

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3705.2 and 2.2-3705.6 of the Code of Virginia, relating to the
2 Virginia Freedom of Information Act; public safety exemptions; building plans, critical
3 infrastructure.

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

5 **1. That §§ 2.2-3705.2 and 2.2-3705.6 of the Code of Virginia are amended and reenacted as**
6 **follows:**

7 **§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

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

10 DRAFTING NOTE: In an attempt to identify redundancies, the following identifies "source
11 notes" to indicate to the reader from where the language was derived. Also, language in this PART I
12 that appears in BOLD indicates that the language is redundant to earlier language.

13 PART I With Source Notes.

14 Those portions of (i) engineering, architectural, or construction drawings, (ii) operational,
15 procedural, tactical planning or training manuals, (iii) staff meeting minutes, or (iv) other records that
16 reveal:

17 1. (from #2) critical structural components, security equipment and systems, ventilation systems,
18 fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical
19 systems, telecommunications equipment and systems, and other utility equipment and systems;

20 2. (from #4) vulnerability assessments, the location or operation of **security equipment and**
21 **systems, elevators, ventilation, fire protection, emergency, electrical, telecommunications or utility**
22 **equipment** and systems of any public building, structure or information storage facility, or
23 **telecommunications or utility equipment or systems;** and information not lawfully available to the
24 public regarding specific cybersecurity threats or vulnerabilities or security plans and measures of an
25 entity, facility, building structure, information technology system, or software program;

26 3. (from #6) surveillance techniques, personnel deployments, alarm or security systems or
27 technologies, or operational and transportation plans or protocols; or

28 4. (from #14) **critical structural components, interconnectivity, security equipment and**
29 **systems, network monitoring, network operation center, master sites, ventilation systems, fire**
30 **protection equipment, mandatory building emergency equipment, electrical systems, and other**
31 **utility equipment** and systems related to STARS or any other similar local or regional public safety
32 communications system; **and surveillance techniques, personnel deployments, alarm or security**
33 **systems or technologies, or operational and transportation plans or protocols;**

34 The disclosure of which would jeopardize:

35 (1) from #2-- the safety or security of any public or private commercial office, multifamily
36 residential or retail building or its occupants;

37 (2) from #4-- the safety of any person;

38 (3) from #6-- the security of any governmental facility, building or structure or the safety of
39 persons using such facility, building or structure; or

40 (4) from #14--**the security of any governmental facility, building, or structure or the safety**
41 **of any person.**

42 (from #2) Nothing in this subdivision shall prevent the disclosure of information relating to any
43 building in connection with an inquiry into the performance of that building after it has been subjected
44 to fire, explosion, natural disaster or other catastrophic event.

45 (from #4) Nothing in this subdivision shall be construed to prohibit the disclosure of records
46 relating to the structural or environmental soundness of any building, nor shall it prevent the disclosure
47 **of information relating to any building in connection with an inquiry into the performance of that**
48 **building after it has been subjected to fire, explosion, natural disaster or other catastrophic event.**

49 NOTE: No such post-catastrophe language in #6 or #14.

50 **PART II. PROPOSED NEW EXEMPTION ELIMINATING REDUNDANCIES, ETC**
51 **FROM SUBDIVISIONS #s 2, 4, 6 AND 14 OF § 2.2-3705.2.**

52 Those portions of (i) engineering, architectural, or construction drawings, (ii) operational,
53 procedural, tactical planning or training manuals, (iii) staff meeting minutes, or (iv) other records that
54 reveal:

55 1. Critical structural components, the location and operation of security equipment and systems,
56 ventilation systems, fire protection equipment, mandatory building emergency equipment or systems,
57 elevators, electrical systems, telecommunications equipment and systems, utility equipment and
58 systems, or other [systems of any public building, structure or information storage facility?];

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

62 3. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or
63 operational and transportation plans or protocols;

64 4. Interconnectivity, network monitoring, network operation center, master sites, and systems
65 related to Statewide Agencies Radio System (STARS) or any other similar local or regional public
66 safety communications system.

67 The disclosure of which would jeopardize the safety or security of any person; governmental
68 facility, building or structure or the safety of persons using such facility, building or structure; or public
69 or private commercial office, multifamily residential or retail building or its occupants.

70 Nothing in this subdivision shall authorize the withholding of records relating to (a) the structural
71 or environmental soundness of any such facility, building or structure or (b) an inquiry into the
72 performance of that facility, building or structure after it has been subjected to fire, explosion, natural
73 disaster or other catastrophic event.

74 1. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis
75 center or a program for battered spouses.

76 2. ~~Those portions of engineering and construction drawings and plans submitted for the sole~~
77 ~~purpose of complying with the Building Code in obtaining a building permit that would identify specific~~
78 ~~trade secrets or other information, the disclosure of which would be harmful to the competitive position~~

79 ~~of the owner or lessee. However, such information shall be exempt only until the building is completed.~~
80 ~~Information relating to the safety or environmental soundness of any building shall not be exempt from~~
81 ~~disclosure. NOTE: Moved to proprietary records exemption (2.2-3705.6) b/c not a public safety~~
82 ~~exemption.~~

83 ~~Those portions of engineering and construction drawings and plans that reveal critical structural~~
84 ~~components, security equipment and systems, ventilation systems, fire protection equipment, mandatory~~
85 ~~building emergency equipment or systems, elevators, electrical systems, telecommunications equipment~~
86 ~~and systems, and other utility equipment and systems submitted for the purpose of complying with the~~
87 ~~Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et~~
88 ~~seq.), the disclosure of which would jeopardize the safety or security of any public or private~~
89 ~~commercial office, multifamily residential or retail building or its occupants in the event of terrorism or~~
90 ~~other threat to public safety, to the extent that the owner or lessee of such property, equipment or system~~
91 ~~in writing (i) invokes the protections of this paragraph; (ii) identifies the drawings, plans, or other~~
92 ~~materials to be protected; and (iii) states the reasons why protection is necessary.~~

93 ~~Nothing in this subdivision shall prevent the disclosure of information relating to any building in~~
94 ~~connection with an inquiry into the performance of that building after it has been subjected to fire,~~
95 ~~explosion, natural disaster or other catastrophic event.~~

96 ~~3. Documentation or other information that describes the design, function, operation or access~~
97 ~~control features of any security system, whether manual or automated, which is used to control access to~~
98 ~~or use of any automated data processing or telecommunications system.~~

99 ~~4. Plans and information to prevent or respond to terrorist activity or cyber attacks, the disclosure~~
100 ~~of which would jeopardize the safety of any person, including (i) critical infrastructure sector or~~
101 ~~structural components; (ii) vulnerability assessments, operational, procedural, transportation, and tactical~~
102 ~~planning or training manuals, and staff meeting minutes or other records; (iii) engineering or~~
103 ~~architectural records, or records containing information derived from such records, to the extent such~~
104 ~~records reveal the location or operation of security equipment and systems, elevators, ventilation, fire~~
105 ~~protection, emergency, electrical, telecommunications or utility equipment and systems of any public~~

~~building, structure or information storage facility, or telecommunications or utility equipment or systems; and (iv) information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities or security plans and measures of an entity, facility, building structure, information technology system, or software program. The same categories of records of any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism or cybersecurity planning or protection. Such statement shall be a public record and shall be disclosed upon request. Nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the structural or environmental soundness of any building, nor shall it prevent the disclosure of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster or other catastrophic event.~~

~~5.3.~~ Information that would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

~~6. Engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would jeopardize the security of any governmental facility, building or structure or the safety of persons using such facility, building or structure.~~

~~7.4.~~ Security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.

133 Nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the
134 effectiveness of security plans after (i) any school building or property has been subjected to fire,
135 explosion, natural disaster or other catastrophic event, or (ii) any person on school property has suffered
136 or been threatened with any personal injury.

137 ~~8. [Expired.]~~

138 ~~9.5.~~ Records of the Commitment Review Committee concerning the mental health assessment of
139 an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.)
140 of Title 37.2; except that in no case shall records identifying the victims of a sexually violent predator be
141 disclosed.

142 ~~10.6.~~ Subscriber data, which for the purposes of this subdivision, means the name, address,
143 telephone number, and any other information identifying a subscriber of a telecommunications carrier,
144 provided directly or indirectly by a telecommunications carrier to a public body that operates a 911 or E-
145 911 emergency dispatch system or an emergency notification or reverse 911 system, if the data is in a
146 form not made available by the telecommunications carrier to the public generally. Nothing in this
147 subdivision shall prevent the release of subscriber data generated in connection with specific calls to a
148 911 emergency system, where the requester is seeking to obtain public records about the use of the
149 system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911
150 call.

151 ~~11.7.~~ Subscriber data, which for the purposes of this subdivision, means the name, address,
152 telephone number, and any other information identifying a subscriber of a telecommunications carrier,
153 collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services
154 Act (§ 56-484.12 et seq.), and other identifying information of a personal, medical, or financial nature
155 provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an
156 emergency notification or reverse 911 system, if such records are not otherwise publicly available.
157 Nothing in this subdivision shall prevent the release of subscriber data generated in connection with
158 specific calls to a 911 emergency system, where the requester is seeking to obtain public records about

159 the use of the system in response to a specific crime, emergency or other event as to which a citizen has
160 initiated a 911 call.

161 | [12.8](#). Records of the Virginia Military Advisory Council or any commission created by executive
162 order for the purpose of studying and making recommendations regarding preventing closure or
163 realignment of federal military and national security installations and facilities located in Virginia and
164 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a
165 local governing body, to the extent such records (i) contain information relating to strategies under
166 consideration or development by the Council or such commission or organizations to prevent the closure
167 or realignment of federal military installations located in Virginia or the relocation of national security
168 facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or
169 relocation, or to seek additional tenant activity growth from the Department of Defense or federal
170 government or (ii) disclose trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
171 seq.), provided to the Council or such commission or organizations in connection with their work. In
172 order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing
173 and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for
174 which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in
175 this subdivision shall be construed to authorize the withholding of all or part of any record, other than a
176 trade secret that has been specifically identified as required by this subdivision, after the Department of
177 Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court
178 of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or
179 expansion of the military installation or tenant activities, or the relocation of the national security
180 facility, for which records are sought.

181 | [13.9](#). Documentation or other information as determined by the State Comptroller that describes
182 the design, function, operation, or implementation of internal controls over the Commonwealth's
183 financial processes and systems, and the assessment of risks and vulnerabilities of those controls,
184 including the annual assessment of internal controls mandated by the State Comptroller, the disclosure
185 of which would jeopardize the security of the Commonwealth's financial assets. However, records

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

190 ~~14.10.~~ Documentation or other information relating to the Statewide Agencies Radio System
191 (STARS) or any other similar local or regional public safety communications system that (i) describes
192 the design, function, programming, operation, or access control features of the overall system,
193 components, structures, individual networks, and subsystems of the STARS or any other similar local or
194 regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or
195 any other similar local or regional communications system, code plugs, circuit routing, addressing
196 schemes, talk groups, fleet maps, encryption, programming maintained by or utilized by STARS or any
197 other similar local or regional public safety communications system; ~~those portions of engineering and
198 construction drawings and plans that reveal critical structural components, interconnectivity, security
199 equipment and systems, network monitoring, network operation center, master sites, ventilation systems,
200 fire protection equipment, mandatory building emergency equipment, electrical systems, and other
201 utility equipment and systems related to STARS or any other similar local or regional public safety
202 communications system; and special event plans, operational plans, storm plans, or other pre-arranged
203 programming, the disclosure of which would reveal surveillance techniques, personnel deployments,
204 alarm or security systems or technologies, or operational and transportation plans or protocols, to the
205 extent such disclosure would jeopardize the security of any governmental facility, building, or structure
206 or the safety of any person.~~

207 ~~15.11.~~ Records of a salaried or volunteer Fire/EMS company or Fire/EMS department, to the
208 extent that the records disclose the telephone numbers for cellular telephones, pagers, or comparable
209 portable communication devices provided to its personnel for use in the performance of their official
210 duties.

211 ~~16.12.~~ Records of hospitals and nursing homes regulated by the Board of Health pursuant to
212 Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health, to the extent such

213 records reveal the disaster recovery plans or the evacuation plans for such facilities in the event of fire,
214 explosion, natural disaster, or other catastrophic event. Nothing in this subdivision shall be construed to
215 prohibit the disclosure of records relating to the effectiveness of executed evacuation plans after the
216 occurrence of fire, explosion, natural disaster, or other catastrophic event.

217 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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

220 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-
221 132.4 or 62.1-134.1.

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

224 3. Confidential proprietary records, voluntarily provided by private business pursuant to a
225 promise of confidentiality from a public body, used by the public body for business, trade and tourism
226 development or retention; and memoranda, working papers or other records related to businesses that are
227 considering locating or expanding in Virginia, prepared by a public body, where competition or
228 bargaining is involved and where, if such records are made public, the financial interest of the public
229 body would be adversely affected.

230 4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-
231 239 et seq.), as such Act existed prior to July 1, 1992.

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

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

240 7. Confidential proprietary records related to inventory and sales, voluntarily provided by private
241 energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy
242 contingency planning purposes or for developing consolidated statistical information on energy supplies.

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

246 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue
247 and cost projections provided by a private transportation business to the Virginia Department of
248 Transportation and the Department of Rail and Public Transportation for the purpose of conducting
249 transportation studies needed to obtain grants or other financial assistance under the Transportation
250 Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is
251 exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other
252 laws administered by the Surface Transportation Board or the Federal Railroad Administration with
253 respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad
254 Administration. However, the exemption provided by this subdivision shall not apply to any wholly
255 owned subsidiary of a public body.

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

259 11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity,
260 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed
261 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public Private
262 Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were
263 made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or
264 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be
265 adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing
266 by the responsible public entity; and

267 b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or
268 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or
269 the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records
270 contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
271 seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that
272 are not generally available to the public through regulatory disclosure or otherwise; or (iii) other
273 information submitted by the private entity, where, if the records were made public prior to the
274 execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining
275 position of the public or private entity would be adversely affected. In order for the records specified in
276 clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make
277 a written request to the responsible public entity:

- 278 1. Invoking such exclusion upon submission of the data or other materials for which protection
279 from disclosure is sought;
- 280 2. Identifying with specificity the data or other materials for which protection is sought; and
- 281 3. Stating the reasons why protection is necessary.

282 The responsible public entity shall determine whether the requested exclusion from disclosure is
283 necessary to protect the trade secrets or financial records of the private entity. To protect other records
284 submitted by the private entity from disclosure, the responsible public entity shall determine whether
285 public disclosure prior to the execution of an interim agreement or a comprehensive agreement would
286 adversely affect the financial interest or bargaining position of the public or private entity. The
287 responsible public entity shall make a written determination of the nature and scope of the protection to
288 be afforded by the responsible public entity under this subdivision. Once a written determination is made
289 by the responsible public entity, the records afforded protection under this subdivision shall continue to
290 be protected from disclosure when in the possession of any affected jurisdiction or affected local
291 jurisdiction.

292 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed
293 to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b)

294 information concerning the terms and conditions of any interim or comprehensive agreement, service
295 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity
296 and the private entity; (c) information concerning the terms and conditions of any financing arrangement
297 that involves the use of any public funds; or (d) information concerning the performance of any private
298 entity developing or operating a qualifying transportation facility or a qualifying project.

299 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local
300 jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying
301 transportation facility," "responsible public entity," and "private entity" shall mean the same as those
302 terms are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education
303 Facilities and Infrastructure Act of 2002.

304 12. Confidential proprietary information or trade secrets, not publicly available, provided by a
305 private person or entity to the Virginia Resources Authority or to a fund administered in connection with
306 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such
307 information were made public, the financial interest of the private person or entity would be adversely
308 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of
309 confidentiality.

310 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or
311 confidential proprietary records that are not generally available to the public through regulatory
312 disclosure or otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under
313 Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a
314 promise of confidentiality from the franchising authority, to the extent the records relate to the bidder's,
315 applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies
316 or implementation of improvements, where such new services, technologies or improvements have not
317 been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such
318 records were made public, the competitive advantage or financial interests of the franchisee would be
319 adversely affected.

320 In order for trade secrets or confidential proprietary information to be excluded from the
321 provisions of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon
322 submission of the data or other materials for which protection from disclosure is sought, (ii) identify the
323 data or other materials for which protection is sought, and (iii) state the reason why protection is
324 necessary.

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

329 14. Documents and other information of a proprietary nature furnished by a supplier of charitable
330 gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of §
331 18.2-340.34.

332 15. Records and reports related to Virginia apple producer sales provided to the Virginia State
333 Apple Board pursuant to § 3.2-1215.

334 16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1,
335 submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery
336 Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

337 17. Records submitted as a grant or loan application, or accompanying a grant or loan
338 application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-
339 2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to
340 Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or
341 research-related information produced or collected by the applicant in the conduct of or as a result of
342 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when
343 such information has not been publicly released, published, copyrighted, or patented, if the disclosure of
344 such information would be harmful to the competitive position of the applicant.

345 18. Confidential proprietary records and trade secrets developed and held by a local public body
346 (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television

347 services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that
348 disclosure of such records would be harmful to the competitive position of the locality. In order for
349 confidential proprietary information or trade secrets to be excluded from the provisions of this chapter,
350 the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the
351 records or portions thereof for which protection is sought, and (c) state the reasons why protection is
352 necessary.

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

359 20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial
360 records of a business, including balance sheets and financial statements, that are not generally available
361 to the public through regulatory disclosure or otherwise, provided to the Department of Small Business
362 and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-
363 owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or
364 financial records to be excluded from the provisions of this chapter, the business shall (i) invoke such
365 exclusion upon submission of the data or other materials for which protection from disclosure is sought,
366 (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why
367 protection is necessary.

368 21. Documents and other information of a proprietary or confidential nature disclosed by a
369 carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

370 22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including,
371 but not limited to, financial records, including balance sheets and financial statements, that are not
372 generally available to the public through regulatory disclosure or otherwise, and revenue and cost
373 projections supplied by a private or nongovernmental entity to the State Inspector General for the

374 purpose of an audit, special investigation, or any study requested by the Office of the State Inspector
375 General in accordance with law.

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

- 379 1. Invoking such exclusion upon submission of the data or other materials for which protection
380 from disclosure is sought;
- 381 2. Identifying with specificity the data or other materials for which protection is sought; and
- 382 3. Stating the reasons why protection is necessary.

383 The State Inspector General shall determine whether the requested exclusion from disclosure is
384 necessary to protect the trade secrets or financial records of the private entity. The State Inspector
385 General shall make a written determination of the nature and scope of the protection to be afforded by it
386 under this subdivision.

387 23. Records submitted as a grant application, or accompanying a grant application, to the
388 Tobacco Region Revitalization Commission to the extent such records contain (i) trade secrets as
389 defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records of a grant applicant
390 that is not a public body, including balance sheets and financial statements, that are not generally
391 available to the public through regulatory disclosure or otherwise, or (iii) research-related information
392 produced or collected by the applicant in the conduct of or as a result of study or research on medical,
393 rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not
394 been publicly released, published, copyrighted, or patented, if the disclosure of such information would
395 be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other
396 records prepared by the Commission or its staff exclusively for the evaluation of grant applications. The
397 exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in
398 furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

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

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

403 2. Identifying with specificity the data, records or other materials for which protection is sought;
404 and

405 3. Stating the reasons why protection is necessary.

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

410 24. a. Records of the Commercial Space Flight Authority relating to rate structures or charges for
411 the use of projects of, the sale of products of, or services rendered by the Authority if public disclosure
412 would adversely affect the financial interest or bargaining position of the Authority or a private entity
413 providing records to the Authority; or

414 b. Records provided by a private entity to the Commercial Space Flight Authority, to the extent
415 that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets
416 Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and
417 financial statements, that are not generally available to the public through regulatory disclosure or
418 otherwise; or (iii) other information submitted by the private entity, where, if the records were made
419 public, the financial interest or bargaining position of the Authority or private entity would be adversely
420 affected.

421 In order for the records specified in clauses (i), (ii), and (iii) of subdivision 24 b to be excluded
422 from the provisions of this chapter, the private entity shall make a written request to the Authority:

423 1. Invoking such exclusion upon submission of the data or other materials for which protection
424 from disclosure is sought;

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

426 3. Stating the reasons why protection is necessary.

427 The Authority shall determine whether the requested exclusion from disclosure is necessary to
428 protect the trade secrets or financial records of the private entity. To protect other records submitted by
429 the private entity from disclosure, the Authority shall determine whether public disclosure would
430 adversely affect the financial interest or bargaining position of the Authority or private entity. The
431 Authority shall make a written determination of the nature and scope of the protection to be afforded by
432 it under this subdivision.

433 25. Documents and other information of a proprietary nature furnished by an agricultural
434 landowner or operator to the Department of Conservation and Recreation, the Department of
435 Environmental Quality, the Department of Agriculture and Consumer Services or any political
436 subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-
437 104.9, other than when required as part of a state or federal regulatory enforcement action.

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

444 27. Documents and other information of a proprietary nature furnished by a licensed public-use
445 airport to the Department of Aviation for funding from programs administered by the Department of
446 Aviation or the Virginia Aviation Board, where if the records were made public, the financial interest of
447 the public-use airport would be adversely affected.

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

- 450 1. Invoking such exclusion upon submission of the data or other materials for which protection
451 from disclosure is sought;
- 452 2. Identifying with specificity the data or other materials for which protection is sought; and
- 453 3. Stating the reasons why protection is necessary.

454 28. Those portions of engineering and construction drawings and plans submitted for the sole
455 purpose of complying with the Building Code in obtaining a building permit that would identify specific
456 trade secrets or other information, the disclosure of which would be harmful to the competitive position
457 of the owner or lessee. However, such information shall be exempt only until the building is completed.
458 Information relating to the safety or environmental soundness of any building shall not be exempt from
459 disclosure.

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