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HOUSE BILL NO. 765
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by Delegate Hayes
 on _____)

(Patron Prior to Substitute—Delegate Hayes)

A BILL to amend and reenact §§ 38.2-100, 59.1-198, 59.1-200, and 59.1-436 of the Code of Virginia and to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 60, consisting of sections numbered 59.1-614 through 59.1-622, relating to regulation of rental home marketplace guarantees; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-100, 59.1-198, 59.1-200, and 59.1-436 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 60, consisting of sections numbered 59.1-614 through 59.1-622, as follows:

§ 38.2-100. Definitions.

As used in this title:

"Alien company" means a company incorporated or organized under the laws of any country other than the United States.

"Bureau" or "Bureau of Insurance" means the division of the Commission established to administer the insurance laws of the Commonwealth.

"Commission" means the State Corporation Commission.

"Commissioner" or "Commissioner of Insurance" means the administrative or executive officer of the Bureau.

"Company" means any association, aggregate of individuals, business, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Domestic company" means a company incorporated or organized under the laws of the Commonwealth.

"Foreign company" means a company incorporated or organized under the laws of the United States, or of any state other than the Commonwealth.

"Health services plan" means any arrangement for offering or administering health services or similar or related services by a corporation licensed under Chapter 42 (§ 38.2-4200 et seq.).

"Insurance" means the business of transferring risk by contract wherein a person, for a consideration, undertakes (i) to indemnify another person, (ii) to pay or provide a specified or ascertainable amount of money, or (iii) to provide a benefit or service upon the occurrence of a determinable risk contingency. Without limiting the foregoing, "insurance" shall include (i) each of the classifications of insurance set forth in Article 2 (§ 38.2-101 et seq.) of this chapter and (ii) the issuance of group and individual contracts, certificates, or evidences of coverage by any health services plan as provided for in Chapter 42 (§ 38.2-4200 et seq.), health maintenance organization as provided for in Chapter 43 (§ 38.2-4300 et seq.), legal services organization or legal services plan as provided for in Chapter 44 (§ 38.2-4400 et seq.), dental or optometric services plan as provided for in Chapter 45 (§ 38.2-4500 et seq.), and dental plan organization as provided for in Chapter 61 (§ 38.2-6100 et seq.). "Insurance" shall not include any activity involving a home service contract that is subject to regulation pursuant to Chapter 33.1 (§ 59.1-434.1 et seq.) of Title 59.1; an extended service contract that is subject to regulation pursuant to Chapter 34 (§ 59.1-435 et seq.) of Title 59.1; a warranty made by a manufacturer, seller, lessor, or builder of a product or service; or a service agreement offered by an automobile club as defined in subsection E of § 38.2-514.1; or a rental home marketplace guarantee that is subject to regulation pursuant to Chapter 60 (§ 59.1-614 et seq.) of Title 59.1.

"Insurance company" means any company engaged in the business of making contracts of insurance.

"Insurance transaction," "insurance business," and "business of insurance" include solicitation, negotiations preliminary to execution, execution of an insurance contract, and the transaction of matters subsequent to execution of the contract and arising out of it.

"Insurer" means an insurance company.

"Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendment of 1965, as amended.

"Person" means any association, aggregate of individuals, business, company, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Rate" or "rates" means any rate of premium, policy fee, membership fee or any other charge made by an insurer for or in connection with a contract or policy of insurance. The terms "rate" or "rates" shall not include a membership fee paid to become a member of an organization or association, one of the benefits of which is the purchasing of insurance coverage.

60 "Rate service organization" means any organization or person, other than a joint underwriting association
61 under § 38.2-1915 or any employee of an insurer including those insurers under common control or
62 management, who assists insurers in ratemaking or filing by:

- 63 (a) Collecting, compiling, and furnishing loss or expense statistics;
64 (b) Recommending, making or filing rates or supplementary rate information; or
65 (c) Advising about rate questions, except as an attorney giving legal advice.

66 "State" means any commonwealth, state, territory, district or insular possession of the United States.

67 "Surplus to policyholders" means the excess of total admitted assets over the liabilities of an insurer, and
68 shall be the sum of all capital and surplus accounts, including any voluntary reserves, minus any impairment
69 of all capital and surplus accounts.

70 Without otherwise limiting the meaning of or defining the following terms, "insurance contracts" or
71 "insurance policies" shall include contracts of fidelity, indemnity, guaranty and suretyship.

72 **§ 59.1-198. Definitions.**

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

74 "Business opportunity" means the sale of any products, equipment, supplies, or services that are sold to an
75 individual for the purpose of enabling such individual to start a business to be operated out of his residence,
76 but does not include a business opportunity that is subject to the Business Opportunity Sales Act (§ 59.1-262
77 et seq.).

78 "Children's product" means a consumer product designed or intended primarily for children 12 years of
79 age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age
80 or younger, the following factors shall be considered:

81 1. A statement by a manufacturer about the intended use of such product, including a label on such
82 product if such statement is reasonable;

83 2. Whether the product is represented in its packaging, display, promotion, or advertising as appropriate
84 for use by children 12 years of age or younger;

85 3. Whether the product is commonly recognized by consumers as being intended for use by a child 12
86 years of age or younger; and

87 4. The Age Determination Guidelines issued by the staff of the Consumer Products Safety Commission in
88 September 2002, and any successor to such guidelines.

89 "Consent" means the same as that term is defined in § 59.1-575.

90 "Consumer transaction" means:

91 1. The advertisement, sale, lease, license, or offering for sale, lease, or license, of goods or services to be
92 used primarily for personal, family, or household purposes;

93 2. Transactions involving the advertisement, offer, or sale to an individual of a business opportunity that
94 requires both his expenditure of money or property and his personal services on a continuing basis and in
95 which he has not been previously engaged;

96 3. Transactions involving the advertisement, offer, or sale to an individual of goods or services relating to
97 the individual's finding or obtaining employment;

98 4. A layaway agreement, whereby part or all of the price of goods is payable in one or more payments
99 subsequent to the making of the layaway agreement and the supplier retains possession of the goods and
100 bears the risk of their loss or damage until the goods are paid in full according to the layaway agreement;

101 5. Transactions involving the advertisement, sale, lease, or license, or the offering for sale, lease, or
102 license, of goods or services to a church or other religious body; ~~and~~

103 6. Transactions involving the advertisement of legal services that contain information about the results of
104 a state or federal survey, inspection, or investigation of a nursing home or certified nursing facility as
105 described in subsection E of § 32.1-126; *and*

106 7. *Transactions involving the advertisement, sale, lease, or license, or the offering for sale, lease, or*
107 *license of rental home marketplace guarantees as that term is defined in § 59.1-614.*

108 "Cure offer" means a written offer of one or more things of value, including but not limited to the
109 payment of money, that is made by a supplier and that is delivered to a person claiming to have suffered a
110 loss as a result of a consumer transaction or to the attorney for such person. A cure offer shall be reasonably
111 calculated to remedy a loss claimed by the person and it shall include a minimum additional amount equaling
112 10 percent of the value of the cure offer or \$500, whichever is greater, as compensation for inconvenience,
113 any attorney's or other fees, expenses, or other costs of any kind that such person may incur in relation to
114 such loss, provided, however, that the minimum additional amount need not exceed \$4,000.

115 "Defective drywall" means drywall, or similar building material composed of dried gypsum-based plaster,
116 that (i) as a result of containing the same or greater levels of strontium sulfide that has been found in drywall
117 manufactured in the People's Republic of China and imported into the United States between 2004 and 2007
118 is capable, when exposed to heat, humidity, or both, of releasing sulfur dioxide, hydrogen sulfide, carbon
119 disulfide, or other sulfur compounds into the air or (ii) has been designated by the U.S. Consumer Product
120 Safety Commission as a product with a product defect that constitutes a substantial product hazard within the
121 meaning of § 15(a)(2) of the Consumer Product Safety Act (15 U.S.C. § 2064 (a)(2)).

122 "Goods" means all real, personal, or mixed property, tangible or intangible. For purposes of this chapter,
123 intangible property includes but shall not be limited to "computer information" and "informational rights" in
124 computer information as defined in § 59.1-501.2.

125 "Person" means any natural person, corporation, trust, partnership, association, and any other legal entity.

126 "Reproductive or sexual health information" means information relating to the past, present, or future
127 reproductive or sexual health of an individual, including:

128 1. Efforts to research or obtain reproductive or sexual health information services or supplies, including
129 location information that may indicate an attempt to acquire such services or supplies;

130 2. Reproductive or sexual health conditions, status, diseases, or diagnoses, including pregnancy,
131 menstruation, ovulation, ability to conceive a pregnancy, whether an individual is sexually active, and
132 whether an individual is engaging in unprotected sex;

133 3. Reproductive and sexual health-related surgeries and procedures, including termination of a pregnancy;

134 4. Use or purchase of contraceptives, birth control, or other medication related to reproductive health,
135 including abortifacients;

136 5. Bodily functions, vital signs, measurements, or symptoms related to menstruation or pregnancy,
137 including basal temperature, cramps, bodily discharge, or hormone levels;

138 6. Any information about diagnoses or diagnostic testing, treatment, or medications, or the use of any
139 product or service relating to the matters described in subdivisions 1 through 5; and

140 7. Any information described in subdivisions 1 through 6 that is derived or extrapolated from non-health-
141 related information such as proxy, derivative, inferred, emergent, or algorithmic data.

142 "Reproductive or sexual health information" does not include health information that is protected under
143 the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.), health
144 records for the purposes of Title 32.1, or patient-identifying records for the purposes of 42 U.S.C. § 290dd-2.

145 "Services" includes but is not limited to (i) work performed in the business or occupation of the supplier,
146 (ii) work performed for the supplier by an agent whose charges or costs for such work are transferred by the
147 supplier to the consumer or purchaser as an element of the consumer transaction, or (iii) the subject of an
148 "access contract" as defined in § 59.1-501.2.

149 "Supplier" means a seller, lessor, licensor, or professional that advertises, solicits, or engages in consumer
150 transactions, or a manufacturer, distributor, or licensor that advertises and sells, leases, or licenses goods or
151 services to be resold, leased, or sublicensed by other persons in consumer transactions.

152 **§ 59.1-200. Prohibited practices.**

153 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
154 transaction are hereby declared unlawful:

155 1. Misrepresenting goods or services as those of another;

156 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;

157 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services,
158 with another;

159 4. Misrepresenting geographic origin in connection with goods or services;

160 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
161 benefits;

162 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;

163 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished,
164 deteriorated, or reconditioned, or that are "seconds," irregulars, imperfections, or "not first class," without clearly
165 and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand,
166 repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfections, or
167 "not first class";

168 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the
169 price or upon the terms advertised.

170 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant
171 thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or
172 offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when
173 it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are
174 advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or
175 services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or
176 reasonably expected to have at least such quantity or amount for sale;

177 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of
178 price reductions;

179 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
180 installed;

181 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill
182 for merchandise or services previously ordered;

183 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"

184 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's
185 business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the
186 goods or services advertised or offered for sale;

187 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or
188 attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that
189 are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal
190 statutes or regulations;

191 13a. Failing to provide to a consumer, or failing to use or include in any written document or material
192 provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure,
193 notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so
194 provide, use, or include the statement, disclosure, notice, or other information in connection with the
195 consumer transaction;

196 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
197 with a consumer transaction;

198 15. Violating any provision of § 3.2-6509, 3.2-6512, 3.2-6513, 3.2-6513.1, 3.2-6514, 3.2-6515, 3.2-6516,
199 or 3.2-6519 is a violation of this chapter;

200 16. Failing to disclose all conditions, charges, or fees relating to:

201 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
202 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
203 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not
204 permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this
205 subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than
206 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of
207 defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of
208 merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be
209 delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to
210 sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor
211 does this subdivision apply to special order purchases where the purchaser has requested the supplier to order
212 merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's
213 catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor
214 vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

215 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of
216 the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the
217 supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure
218 shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

219 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5
220 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such
221 account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving
222 overpayments. If the credit balance information is incorporated into statements of account furnished
223 consumers by suppliers within such 60-day period, no separate or additional notice is required;

224 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
225 connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

226 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

227 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

228 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

229 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17
230 et seq.);

231 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);

232 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et
233 seq.);

234 24. Violating any provision of § 54.1-1505;

235 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6
236 (§ 59.1-207.34 et seq.);

237 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

238 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);

239 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);

240 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);

241 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
242 seq.);

243 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);

244 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

245 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

- 246 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 247 35. Using the consumer's social security number as the consumer's account number with the supplier, if
- 248 the consumer has requested in writing that the supplier use an alternate number not associated with the
- 249 consumer's social security number;
- 250 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
- 251 37. Violating any provision of § 8.01-40.2;
- 252 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 253 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 254 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 255 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525
- 256 et seq.). For the purposes of this subdivision, "consumer transaction" has the same meaning as provided in
- 257 § 59.1-526;
- 258 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 259 43. Violating any provision of § 59.1-443.2;
- 260 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 261 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 262 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 263 47. Violating any provision of § 18.2-239;
- 264 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 265 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 266 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 267 presumption that a supplier has reason to know a children's product was recalled if notice of the recall has
- 268 been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the
- 269 website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's
- 270 products that are used, secondhand or "seconds";
- 271 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 272 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 273 52. Violating any provision of § 8.2-317.1;
- 274 53. Violating subsection A of § 9.1-149.1;
- 275 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling
- 276 in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This
- 277 subdivision shall not apply to the sale or offering for sale of any building or structure in which defective
- 278 drywall has been permanently installed or affixed;
- 279 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a
- 280 transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to
- 281 repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of
- 282 whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et
- 283 seq.) of Title 54.1;
- 284 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 285 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 286 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.). For the purposes of this subdivision,
- 287 "consumer transaction" also includes transactions involving an automatic renewal or continuous service offer
- 288 by a supplier to a small business, as those terms are defined in § 59.1-207.45;
- 289 59. Violating any provision of subsection E of § 32.1-126;
- 290 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under
- 291 Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1;
- 292 61. Violating any provision of § 2.2-2001.5;
- 293 62. Violating any provision of Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1;
- 294 63. Violating any provision of § 6.2-312;
- 295 64. Violating any provision of Chapter 20.1 (§ 6.2-2026 et seq.) of Title 6.2;
- 296 65. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2;
- 297 66. Violating any provision of Chapter 54 (§ 59.1-586 et seq.);
- 298 67. Knowingly violating any provision of § 8.01-27.5;
- 299 68. Failing to, in accordance with § 59.1-207.46, (i) make available a conspicuous online option to cancel
- 300 a recurring purchase of a good or service or (ii) with respect to a free trial lasting more than 30 days, notify a
- 301 consumer of his option to cancel such free trial within 30 days of the end of the trial period to avoid an
- 302 obligation to pay for the goods or services;
- 303 69. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
- 304 that contains a synthetic derivative of tetrahydrocannabinol. As used in this subdivision, "synthetic
- 305 derivative" means a chemical compound produced by man through a chemical transformation to turn a
- 306 compound into a different compound by adding or subtracting molecules to or from the original compound.
- 307 This subdivision shall not (i) apply to products that are approved for marketing by the U.S. Food and Drug

308 Administration and scheduled in the Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit
309 any conduct permitted under Chapter 16 (§ 4.1-1600 et seq.) of Title 4.1;

310 70. Selling or offering for sale to a person younger than 21 years of age any substance intended for human
311 consumption, orally or by inhalation, that contains tetrahydrocannabinol. This subdivision shall not (i) apply
312 to products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
313 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
314 16 (§ 4.1-1600 et seq.) of Title 4.1;

315 71. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
316 that contains tetrahydrocannabinol, unless such substance is (i) contained in child-resistant packaging, as
317 defined in § 4.1-600; (ii) equipped with a label that states, in English and in a font no less than 1/16 of an
318 inch, (a) that the substance contains tetrahydrocannabinol and may not be sold to persons younger than 21
319 years of age, (b) all ingredients contained in the substance, (c) the amount of such substance that constitutes a
320 single serving, and (d) the total percentage and milligrams of tetrahydrocannabinol included in the substance
321 and the number of milligrams of tetrahydrocannabinol that are contained in each serving; and (iii)
322 accompanied by a certificate of analysis, produced by an independent laboratory that is accredited pursuant to
323 standard ISO/IEC 17025 of the International Organization of Standardization by a third-party accrediting
324 body, that states the tetrahydrocannabinol concentration of the substance or the tetrahydrocannabinol
325 concentration of the batch from which the substance originates. This subdivision shall not (i) apply to
326 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
327 Drug Control Act (§ 54.1-3400 et seq.) or (ii) be construed to prohibit any conduct permitted under Chapter
328 16 (§ 4.1-1600 et seq.) of Title 4.1;

329 72. Manufacturing, offering for sale at retail, or selling at retail an industrial hemp extract, as defined in
330 § 3.2-5145.1, a food containing an industrial hemp extract, or a substance containing tetrahydrocannabinol
331 that depicts or is in the shape of a human, animal, vehicle, or fruit;

332 73. Selling or offering for sale any substance intended for human consumption, orally or by inhalation,
333 that contains tetrahydrocannabinol and, without authorization, bears, is packaged in a container or wrapper
334 that bears, or is otherwise labeled to bear the trademark, trade name, famous mark as defined in 15 U.S.C. §
335 1125, or other identifying mark, imprint, or device, or any likeness thereof, of a manufacturer, processor,
336 packer, or distributor of a product intended for human consumption other than the manufacturer, processor,
337 packer, or distributor that did in fact so manufacture, process, pack, or distribute such substance;

338 74. Selling or offering for sale a topical hemp product, as defined in § 3.2-4112, that does not include a
339 label stating that the product is not intended for human consumption. This subdivision shall not (i) apply to
340 products that are approved for marketing by the U.S. Food and Drug Administration and scheduled in the
341 Drug Control Act (§ 54.1-3400 et seq.), (ii) be construed to prohibit any conduct permitted under Chapter 16
342 (§ 4.1-1600 et seq.) of Title 4.1, or (iii) apply to topical hemp products that were manufactured prior to July
343 1, 2023, provided that the person provides documentation of the date of manufacture if requested;

344 75. Violating any provision of § 59.1-466.8;

345 76. Violating subsection F of § 36-96.3:1;

346 77. Selling or offering for sale (i) any kratom product to a person younger than 21 years of age or (ii) any
347 kratom product that does not include a label listing all ingredients and with the following guidance: "This
348 product may be harmful to your health, has not been evaluated by the FDA, and is not intended to diagnose,
349 treat, cure, or prevent any disease." As used in this subdivision, "kratom" means any part of the leaf of the
350 plant *Mitragyna speciosa* or any extract thereof;

351 78. Advertising of any ignition interlock system in Virginia by an ignition interlock vendor not approved
352 by the Commission on the Virginia Alcohol Safety Action Program to operate in Virginia; targeted
353 advertising of any ignition interlock system to a person before determination of guilt; and any advertising,
354 whether before or after determination of guilt, without a conspicuous statement that such advertisement is not
355 affiliated with any government agency. For purposes of this subdivision, "ignition interlock system" has the
356 same meaning as ascribed to that term in § 18.2-270.1 and "targeted advertising" has the same meaning
357 ascribed to that term in § 59.1-575 and includes direct mailings to an individual. This provision shall not
358 apply to ignition interlock service vendor ads, pamphlets, or kiosk advertisements approved by the
359 Commission on the Virginia Alcohol Safety Action Program and provided at a Commission-approved
360 location;

361 79. Failing to disclose the total cost of a good or continuous service, as defined in § 59.1-207.45, to a
362 consumer, including any mandatory fees or charges, prior to entering into an agreement for the sale of any
363 such good or provision of any such continuous service;

364 80. Violating any provision of the Unfair Real Estate Service Agreement Act (§ 55.1-3200 et seq.);

365 81. Selling or offering for sale services as a professional mold remediator to be performed upon any
366 residential dwelling without holding a mold remediation certification from a nationally or internationally
367 recognized certifying body for mold remediation, and failing to comply with (i) the U.S. Environmental
368 Protection Agency's publication on Mold Remediation in Schools and Commercial Buildings, as revised; (ii)
369 the ANSI/IICRC S520 Standard for Professional Mold Remediation, as revised; or (iii) any other equivalent

370 ANSI-accredited mold remediation standard, when conducting or offering to conduct mold remediation in the
371 Commonwealth;

372 82. Willfully violating any provision of § 59.1-444.4;

373 83. Violating any provision of Chapter 23.2 (§ 59.1-293.10 et seq.);

374 84. Selling any food that is required by the FDA to have a nutrition label that does not meet the
375 requirements of 21 C.F.R. Part 101;

376 85. Obtaining, disclosing, selling, or disseminating any personally identifiable reproductive or sexual
377 health information without the consent of the consumer;

378 86. Violating any provision of Chapter 58 (§ 59.1-607 et seq.); and

379 87. (Effective July 1, 2026) Violating any provision of the Medical Debt Protection Act (§ 59.1-611 et
380 seq.); and

381 88. *Violating any provision of Chapter 60 (§ 59.1-614 et seq.).*

382 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease
383 solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth
384 or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation
385 of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

386 **§ 59.1-436. Registration; fees; exemptions.**

387 A. It shall be unlawful for any extended service contract provider to offer, advertise, or execute or cause
388 to be executed by the purchaser any extended service contract for a consumer product in this Commonwealth
389 unless the obligor at the time of the solicitation, offer, advertisement, sale, or execution of a contract has been
390 properly registered with the Commissioner. The registration shall (i) disclose the address, ownership, and
391 nature of business of the obligor; (ii) be renewed annually on July 1; and (iii) be accompanied by a fee of
392 \$300 per registration and annual renewal. A registration application or registration renewal will not be
393 considered filed until all required information and fees are received by the Commissioner. Any obligor who
394 fails to register prior to the sale of an extended service contract shall pay a late filing fee of \$100 for each 30-
395 day period, or portion thereof, that the registration is late. An obligor who fails to timely renew its registration
396 shall pay a late fee of \$50 for each 30-day period, or portion thereof, that the annual renewal filing is late. The
397 late fees authorized by this subsection shall be in addition to all other penalties authorized by law.

398 B. All fees shall be remitted to the State Treasurer and shall be placed to the credit and special fund of the
399 Virginia Department of Agriculture and Consumer Services to be used in the administration of this chapter.

400 C. Any matter subject to the insurance regulatory authority of the State Corporation Commission pursuant
401 to Title 38.2 shall not be subject to the provisions of this chapter.

402 D. Licensed or registered motor vehicle dealers, as defined in § 46.2-1500, shall not be subject to the
403 provisions of this chapter.

404 E. Extended service contract providers who comply with this section and the employees of such providers
405 who market, sell or offer to sell extended service contracts on behalf of the provider shall not be subject to the
406 provisions of Title 38.2.

407 F. Providers of a home service contract, as those terms are defined in § 59.1-434.1, that are registered and
408 regulated pursuant to Chapter 33.1 (§ 59.1-434.1 et seq.) shall not be subject to the provisions of this chapter.

409 G. *Providers of a rental home marketplace guarantee, as those terms are defined in § 59.1-614, that are*
410 *registered and regulated pursuant to Chapter 60 (§ 59.1-614 et seq.) shall not be subject to the provisions of*
411 *this chapter.*

412 **CHAPTER 60.**

413 **RENTAL HOME MARKETPLACE GUARANTEE.**

414 **§ 59.1-614. Definitions.**

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

416 *"Board" means the Board of Agriculture and Consumer Services.*

417 *"Commissioner" means the Commissioner of Agriculture and Consumer Services or his designee.*

418 *"Rental home marketplace" means a person that meets each of the following criteria:*

419 1. *Provides an online application, software, website, system, or other medium through which a property*
420 *used as an accommodation is advertised or is offered to the public as available in the Commonwealth and*
421 *that connects platform users to enable them to share such property.*

422 2. *Provides, directly or indirectly, or maintains an online platform for services by performing any of the*
423 *following:*

424 a. *Transmitting or otherwise communicating the offer or acceptance of a transaction between two*
425 *platform users.*

426 b. *Owning or operating the electronic infrastructure or technology that brings two or more platform users*
427 *together.*

428 3. *If engaged in offering rental home marketplace guarantees, does so only in a manner that is ancillary*
429 *to the conduct of its primary legitimate business or activity.*

430 4. *Is not a local or state governmental entity.*

431 *"Rental home marketplace guarantee" means a contract or agreement issued in connection with a rental*

432 *home marketplace, whether or not for a separate consideration, to reimburse a user offering a property for*
433 *rent for any damages for which the renter is responsible under the rental home marketplace's terms of*
434 *service, with or without additional provision for incidental payment of indemnity.*

435 *"Platform contract holder" means a platform user who is the beneficiary or holder of a rental home*
436 *marketplace guarantee.*

437 *"Person" means an individual, partnership, corporation, incorporated or unincorporated association,*
438 *joint stock company, reciprocal, syndicate or any similar entity or combination of entities acting in concert.*

439 *"Provider" means (i) a rental home marketplace or (ii) an affiliate or representative of a rental home*
440 *marketplace, that issues or offers and administers, either directly or through a third party, a rental home*
441 *marketplace guarantee.*

442 *"Reimbursement insurance policy" means a policy of insurance issued to a provider and pursuant to*
443 *which the insurer agrees, for the benefit of platform contract holders, to discharge all of the obligations and*
444 *liabilities of the provider under the terms of the rental home marketplace guarantee in the event of default or*
445 *non-performance of the provider under the rental home marketplace guarantee.*

446 **§ 59.1-615. Registration; fees.**

447 *A. No provider shall offer, advertise, sell, or execute or cause to be executed any rental home marketplace*
448 *guarantee in the Commonwealth unless the provider at the time of the offer, advertisement, sale, or execution*
449 *of the rental home marketplace guarantee is registered with the Commissioner. The registration application*
450 *and renewal shall be on a form provided by the Commissioner and shall (i) disclose the address, ownership,*
451 *and nature of business of the provider; (ii) be renewed annually on July 1; and (iii) be accompanied by a fee*
452 *of \$300 per registration and annual renewal. A registration application or registration renewal shall not be*
453 *considered filed until all required information and fees are received by the Commissioner.*

454 *B. All fees shall be remitted to the State Treasurer and shall be placed to the credit and in the special fund*
455 *of the Department of Agriculture and Consumer Services to be used in the administration of this chapter.*

456 **§ 59.1-616. Insurance requirements.**

457 *Any provider that is obligated to a platform contract holder shall maintain a reimbursement insurance*
458 *policy issued by an insurer authorized to transact business in the Commonwealth or issued pursuant to*
459 *Chapter 48 (§ 38.2-4805.1 et seq.) of Title 38.2. Such provider shall file a copy of such policy with the*
460 *Commissioner.*

461 **§ 59.1-617. Regulations.**

462 *The Board is authorized to adopt reasonable regulations in order to implement the provisions of this*
463 *chapter relating to rental home marketplace guarantees.*

464 **§ 59.1-618. Investigations.**

465 *A. The Commissioner may, with respect to rental home marketplace guarantees:*

466 *1. Make necessary public and private investigations in or outside of the Commonwealth to determine*
467 *whether any person has violated the provisions of this chapter or any rule, regulation, or order issued*
468 *pursuant to this chapter;*

469 *2. Require or permit any person to file a statement in writing, under oath or otherwise as the*
470 *Commissioner determines, as to all facts and circumstances concerning the matter under investigation; and*

471 *3. Administer oaths or affirmations, and upon motion or upon request of any party, may subpoena*
472 *witnesses, compel their attendance, take evidence, and require the production of any matter that is relevant to*
473 *the investigation, including the existence, description, nature, custody, condition, and location of any books,*
474 *documents, or other tangible things and the identity and location of persons having knowledge of relevant*
475 *facts, or any other matter reasonably calculated to lead to the discovery of material evidence.*

476 *B. Any proceeding or hearing of the Commissioner pursuant to this chapter, in which witnesses are*
477 *subpoenaed and their attendance required for evidence to be taken, or any matter produced to ascertain*
478 *material evidence, shall take place within the City of Richmond.*

479 *C. If any person fails to obey the subpoena or to answer questions propounded by the Commissioner and*
480 *upon reasonable notice to all persons affected thereby, the Commissioner may apply to the Circuit Court of*
481 *the City of Richmond for an order compelling compliance.*

482 **§ 59.1-619. Production of records.**

483 *Every provider, upon written request of the Commissioner, shall make available to the Commissioner its*
484 *rental home marketplace guarantee records for inspection and copying to enable the Commissioner to*
485 *reasonably determine compliance with this chapter.*

486 **§ 59.1-620. Rental home marketplace guarantees not insurance.**

487 *Rental home marketplace guarantees are not contracts of insurance in the Commonwealth and are not*
488 *subject to regulation under Title 38.2.*

489 **§ 59.1-621. Consumer protection and disclosures.**

490 *A. Rental home marketplace guarantees shall be written in clear, understandable language and shall*
491 *specify the terms, limitations, exceptions, conditions, or exclusions, including conditions governing*
492 *transferability or termination.*

493 *B. Rental home marketplace guarantees shall contain a statement in substantially the following form:*

494 *"Obligations of the provider are backed by a liability insurance policy. If the provider is unable or fails to*
495 *perform on its contractual obligation under a rental home marketplace guarantee 180 days after proof of loss*
496 *has been filed, a platform user is entitled to make a claim directly against the insurance company subject to*
497 *the terms of the policy."*

498 *C. Rental home marketplace guarantees shall include a statement in substantially the following form:*
499 *"This rental home marketplace guarantee is not an insurance contract."*

500 *D. No provider shall make, permit, or cause to be made any false or misleading statement, or deliberately*
501 *omit any material statement that would be considered misleading if omitted, in connection with the offer or*
502 *advertisement of a rental home marketplace guarantee.*

503 **§ 59.1-622. Violations of chapter; penalties.**

504 *A. Any provider that knowingly and willfully violates any provision of this chapter is guilty of a Class 3*
505 *misdemeanor.*

506 *B. Any violation of the provisions of this chapter shall constitute a prohibited practice pursuant to the*
507 *provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia*
508 *Consumer Protection Act (§ 59.1-196 et seq.).*

509 **2. That the provisions of the first enactment of this act shall become effective on January 1, 2027.**

510 **3. That the Board of Agriculture and Consumer Services (the Board) shall promulgate regulations to**
511 **implement the provisions of this act to be effective by January 1, 2027. The Board's initial adoption of**
512 **such regulations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et**
513 **seq. of the Code of Virginia), except that the Board shall provide an opportunity for public comment**
514 **on the regulations prior to adoption.**

515 **4. That any person required under the provisions of this act to be registered with the Commissioner of**
516 **Agriculture and Consumer Services (the Commissioner) to provide rental home marketplace**
517 **guarantees, as defined in § 59.1-614 of the Code of Virginia, as created by this act, on the effective date**
518 **of the first enactment of this act shall register with the Commissioner no later than January 1, 2027,**
519 **and may continue to issue rental home marketplace guarantees provided such person meets the**
520 **requirements of this act. Any rental home marketplace guarantees issued prior to the effective date of**
521 **the first enactment of this act shall be subject to oversight of the Commissioner.**