and**
494 **certain other limited exclusions.**

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

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

501 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or
502 the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the
503 Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any
504 political subdivision of the Commonwealth; or the president or other chief executive officer of any public
505 institution of higher education in the Commonwealth. However, no information that is otherwise open to
506 inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or
507 incorporated within any working paper or correspondence. Further, information publicly available or not
508 otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated,
509 combined, or changed in format without substantive analysis or revision shall not be deemed working
510 papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or
511 applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

512 As used in this subdivision:

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

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

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

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

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

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

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

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

537 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development
538 Authority concerning individuals who have applied for or received loans or other housing assistance or
539 who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by
540 the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the
541 waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and
542 housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting
543 list for housing assistance programs funded by local governments or by any such authority; or (iv) filed
544 with any local redevelopment and housing authority created pursuant to § 36-4 or any other local
545 government agency concerning persons who have applied for occupancy or who have occupied affordable
546 dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own
547 information shall not be denied.

548 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-
549 1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a
550 governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

551 10. Information on the site-specific location of rare, threatened, endangered, or otherwise
552 imperiled plant and animal species, natural communities, caves, and significant historic and archaeological
553 sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the

554 information would jeopardize the continued existence or the integrity of the resource. This exclusion shall
555 not apply to requests from the owner of the land upon which the resource is located.

556 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a
557 proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a
558 specific lottery game design, development, production, operation, ticket price, prize structure, manner of
559 selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of
560 drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such
561 information not been publicly released, published, copyrighted, or patented. Whether released, published,
562 or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon
563 the first day of sales for the specific lottery game to which it pertains.

564 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a
565 local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of
566 a trust established by one or more local public bodies to invest funds for post-retirement benefits other
567 than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the
568 board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors
569 of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College
570 Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security
571 or other ownership interest in an entity, where such security or ownership interest is not traded on a
572 governmentally regulated securities exchange, if disclosure of such information would (i) reveal
573 confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the
574 board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a
575 local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement
576 system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise
577 of confidentiality of the future value of such ownership interest or the future financial performance of the
578 entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of
579 by the retirement system, a local finance board or board of trustees, the board of visitors of the University
580 of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College

581 Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information
582 relating to the identity of any investment held, the amount invested, or the present value of such
583 investment.

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

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

603 15. Information held by the Department of Environmental Quality, the State Water Control Board,
604 the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active
605 federal environmental enforcement actions that are considered confidential under federal law and (ii)
606 enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such
607 information shall be disclosed after a proposed sanction resulting from the investigation has been proposed

608 to the director of the agency. This subdivision shall not be construed to prevent the disclosure of
609 information related to inspection reports, notices of violation, and documents detailing the nature of any
610 environmental contamination that may have occurred or similar documents.

611 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or
612 travel itinerary, including vehicle identification data or vehicle enforcement system information; video or
613 photographic images; Social Security or other identification numbers appearing on driver's licenses; credit
614 card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility
615 use.

616 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax
617 identification number, state sales tax number, home address and telephone number, personal and lottery
618 banking account and transit numbers of a retailer, and financial information regarding the nonlottery
619 operations of specific retail locations and (ii) individual lottery winners, except that a winner's name,
620 hometown, and amount won shall be disclosed.

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

624 19. Information pertaining to the planning, scheduling, and performance of examinations of holder
625 records pursuant to the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) prepared by
626 or for the State Treasurer or his agents or employees or persons employed to perform an audit or
627 examination of holder records.

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

632 21. Information held by state or local park and recreation departments and local and regional park
633 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
634 subdivision shall operate to prevent the disclosure of information defined as directory information under

635 regulations implementing the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the
636 public body has undertaken the parental notification and opt-out requirements provided by such
637 regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such
638 person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has
639 restricted or denied such access. For such information of persons who are emancipated, the right of access
640 may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the
641 information may waive, in writing, the protections afforded by this subdivision. If the protections are so
642 waived, the public body shall open such information for inspection and copying.

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

649 23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-
650 913.

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

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

659 b. Trade secrets, ~~as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.)~~, provided by a
660 private entity to the retirement system or the Virginia College Savings Plan if disclosure of such records

661 would have an adverse impact on the financial interest of the retirement system or the Virginia College
662 Savings Plan.

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

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

667 (2) Identifying with specificity the data or other materials for which protection is sought; and

668 (3) Stating the reasons why protection is necessary.

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

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

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

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

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

680 28. Information maintained in connection with fundraising activities by the Veterans Services
681 Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone
682 number, social security number or other identification number appearing on a driver's license, or credit
683 card or bank account data of identifiable donors, except that access shall not be denied to the person who
684 is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the
685 disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the
686 identity of the donor, unless the donor has requested anonymity in connection with or as a condition of
687 making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from

688 disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the
689 performance of services or other work or (ii) the terms and conditions of such grants or contracts.

690 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in
691 the training of state prosecutors or law-enforcement personnel, where such information is not otherwise
692 available to the public and the disclosure of such information would reveal confidential strategies,
693 methods, or procedures to be employed in law-enforcement activities or materials created for the
694 investigation and prosecution of a criminal case.

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

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

702 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases
703 are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child
704 abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse
705 teams established pursuant to § 15.2-1627.5. The findings of any such team may be disclosed or published
706 in statistical or other aggregated form that does not disclose the identity of specific individuals.

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

714 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

715 A. Public bodies may hold closed meetings only for the following purposes:

716 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
717 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
718 officers, appointees, or employees of any public body; and evaluation of performance of departments or
719 schools of public institutions of higher education where such evaluation will necessarily involve
720 discussion of the performance of specific individuals. Any teacher shall be permitted to be present during
721 a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the
722 teacher and some student and the student involved in the matter is present, provided the teacher makes a
723 written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision,
724 however, shall be construed to authorize a closed meeting by a local governing body or an elected school
725 board to discuss compensation matters that affect the membership of such body or board collectively.

726 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
727 involve the disclosure of information contained in a scholastic record concerning any student of any public
728 institution of higher education in the Commonwealth or any state school system. However, any such
729 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be
730 permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if
731 such student, parents, or guardians so request in writing and such request is submitted to the presiding
732 officer of the appropriate board.

733 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
734 disposition of publicly held real property, where discussion in an open meeting would adversely affect the
735 bargaining position or negotiating strategy of the public body.

736 4. The protection of the privacy of individuals in personal matters not related to public business.

737 5. Discussion concerning a prospective business or industry or the expansion of an existing
738 business or industry where no previous announcement has been made of the business' or industry's interest
739 in locating or expanding its facilities in the community.

740 6. Discussion or consideration of the investment of public funds where competition or bargaining
741 is involved, where, if made public initially, the financial interest of the governmental unit would be
742 adversely affected.

743 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to
744 actual or probable litigation, where such consultation or briefing in open meeting would adversely affect
745 the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
746 litigation" means litigation that has been specifically threatened or on which the public body or its legal
747 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this
748 subdivision shall be construed to permit the closure of a meeting merely because an attorney representing
749 the public body is in attendance or is consulted on a matter.

750 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
751 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
752 construed to permit the closure of a meeting merely because an attorney representing the public body is
753 in attendance or is consulted on a matter.

754 9. Discussion or consideration by governing boards of public institutions of higher education of
755 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
756 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
757 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
758 accepted by a public institution of higher education in the Commonwealth shall be subject to public
759 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
760 (i) "foreign government" means any government other than the United States government or the
761 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
762 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the
763 stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
764 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under
765 the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or
766 national of the United States or a trust territory or protectorate thereof.

767 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
768 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of
769 Virginia of matters relating to specific gifts, bequests, and grants from private sources.

770 11. Discussion or consideration of honorary degrees or special awards.

771 12. Discussion or consideration of tests, examinations, or other information used, administered, or
772 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

773 13. Discussion, consideration, or review by the appropriate House or Senate committees of
774 possible disciplinary action against a member arising out of the possible inadequacy of the disclosure
775 statement filed by the member, provided the member may request in writing that the committee meeting
776 not be conducted in a closed meeting.

777 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or
778 to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
779 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position
780 of the governing body or the establishment of the terms, conditions and provisions of the siting agreement,
781 or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

782 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
783 activity and estimating general and nongeneral fund revenues.

784 16. Discussion or consideration of medical and mental health records subject to the exclusion in
785 subdivision 1 of § 2.2-3705.5.

786 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
787 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
788 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
789 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
790 and subdivision 11 of § 2.2-3705.7.

791 18. Those portions of meetings in which the Board of Corrections discusses or discloses the
792 identity of, or information tending to identify, any prisoner who (i) provides information about crimes or
793 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the

794 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other
795 extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

796 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
797 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
798 or emergency service officials concerning actions taken to respond to such matters or a related threat to
799 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
800 where discussion in an open meeting would jeopardize the safety of any person or the security of any
801 facility, building, structure, information technology system, or software program; or discussion of reports
802 or plans related to the security of any governmental facility, building or structure, or the safety of persons
803 using such facility, building or structure.

804 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30,
805 or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
806 trustees of a trust established by one or more local public bodies to invest funds for postemployment
807 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2,
808 or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board
809 of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or
810 disposition of a security or other ownership interest in an entity, where such security or ownership interest
811 is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i)
812 concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared
813 by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings
814 Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia
815 College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or
816 the future financial performance of the entity, and (ii) would have an adverse effect on the value of the
817 investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of
818 trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing
819 in this subdivision shall be construed to prevent the disclosure of information relating to the identity of
820 any investment held, the amount invested or the present value of such investment.

821 21. Those portions of meetings in which individual child death cases are discussed by the State
822 Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which
823 individual child death cases are discussed by a regional or local child fatality review team established
824 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
825 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
826 which individual adult death cases are discussed by the state Adult Fatality Review Team established
827 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
828 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, and those portions
829 of meetings in which individual death cases are discussed by overdose fatality review teams established
830 pursuant to § 32.1-283.7.

831 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
832 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
833 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
834 Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary,
835 business-related information pertaining to the operations of the University of Virginia Medical Center or
836 Eastern Virginia Medical School, as the case may be, including business development or marketing
837 strategies and activities with existing or future joint venturers, partners, or other parties with whom the
838 University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed,
839 or forms, any arrangement for the delivery of health care, if disclosure of such information would
840 adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as
841 the case may be.

842 23. Discussion or consideration by the Virginia Commonwealth University Health System
843 Authority or the board of visitors of Virginia Commonwealth University of any of the following: the
844 acquisition or disposition by the Authority of real property, equipment, or technology software or
845 hardware and related goods or services, where disclosure would adversely affect the bargaining position
846 or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities
847 of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing

848 or operational strategies plans of the Authority where disclosure of such strategies or plans would
849 adversely affect the competitive position of the Authority; and members of the Authority's medical and
850 teaching staffs and qualifications for appointments thereto.

851 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee
852 within the Department of Health Professions to the extent such discussions identify any practitioner who
853 may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

854 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
855 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by
856 or on behalf of individuals who have requested information about, applied for, or entered into prepaid
857 tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title
858 23.1 is discussed.

859 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery
860 Subcommittee created pursuant to former § 56-484.15, of trade secrets, ~~as defined in the Uniform Trade~~
861 ~~Secrets Act (§ 59.1-336 et seq.)~~, submitted by CMRS providers, as defined in § 56-484.12, related to the
862 provision of wireless E-911 service.

863 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
864 Professional and Occupational Regulation, Department of Health Professions, or the Board of
865 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a
866 decision or meetings of health regulatory boards or conference committees of such boards to consider
867 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
868 requested by either of the parties.

869 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-
870 3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in
871 § 33.2-1800, or any independent review panel appointed to review information and advise the responsible
872 public entity concerning such records.

873 29. Discussion of the award of a public contract involving the expenditure of public funds,
874 including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where

875 discussion in an open session would adversely affect the bargaining position or negotiating strategy of the
876 public body.

877 30. Discussion or consideration of grant or loan application information subject to the exclusion
878 in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation
879 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory
880 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

881 31. Discussion or consideration by the Commitment Review Committee of information subject to
882 the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
883 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

884 32. Discussion or consideration of confidential proprietary information and trade secrets developed
885 and held by a local public body providing certain telecommunication services or cable television services
886 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this
887 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
888 seq.).

889 33. Discussion or consideration by a local authority created in accordance with the Virginia
890 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade
891 secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

892 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
893 security matters made confidential pursuant to § 24.2-625.1.

894 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory
895 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal
896 investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

897 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
898 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and
899 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
900 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
901 recover scholarship awards.

902 37. Discussion or consideration by the Virginia Port Authority of information subject to the
903 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the
904 Virginia Port Authority.

905 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
906 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
907 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
908 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory
909 Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of
910 § 2.2-3705.7.

911 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-
912 3705.6 related to economic development.

913 40. Discussion or consideration by the Board of Education of information relating to the denial,
914 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

915 41. Those portions of meetings of the Virginia Military Advisory Council or any commission
916 created by executive order for the purpose of studying and making recommendations regarding preventing
917 closure or realignment of federal military and national security installations and facilities located in
918 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
919 appointed by a local governing body, during which there is discussion of information subject to the
920 exclusion in subdivision 8 of § 2.2-3705.2.

921 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
922 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
923 information of donors.

924 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
925 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
926 contained in grant applications.

927 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
928 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or

929 charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain
930 proprietary information of a private entity provided to the Authority.

931 45. Discussion or consideration of personal and proprietary information related to the resource
932 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
933 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records
934 that contain information that has been certified for release by the person who is the subject of the
935 information or transformed into a statistical or aggregate form that does not allow identification of the
936 person who supplied, or is the subject of, the information.

937 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage
938 Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to
939 investigations of applicants for licenses and permits and of licensees and permittees.

940 47. Discussion or consideration of grant or loan application records subject to the exclusion in
941 subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia
942 Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or
943 interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or
944 by the Virginia Research Investment Committee.

945 48. Discussion or development of grant proposals by a regional council established pursuant to
946 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and
947 Opportunity Board.

948 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team
949 established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses
950 involving a child by a child abuse team established pursuant to § 15.2-1627.5.

951 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
952 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
953 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
954 subdivision 33 of § 2.2-3705.7.

