

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~~ information contained in a public record is excluded from the  
9 mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion,  
10 except where such disclosure is prohibited by law. Redaction of information excluded under this section  
11 from a public record shall be conducted in accordance with § 2.2-3704.01 (HB 817).

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

14 2. ~~Those portions of engineering and construction drawings and plans submitted for the sole~~  
15 ~~purpose of complying with the Building Code in obtaining a building permit that would identify specific~~  
16 ~~trade secrets or other information, the disclosure of which would be harmful to the competitive position~~  
17 ~~of the owner or lessee. However, such information shall be exempt only until the building is completed.~~  
18 ~~Information relating to the safety or environmental soundness of any building shall not be exempt from~~  
19 ~~disclosure. [NOTE: Moved to proprietary records exemption (2.2-3705.6) b/c not a public safety~~  
20 ~~exemption.]~~

21 ~~Those portions of engineering and construction drawings and plans that reveal critical structural~~  
22 ~~components, security equipment and systems, ventilation systems, fire protection equipment, mandatory~~  
23 ~~building emergency equipment or systems, elevators, electrical systems, telecommunications equipment~~  
24 ~~and systems, and other utility equipment and systems submitted for the purpose of complying with the~~  
25 ~~Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et~~

26 ~~seq.), the disclosure of which would jeopardize the safety or security of any public or private~~  
27 ~~commercial office, multifamily residential or retail building or its occupants in the event of terrorism or~~  
28 ~~other threat to public safety, to the extent that the owner or lessee of such property, equipment or system~~  
29 ~~in writing (i) invokes the protections of this paragraph; (ii) identifies the drawings, plans, or other~~  
30 ~~materials to be protected; and (iii) states the reasons why protection is necessary.~~

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

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

37 ~~4.~~ ~~Plans and information to prevent or respond to terrorist activity or cyber attacks, the disclosure~~  
38 ~~of which would jeopardize the safety of any person, including (i) critical infrastructure sector or~~  
39 ~~structural components; (ii) vulnerability assessments, operational, procedural, transportation, and tactical~~  
40 ~~planning or training manuals, and staff meeting minutes or other records; (iii) engineering or~~  
41 ~~architectural records, or records containing information derived from such records, to the extent such~~  
42 ~~records reveal the location or operation of security equipment and systems, elevators, ventilation, fire~~  
43 ~~protection, emergency, electrical, telecommunications or utility equipment and systems of any public~~  
44 ~~building, structure or information storage facility, or telecommunications or utility equipment or~~  
45 ~~systems; and (iv) information not lawfully available to the public regarding specific cybersecurity~~  
46 ~~threats or vulnerabilities or security plans and measures of an entity, facility, building structure,~~  
47 ~~information technology system, or software program. The same categories of records of any person or~~  
48 ~~entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity~~  
49 ~~planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes~~  
50 ~~the protections of this subdivision, (b) identifies with specificity the records or portions thereof for~~  
51 ~~which protection is sought, and (c) states with reasonable particularity why the protection of such~~  
52 ~~records from public disclosure is necessary to meet the objective of antiterrorism or cybersecurity~~

53 ~~planning or protection. Such statement shall be a public record and shall be disclosed upon request.~~  
54 ~~Nothing in this subdivision shall be construed to prohibit the disclosure of records relating to the~~  
55 ~~structural or environmental soundness of any building, nor shall it prevent the disclosure of information~~  
56 ~~relating to any building in connection with an inquiry into the performance of that building after it has~~  
57 ~~been subjected to fire, explosion, natural disaster or other catastrophic event.~~

58 5.3. Information that would disclose the security aspects of a system safety program plan  
59 adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway  
60 Systems Safety Oversight agency; and information in the possession of such agency; the release of  
61 which would jeopardize the success of an ongoing investigation of a rail accident or other incident  
62 threatening railway safety.

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

69 7.4. Security plans and specific assessment components of school safety audits, as provided in §  
70 22.1-279.8.

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

75 ~~8. [Expired.]~~

76 9.5. Records of the Commitment Review Committee concerning the mental health assessment of  
77 an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.)  
78 of Title 37.2; except that in no case shall records identifying the victims of a sexually violent predator be  
79 disclosed.

80 | ~~10-6.~~ Subscriber data, which for the purposes of this subdivision, means the name, address,  
81 | telephone number, and any other information identifying a subscriber of a telecommunications carrier,  
82 | provided directly or indirectly by a telecommunications carrier to a public body that operates a 911 or E-  
83 | 911 emergency dispatch system or an emergency notification or reverse 911 system, if the data is in a  
84 | form not made available by the telecommunications carrier to the public generally. Nothing in this  
85 | subdivision shall prevent the release of subscriber data generated in connection with specific calls to a  
86 | 911 emergency system, where the requester is seeking to obtain public records about the use of the  
87 | system in response to a specific crime, emergency, or other event as to which a citizen has initiated a  
88 | 911 call.

89 | ~~11-7.~~ Subscriber data, which for the purposes of this subdivision, means the name, address,  
90 | telephone number, and any other information identifying a subscriber of a telecommunications carrier,  
91 | collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services  
92 | Act (§ 56-484.12 et seq.), and other identifying information of a personal, medical, or financial nature  
93 | provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an  
94 | emergency notification or reverse 911 system, if such records are not otherwise publicly available.  
95 | Nothing in this subdivision shall prevent the release of subscriber data generated in connection with  
96 | specific calls to a 911 emergency system, where the requester is seeking to obtain public records about  
97 | the use of the system in response to a specific crime, emergency, or other event as to which a citizen has  
98 | initiated a 911 call.

99 | ~~12-8.~~ Records of the Virginia Military Advisory Council or any commission created by  
100 | executive order for the purpose of studying and making recommendations regarding preventing closure  
101 | or realignment of federal military and national security installations and facilities located in Virginia and  
102 | relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a  
103 | local governing body, to the extent that such records (i) contain information relating to strategies under  
104 | consideration or development by the Council or such commission or organizations to prevent the closure  
105 | or realignment of federal military installations located in Virginia or the relocation of national security  
106 | facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or

107 relocation, or to seek additional tenant activity growth from the Department of Defense or federal  
108 government or (ii) disclose trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et  
109 seq.), provided to the Council or such commission or organizations in connection with their work. In  
110 order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing  
111 and at the time of submission, (a) invoke this exclusion, (b) identify with specificity the information for  
112 which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in  
113 this subdivision shall be construed to authorize the withholding of all or part of any record, other than a  
114 trade secret that has been specifically identified as required by this subdivision, after the Department of  
115 Defense or federal agency has issued a final, unappealable decision, or, in the event of litigation, a court  
116 of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or  
117 expansion of the military installation or tenant activities, or the relocation of the national security  
118 facility, for which records are sought.

119 ~~13-9.~~ Documentation or other information as determined by the State Comptroller that describes  
120 the design, function, operation, or implementation of internal controls over the Commonwealth's  
121 financial processes and systems, and the assessment of risks and vulnerabilities of those controls,  
122 including the annual assessment of internal controls mandated by the State Comptroller, the disclosure  
123 of which would jeopardize the security of the Commonwealth's financial assets. However, records  
124 relating to the investigation of and findings concerning the soundness of any fiscal process shall be  
125 disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be  
126 construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review  
127 Commission from reporting internal control deficiencies discovered during the course of an audit.

128 ~~14-10.~~ Documentation or other information relating to the Statewide Agencies Radio System  
129 (STARS) or any other similar local or regional public safety communications system that (i) describes  
130 the design, function, programming, operation, or access control features of the overall system,  
131 components, structures, individual networks, and subsystems of the STARS or any other similar local or  
132 regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or  
133 any other similar local or regional communications system, code plugs, circuit routing, addressing

134 schemes, talk groups, fleet maps, encryption, or programming maintained by or utilized by STARS or  
135 any other similar local or regional public safety communications system; ~~those portions of engineering  
136 and construction drawings and plans that reveal critical structural components, interconnectivity,  
137 security equipment and systems, network monitoring, network operation center, master sites, ventilation  
138 systems, fire protection equipment, mandatory building emergency equipment, electrical systems, and  
139 other utility equipment and systems related to STARS or any other similar local or regional public safety  
140 communications system; and special event plans, operational plans, storm plans, or other pre-arranged  
141 programming, the disclosure of which would reveal surveillance techniques, personnel deployments,  
142 alarm or security systems or technologies, or operational and transportation plans or protocols, to the  
143 extent such disclosure would jeopardize the security of any governmental facility, building, or structure  
144 or the safety of any person.~~

145 ~~15.~~ 11. Records of a salaried or volunteer Fire/EMS company or Fire/EMS department, to the  
146 extent that the records disclose the telephone numbers for cellular telephones, pagers, or comparable  
147 portable communication devices provided to its personnel for use in the performance of their official  
148 duties.

149 ~~16.~~ 12. Records of hospitals and nursing homes regulated by the Board of Health pursuant to  
150 Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health, to the extent that such  
151 records reveal the disaster recovery plans or the evacuation plans for such facilities in the event of fire,  
152 explosion, natural disaster, or other catastrophic event. Nothing in this subdivision shall be construed to  
153 prohibit the disclosure of records relating to the effectiveness of executed evacuation plans after the  
154 occurrence of fire, explosion, natural disaster, or other catastrophic event.

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

160 a. Critical structural information (SB 645) or the location or operation of security equipment and  
161 systems of any public building, structure, or information storage facility, including, ventilation systems,  
162 fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical  
163 systems, telecommunications equipment and systems, or utility equipment and systems;

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

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

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

172 The same categories of records of any person or entity submitted to a public body for the purpose  
173 of antiterrorism response planning or cybersecurity planning or protection may be withheld from  
174 disclosure if such person or entity in writing (1) invokes the protections of this subdivision, (2) identifies  
175 with specificity the records or portions thereof for which protection is sought, and (3) states with  
176 reasonable particularity why the protection of such records from public disclosure is necessary to meet  
177 the objective of antiterrorism or, cybersecurity planning or protection, or [critical infrastructure  
178 information security and resilience (SB 645)]. Such statement shall be a public record and shall be  
179 disclosed upon request.

180 Any public body receiving a request for records excluded under clauses (a) and (b) of this  
181 subdivision shall notify the Secretary of Public Safety and Homeland Security or his designee of such  
182 request and the response made by the public body in accordance with § 2.2-3704 (SB 645).

183 Nothing in this subdivision 13 shall authorize the withholding of records relating to (a) the  
184 structural or environmental soundness of any such facility, building, or structure or (b) an inquiry into  
185 the performance of such facility, building, or structure after it has been subjected to fire, explosion,  
186 natural disaster, or other catastrophic event.

187 As used in this subdivision, "critical infrastructure information" means the same as that term is  
188 defined in 6 U. S. C. § 131 (SB 654).

189 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

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

192 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-  
193 132.4 or 62.1-134.1.

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

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

202 4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-  
203 239 et seq.), as such Act existed prior to July 1, 1992.

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

206 6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost  
207 projections provided to the Department of Rail and Public Transportation, provided that [VWagner7]  
208 such information is exempt under the federal Freedom of Information Act or the federal Interstate  
209 Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad  
210 Administration with respect to data provided in confidence to the Surface Transportation Board and the  
211 Federal Railroad Administration.

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

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

218 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue  
219 and cost projections provided by a private transportation business to the Virginia Department of  
220 Transportation and the Department of Rail and Public Transportation for the purpose of conducting  
221 transportation studies needed to obtain grants or other financial assistance under the Transportation  
222 Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided that [VWagner8]  
223 such information is exempt under the federal Freedom of Information Act or the federal Interstate  
224 Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad  
225 Administration with respect to data provided in confidence to the Surface Transportation Board and the  
226 Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply  
227 to any wholly owned subsidiary of a public body.

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

231 11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity,  
232 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed  
233 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public Private  
234 Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were  
235 made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or  
236 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be  
237 adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing  
238 by the responsible public entity; and

239 b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or  
240 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 ([§](#)  
241 [33.2-1800 et seq.](#)) or the Public-Private Education Facilities and Infrastructure Act of 2002 ([§ 56-575.1](#)  
242 [et seq.](#)), to the extent that such records contain (i) trade secrets of the private entity as defined in the  
243 Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including  
244 balance sheets and financial statements, that are not generally available to the public through regulatory  
245 disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records  
246 were made public prior to the execution of an interim agreement or a comprehensive agreement, the  
247 financial interest or bargaining position of the public or private entity would be adversely affected. In  
248 order for the records specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this  
249 chapter, the private entity shall make a written request to the responsible public entity:

- 250 ~~1.~~ [\(1\)](#) [\[LHausenfluck9\]](#) Invoking [\[LHausenfluck10\]](#) such exclusion upon submission of the data or  
251 other materials for which protection from disclosure is sought;
- 252 ~~2.~~ [\(2\)](#) Identifying with specificity the data or other materials for which protection is sought; and
- 253 ~~3.~~ [\(3\)](#) Stating the reasons why protection is necessary.

254 The responsible public entity shall determine whether the requested exclusion from disclosure is  
255 necessary to protect the trade secrets or financial records of the private entity. To protect other records  
256 submitted by the private entity from disclosure, the responsible public entity shall determine whether  
257 public disclosure prior to the execution of an interim agreement or a comprehensive agreement would  
258 adversely affect the financial interest or bargaining position of the public or private entity. The  
259 responsible public entity shall make a written determination of the nature and scope of the protection to  
260 be afforded by the responsible public entity under this subdivision. Once a written determination is made  
261 by the responsible public entity, the records afforded protection under this subdivision shall continue to  
262 be protected from disclosure when in the possession of any affected jurisdiction or affected local  
263 jurisdiction.

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

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

271 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local  
272 jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying  
273 transportation facility," "responsible public entity," and "private entity" ~~shall~~ mean the same as those  
274 terms are defined in the Public-Private Transportation Act of 1995 ([§ 33.2-1800 et seq.](#)) or in the Public-  
275 Private Education Facilities and Infrastructure Act of 2002 ([§ 56-575.1 et seq.](#)).

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

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

292 In order for trade secrets or confidential proprietary information to be excluded from the  
293 provisions of this chapter, the bidder, applicant, or franchisee shall ~~(i)~~ (a) invoke such exclusion upon  
294 submission of the data or other materials for which protection from disclosure is sought, ~~(ii)~~ (b) identify  
295 the data or other materials for which protection is sought, and ~~(iii)~~ (c) state the reason why protection is  
296 necessary.

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

301 14. Documents and other information of a proprietary nature furnished by a supplier of charitable  
302 gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of §  
303 18.2-340.34.

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

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

309 17. Records submitted as a grant or loan application, or accompanying a grant or loan  
310 application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-  
311 2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to  
312 Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or  
313 research-related information produced or collected by the applicant in the conduct of or as a result of  
314 study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when  
315 such information has not been publicly released, published, copyrighted, or patented, if the disclosure of  
316 such information would be harmful to the competitive position of the applicant.

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

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

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

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

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

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

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

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

351 ~~1.~~a. Invoking such exclusion upon submission of the data or other materials for which protection  
352 from disclosure is sought;

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

354 ~~3.~~c. Stating the reasons why protection is necessary.

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

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

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

373 ~~1-a.~~ Invoking such exclusion upon submission of the data or other materials for which protection  
374 from disclosure is sought;

375 ~~2-b.~~ Identifying with specificity the data, records, or other materials for which protection is  
376 sought; and

377 ~~3-c.~~ Stating the reasons why protection is necessary.

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

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

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

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

395 ~~1-(1)~~ Invoking such exclusion upon submission of the data or other materials for which  
396 protection from disclosure is sought;

397 ~~2-(2)~~ Identifying with specificity the data or other materials for which protection is sought; and

398 ~~3-(3)~~ Stating the reasons why protection is necessary.

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

405 25. Documents and other information of a proprietary nature furnished by an agricultural  
406 landowner or operator to the Department of Conservation and Recreation, the Department of  
407 Environmental Quality, the Department of Agriculture and Consumer Services or any political  
408 subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-  
409 104.9, other than when required as part of a state or federal regulatory enforcement action.

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

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

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

422 ~~1-a.~~ Invoking such exclusion upon submission of the data or other materials for which protection  
423 from disclosure is sought;

424 ~~2-b.~~ Identifying with specificity the data or other materials for which protection is sought; and

425 ~~3-c.~~ Stating the reasons why protection is necessary.

426 28. Those portions of engineering and construction drawings and plans submitted for the sole  
427 purpose of complying with the Building Code [VWagner11] in obtaining a building permit that would  
428 identify specific trade secrets or other information the disclosure of which would be harmful to the  
429 competitive position of the owner or lessee. However, such information shall be exempt only until the  
430 building is completed. No information relating to the safety or environmental soundness of any building  
431 shall be exempt from disclosure.

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