

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

1 A BILL to amend and reenact § 2.2-3705.1 of the Code of Virginia, relating to Freedom of Information  
2 Act; exemption for credit card and bank account data.

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

4 **1. That § 2.2-3705.1 of the Code of Virginia is amended and reenacted as follows:**

5 § 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public  
6 bodies.

7 The following records are excluded from the provisions of this chapter but may be disclosed by  
8 the custodian in his discretion, except where such disclosure is prohibited by law:

9 1. Personnel records containing information concerning identifiable individuals, except that  
10 access shall not be denied to the person who is the subject thereof. Any person who is the subject of any  
11 personnel record and who is 18 years of age or older may waive, in writing, the protections afforded by  
12 this subdivision. If the protections are so waived, the public body shall open such records for inspection  
13 and copying.

14 2. Written advice of legal counsel to state, regional or local public bodies or the officers or  
15 employees of such public bodies, and any other records protected by the attorney-client privilege.

16 3. Legal memoranda and other work product compiled specifically for use in litigation or for use  
17 in an active administrative investigation concerning a matter that is properly the subject of a closed  
18 meeting under § 2.2-3711.

19 4. Any test or examination used, administered or prepared by any public body for purposes of  
20 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's  
21 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license  
22 or certificate issued by a public body.

23 As used in this subdivision, "test or examination" shall include (a) any scoring key for any such  
24 test or examination and (b) any other document that would jeopardize the security of the test or  
25 examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as

26 provided by law, or limit access to individual records as provided by law. However, the subject of such  
27 employment tests shall be entitled to review and inspect all records relative to his performance on such  
28 employment tests.

29 When, in the reasonable opinion of such public body, any such test or examination no longer has  
30 any potential for future use, and the security of future tests or examinations will not be jeopardized, the  
31 test or examination shall be made available to the public. However, minimum competency tests  
32 administered to public school children shall be made available to the public contemporaneously with  
33 statewide release of the scores of those taking such tests, but in no event shall such tests be made  
34 available to the public later than six months after the administration of such tests.

35 5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant  
36 to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be  
37 deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

38 6. Vendor proprietary information software that may be in the official records of a public body.  
39 For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired  
40 from a vendor for purposes of processing data for agencies or political subdivisions of the  
41 Commonwealth.

42 7. Computer software developed by or for a state agency, state-supported institution of higher  
43 education or political subdivision of the Commonwealth.

44 8. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease,  
45 prior to the completion of such purchase, sale or lease.

46 9. Records concerning reserves established in specific claims administered by the Department of  
47 the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of  
48 Chapter 18 of this title, or by any county, city, or town; and investigative notes, correspondence and  
49 information furnished in confidence with respect to an investigation of a claim or a potential claim  
50 against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision  
51 shall prohibit the disclosure of information taken from inactive reports upon expiration of the period of  
52 limitations for the filing of a civil suit.

53 10. Personal information, as defined in § 2.2-3801, including electronic mail addresses, furnished  
54 to a public body for the purpose of receiving electronic mail from the public body, provided that the  
55 electronic mail recipient has requested that the public body not disclose such information. However,  
56 access shall not be denied to the person who is the subject of the record.

57 11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the  
58 Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

59 12. Records relating to the negotiation and award of a specific contract where competition or  
60 bargaining is involved and where the release of such records would adversely affect the bargaining  
61 position or negotiating strategy of the public body. Such records shall not be withheld after the public  
62 body has made a decision to award or not to award the contract. In the case of procurement transactions  
63 conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this  
64 subdivision shall not apply, and any release of records relating to such transactions shall be governed by  
65 the Virginia Public Procurement Act.

66 13. As it pertains to any person, credit card or bank account data. Nothing in this subdivision  
67 shall be construed to prohibit the release of such records (i) in accordance with a proper judicial order;  
68 (ii) to any law-enforcement agency, officer, or authorized agent thereof acting in the performance of  
69 official law-enforcement duties; or (iii) to the person who is the subject of the record.

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