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SENATE BILL NO. 1107  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on General Laws and Technology  
on January 22, 2025)  
(Patron Prior to Substitute—Senator Jordan)

A BILL to amend and reenact §§ 2.2-2040, 2.2-3705.6, and 2.2-3705.7 of the Code of Virginia, relating to Virginia Freedom of Information Act; exclusions; Department of Workforce Development and Advancement.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2040, 2.2-3705.6, and 2.2-3705.7 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2040. Records and reports.

A. Each workforce development program provider shall keep true and accurate training records containing such information as the Department may prescribe. Such records shall be open to inspection and be subject to being copied by the Department or its authorized representatives at any reasonable time and as often as may be necessary. The Department may require from any workforce development program provider any sworn or unsworn reports, with respect to persons employed by it, that the Department deems necessary for the effective administration of this chapter.

B. Notwithstanding the provisions of subsection A, the Department shall, upon written request, furnish the Virginia Economic Development Partnership Authority (the Authority) such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subsection shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall disclose any confidential information obtained pursuant to this subsection to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards.

C. Any information provided to the Department under this section shall be confidential pursuant to § 60.2-114 and 20 C.F.R. Part 603.

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

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

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

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

3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.

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

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

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

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

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

SENATE SUBSTITUTE

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60 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost  
61 projections provided by a private transportation business to the Virginia Department of Transportation and  
62 the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed  
63 to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L.  
64 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of  
65 Information Act or the federal Interstate Commerce Act or other laws administered by the Surface  
66 Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to  
67 the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided  
68 by this subdivision shall not apply to any wholly owned subsidiary of a public body.

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

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

80 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected  
81 local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et  
82 seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if  
83 disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of  
84 the private entity, including balance sheets and financial statements, that are not generally available to the  
85 public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity  
86 where if such information was made public prior to the execution of an interim agreement or a  
87 comprehensive agreement, the financial interest or bargaining position of the public or private entity would  
88 be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from  
89 the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

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

94 The responsible public entity shall determine whether the requested exclusion from disclosure is  
95 necessary to protect the trade secrets or financial information of the private entity. To protect other  
96 information submitted by the private entity from disclosure, the responsible public entity shall determine  
97 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement  
98 would adversely affect the financial interest or bargaining position of the public or private entity. The  
99 responsible public entity shall make a written determination of the nature and scope of the protection to be  
100 afforded by the responsible public entity under this subdivision. Once a written determination is made by the  
101 responsible public entity, the information afforded protection under this subdivision shall continue to be  
102 protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

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

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

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

120 13. Trade secrets or confidential proprietary information that is not generally available to the public

121 through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii)  
 122 franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority  
 123 pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to  
 124 the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new  
 125 technologies or implementation of improvements, where such new services, technologies, or improvements  
 126 have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if  
 127 such information were made public, the competitive advantage or financial interests of the franchisee would  
 128 be adversely affected.

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

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

136 14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of  
 137 charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to  
 138 subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Commissioner of  
 139 Agriculture and Consumer Services related to approval of electronic and mechanical equipment.

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

142 16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless Carrier  
 143 E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the provision of  
 144 wireless E-911 service.

145 17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the  
 146 Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if  
 147 disclosure of such information would (i) reveal proprietary business or research-related information produced  
 148 or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative,  
 149 scientific, technical, technological, or scholarly issues, when such information has not been publicly released,  
 150 published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

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

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

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

165 20. Trade secrets or financial information of a business, including balance sheets and financial statements,  
 166 that are not generally available to the public through regulatory disclosure or otherwise, provided to the  
 167 Department of Small Business and Supplier Diversity as part of an application for certification as a small,  
 168 women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for  
 169 such trade secrets or financial information to be excluded from the provisions of this chapter, the business  
 170 shall (i) invoke such exclusion upon submission of the data or other materials for which protection from  
 171 disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the  
 172 reasons why protection is necessary.

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

175 22. Trade secrets, including, but not limited to, financial information, including balance sheets and  
 176 financial statements, that are not generally available to the public through regulatory disclosure or otherwise,  
 177 and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector  
 178 General for the purpose of an audit, special investigation, or any study requested by the Office of the State  
 179 Inspector General in accordance with law.

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

182 a. Invoking such exclusion upon submission of the data or other materials for which protection from

183 disclosure is sought;

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

185 c. Stating the reasons why protection is necessary.

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

190 23. Information relating to a grant application, or accompanying a grant application, submitted to the  
191 Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial information  
192 of a grant applicant that is not a public body, including balance sheets and financial statements, that are not  
193 generally available to the public through regulatory disclosure or otherwise, or (c) research-related  
194 information produced or collected by the applicant in the conduct of or as a result of study or research on  
195 medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not  
196 been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of  
197 the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff  
198 exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to  
199 grants that are consistent with the powers of and in furtherance of the performance of the duties of the  
200 Commission pursuant to § 3.2-3103.

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

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

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

206 c. Stating the reasons why protection is necessary.

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

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

215 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such  
216 information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the private  
217 entity, including balance sheets and financial statements, that are not generally available to the public through  
218 regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely  
219 affect the financial interest or bargaining position of the Authority or private entity.

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

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

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

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

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

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

236 26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions of §  
237 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting  
238 party shall (i) invoke this exclusion upon submission of the data or materials for which protection from  
239 disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the  
240 reasons why protection is necessary.

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

244 adversely affected.

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

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

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

250 c. Stating the reasons why protection is necessary.

251 28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan, or  
252 investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority (the  
253 Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory committee of the  
254 Authority, or any other entity designated by the Authority to review such applications, to the extent that such  
255 records would (i) reveal (a) trade secrets; (b) financial information of a party to a grant, loan, or investment  
256 application that is not a public body, including balance sheets and financial statements, that are not generally  
257 available to the public through regulatory disclosure or otherwise; or (c) research-related information  
258 produced or collected by a party to the application in the conduct of or as a result of study or research on  
259 medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not  
260 been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of  
261 a party to a grant, loan, or investment application; and memoranda, staff evaluations, or other information  
262 prepared by the Authority or its staff, or a reviewing entity designated by the Authority, exclusively for the  
263 evaluation of grant, loan, or investment applications, including any scoring or prioritization documents  
264 prepared for and forwarded to the Authority.

265 29. Proprietary information, voluntarily provided by a private business pursuant to a promise of  
266 confidentiality from a public body, used by the public body for a solar services or carbon sequestration  
267 agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business; (b)  
268 financial information of the private business, including balance sheets and financial statements, that are not  
269 generally available to the public through regulatory disclosure or otherwise; or (c) other information  
270 submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the  
271 public body or private business.

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

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

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

277 c. Stating the reasons why protection is necessary.

278 30. Information contained in engineering and construction drawings and plans submitted for the sole  
279 purpose of complying with the Building Code in obtaining a building permit if disclosure of such information  
280 would identify specific trade secrets or other information that would be harmful to the competitive position of  
281 the owner or lessee. However, such information shall be exempt only until the building is completed.  
282 Information relating to the safety or environmental soundness of any building shall not be exempt from  
283 disclosure.

284 31. Trade secrets, including, but not limited to, financial information, including balance sheets and  
285 financial statements that are not generally available to the public through regulatory disclosure or otherwise,  
286 and revenue and cost projections supplied by a private or nongovernmental entity to the Virginia Department  
287 of Transportation for the purpose of an audit, special investigation, or any study requested by the Virginia  
288 Department of Transportation in accordance with law.

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

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

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

294 c. Stating the reasons why protection is necessary.

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

299 32. Information related to a grant application, or accompanying a grant application, submitted to the  
300 Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial  
301 information of a grant applicant that is not a public body, including balance sheets and financial statements,  
302 that are not generally available to the public through regulatory disclosure or otherwise, or (c)  
303 research-related information produced or collected by the applicant in the conduct of or as a result of study or  
304 research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such

305 information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the  
306 competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants  
307 administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§  
308 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the  
309 appropriations act.

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

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

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

315 c. Stating the reasons why protection is necessary.

316 The Department shall determine whether the requested exclusion from disclosure is necessary to protect  
317 the trade secrets or confidential proprietary information of the applicant. The Department shall make a  
318 written determination of the nature and scope of the protection to be afforded by it under this subdivision.

319 33. Financial and proprietary records submitted with a loan application to a locality for the preservation or  
320 construction of affordable housing that is related to a competitive application to be submitted to either the  
321 U.S. Department of Housing and Urban Development (HUD) or the Virginia Housing Development  
322 Authority (VHDA), when the release of such records would adversely affect the bargaining or competitive  
323 position of the applicant. Such records shall not be withheld after they have been made public by HUD or  
324 VHDA.

325 34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy benefits  
326 manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a manufacturer  
327 pursuant to § 54.1-3442.02.

328 35. Trade secrets, proprietary information, or financial information, including balance sheets and financial  
329 statements, that are not generally available to the public through regulatory disclosure or otherwise, supplied  
330 by an individual or a private or nongovernmental entity to the Fort Monroe Authority for the purpose of  
331 complying with the obligations of any lease, easement, license, permit, or other agreement, whether of a  
332 commercial or residential real estate nature, pertaining to the use or occupancy of any portion of Fort  
333 Monroe.

334 In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the  
335 individual or private or nongovernmental entity shall make a written request to the Fort Monroe Authority:

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

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

339 c. Stating the reasons why protection is necessary.

340 36. *Information of a proprietary or confidential nature, including trade secrets, employee compensation*  
341 *information, balance sheets and financial statements that are not available to the public through regulatory*  
342 *disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to*  
343 *the Department of Workforce Development and Advancement (the Department) for the purpose of*  
344 *sponsoring, implementing, and operating (i) an apprenticeship program approved by the Department or (ii) a*  
345 *similar lawful workforce development or public-private partnership approved by the Department that assists*  
346 *the Department in fulfilling its mission and objectives and whose workforce development initiative could not*  
347 *advance without such exemption, as determined by the Commissioner of the Department and the Secretary of*  
348 *Labor. However, nothing in this section shall be construed to allow the withholding of the name and contact*  
349 *information of a private or nongovernmental entity sponsoring, implementing, or operating the*  
350 *apprenticeship program, the location of the program, the occupations offered by the program, or the terms*  
351 *and conditions of a contract or agreement entered into by such private or nongovernmental entity.*

352 **§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain**  
353 **other limited exclusions.**

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

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

360 2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the  
361 Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks  
362 of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political  
363 subdivision of the Commonwealth; or the president or other chief executive officer of any public institution  
364 of higher education in the Commonwealth. However, no information that is otherwise open to inspection  
365 under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated

366 within any working paper or correspondence. Further, information publicly available or not otherwise subject  
 367 to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed  
 368 in format without substantive analysis or revision shall not be deemed working papers. Nothing in this  
 369 subdivision shall be construed to authorize the withholding of any resumes or applications submitted by  
 370 persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

371 As used in this subdivision:

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

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

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

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

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

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

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

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

396 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development  
 397 Authority concerning individuals who have applied for or received loans or other housing assistance or who  
 398 have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the  
 399 Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting  
 400 list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing  
 401 authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for  
 402 housing assistance programs funded by local governments or by any such authority; or (iv) filed with any  
 403 local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency  
 404 concerning persons who have applied for occupancy or who have occupied affordable dwelling units  
 405 established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be  
 406 denied.

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

410 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant  
 411 and animal species, natural communities, caves, and significant historic and archaeological sites if, in the  
 412 opinion of the public body that has the responsibility for such information, disclosure of the information  
 413 would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to  
 414 requests from the owner of the land upon which the resource is located.

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

423 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local  
 424 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust  
 425 established by one or more local public bodies to invest funds for post-retirement benefits other than  
 426 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of

427 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The  
428 College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers  
429 Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other  
430 ownership interest in an entity, where such security or ownership interest is not traded on a governmentally  
431 regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses  
432 prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The  
433 College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board  
434 of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or  
435 board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of  
436 such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the  
437 value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or  
438 board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of  
439 William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be  
440 construed to prevent the disclosure of information relating to the identity of any investment held, the amount  
441 invested, or the present value of such investment.

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

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

461 15. Information held by the Department of Environmental Quality, the State Water Control Board, the  
462 State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal  
463 environmental enforcement actions that are considered confidential under federal law and (ii) enforcement  
464 strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be  
465 disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the  
466 agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection  
467 reports, notices of violation, and documents detailing the nature of any environmental contamination that may  
468 have occurred or similar documents.

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

473 17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification  
474 number, state sales tax number, home address and telephone number, personal and lottery banking account  
475 and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific  
476 retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won  
477 shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described  
478 in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

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

482 19. Information pertaining to the planning, scheduling, and performance of examinations of holder records  
483 pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the  
484 State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder  
485 records.

486 20. Information held by the Virginia Department of Emergency Management or a local governing body  
487 relating to citizen emergency response teams established pursuant to an ordinance of a local governing body



488 that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of  
489 an individual participant in the program.

490 21. Information held by state or local park and recreation departments and local and regional park  
491 authorities *or by the Department of Workforce Development and Advancement* concerning identifiable  
492 individuals ~~under the age of~~ *younger than 18 years of age*. However, nothing in this subdivision shall operate  
493 to prevent the disclosure of information defined as directory information under regulations implementing the  
494 federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has  
495 undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not  
496 be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's  
497 parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access.  
498 For such information of persons who are emancipated, the right of access may be asserted by the subject  
499 thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the  
500 protections afforded by this subdivision. If the protections are so waived, the public body shall open such  
501 information for inspection and copying.

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

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

509 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local  
510 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system),  
511 or the Commonwealth Savers Plan, acting pursuant to § 23.1-704 relating to:

512 a. Internal deliberations of or decisions by the retirement system or the Commonwealth Savers Plan on the  
513 pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the  
514 execution of such investment strategies or the selection or termination of such managers, if disclosure of such  
515 information would have an adverse impact on the financial interest of the retirement system or the  
516 Commonwealth Savers Plan; and

517 b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if  
518 disclosure of such records would have an adverse impact on the financial interest of the retirement system or  
519 the Commonwealth Savers Plan.

520 For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity  
521 shall make a written request to the retirement system or the Commonwealth Savers Plan:

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

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

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

526 The retirement system or the Commonwealth Savers Plan shall determine whether the requested exclusion  
527 from disclosure meets the requirements set forth in subdivision b.

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

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

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

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

537 28. Information maintained in connection with fundraising activities by the Veterans Services Foundation  
538 pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social  
539 security number or other identification number appearing on a driver's license or other document issued under  
540 Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or  
541 bank account data of identifiable donors, except that access shall not be denied to the person who is the  
542 subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure  
543 of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the  
544 donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or  
545 donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the  
546 identities of sponsors providing grants to or contracting with the foundation for the performance of services  
547 or other work or (ii) the terms and conditions of such grants or contracts.

548 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the

549 training of state prosecutors or law-enforcement personnel, where such information is not otherwise available  
550 to the public and the disclosure of such information would reveal confidential strategies, methods, or  
551 procedures to be employed in law-enforcement activities or materials created for the investigation and  
552 prosecution of a criminal case.

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

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

560 32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are  
561 discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child  
562 abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse  
563 response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation  
564 of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§  
565 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human trafficking  
566 response team established pursuant to § 15.2-1627.6. The findings of any such team may be disclosed or  
567 published in statistical or other aggregated form that does not disclose the identity of specific individuals.

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

575 34. Information discussed in a closed session of the Physical Therapy Compact Commission or the  
576 Executive Board or other committees of the Commission for purposes set forth in subsection E of §  
577 54.1-3491.

578 35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority),  
579 an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i)  
580 internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior  
581 to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets  
582 Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant  
583 to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

584 36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary  
585 exclusion program administered pursuant to § 58.1-4015.1.

586 37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any  
587 person reporting prohibited conduct pursuant to § 58.1-4043.