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SENATE BILL NO. 712

Offered January 21, 2022

A *BILL to amend and reenact § 2.2-3705.7 and to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 and 2, consisting of sections numbered 2.2-2035 through 2.2-2044, relating to creation of Department of Regulatory Innovation; Virginia Regulatory Sandbox Program.*

Patron—Stanley

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3705.7 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 20.2, containing articles numbered 1 and 2, consisting of sections numbered 2.2-2035 through 2.2-2044, as follows:

CHAPTER 20.2.**DEPARTMENT OF REGULATORY INNOVATION.****Article 1.****General Provisions.****§ 2.2-2035. Department of Regulatory Innovation created; appointment of Director.**

A. There is hereby created a Department of Regulatory Innovation, which shall be headed by a Director appointed by the Governor to serve at his pleasure.

B. The Director shall, under the direction and control of the Governor, exercise and perform the duties conferred or imposed upon him by law and perform such other duties as may be required by the Governor.

§ 2.2-2036. Definitions.

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

"Applicable agency" means a department or agency of the Commonwealth that by law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses, certificates of public need, or other types of authorization, which the Department determines would otherwise regulate a participant in the Program.

"Applicant" means an individual or business that is applying to participate in the Program.

"Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

"Consumer" means a person, business, or organization that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a sandbox participant.

"Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the Program.

"Department" means the Department of Regulatory Innovation.

"Director" means the Director of the Department of Regulatory Innovation.

"Financial product or service" means a product or service that supports the provision of banking or financial services, including those products or services that (i) require a state license or registration or (ii) include a business model, delivery mechanism, or element that may require a state license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 6.2, or other related provisions. "Financial product or service" does not include those products and services governed by the Securities Act (§ 13.1-501 et seq.).

"Hackathon" means a conference or meeting in collaboration with industry specialists with the express intention of solving specific concerns of a market within the Commonwealth or a region of the Commonwealth.

"Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism to consumers.

"Innovative offering" means an offering that includes an innovation.

"Offering" means a product, production method, or service. "Offering" does not include those products and services governed by the Securities Act (§ 13.1-501 et seq.).

"Participant" means a person whose application to participate in the Program is approved in accordance with the provisions of this chapter.

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59 "Product" means a commercially distributed good that is (i) tangible personal property, (ii) the result
60 of a production process, and (iii) passed through the distribution channel before consumption.

61 "Production" means the method or process of creating or obtaining a good, which may include
62 assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing,
63 harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.

64 "Program" means the Virginia Regulatory Sandbox Program created by this chapter, which allows a
65 person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws
66 or regulations.

67 "Service" means any commercial activity, duty, or labor performed for a consumer.

68 **§ 2.2-2037. Duties of Department.**

69 A. The Department shall have the following duties:

70 1. Administer the provisions of this chapter pursuant to the Program; and

71 2. Act as a liaison between private businesses and applicable agencies to identify state laws or
72 regulations that could potentially be waived or suspended under the Program.

73 Nothing in this chapter shall be construed to mean that the Department has the authority to
74 promulgate any regulation or guidance outside of that which is necessary to administer the Program.

75 B. The Department may:

76 1. Review state laws and regulations that may inhibit the creation and success of new businesses or
77 industries and provide recommendations to the Governor and the General Assembly on modifying such
78 state laws or regulations;

79 2. Create a framework for analyzing the risk level to the health, safety, and financial well-being of
80 consumers related to permanently removing or temporarily waiving laws and regulations that may be
81 inhibiting the creation or success of new and existing businesses or industries;

82 3. Propose potential reciprocity agreements between states that have established or are proposing to
83 establish programs similar to that established in this article;

84 4. Make rules regarding the administration of the Program, including making rules regarding the
85 application process and the reporting requirements of participants;

86 5. Create an advisory committee whose membership, appointed by the Director, shall represent a
87 variety of business and industry interests, applicable agencies, and the General Assembly, and whose
88 sole purpose is to make recommendations to the Department in the review of applications for
89 participation in the Program; and

90 6. Cooperate and consult with applicable agencies in the administration of the Program.

91 Article 2.

92 Virginia Regulatory Sandbox Program.

93 **§ 2.2-2038. Virginia Regulatory Sandbox Program; administration.**

94 A. The Department shall administer the Virginia Regulatory Sandbox Program in accordance with
95 the provisions of this chapter. In administering the Program, the Department shall:

96 1. Consult with each applicable agency; and

97 2. Establish procedures to enable a person or business to obtain legal protections and limited access
98 to the market in the Commonwealth to test an innovative offering without obtaining a license or other
99 authorization that might otherwise be required.

100 B. In administering the Program, the Department may:

101 1. Enter into agreements with or adopt the best practices of corresponding federal regulatory
102 agencies or other states that are administering similar programs;

103 2. Consult with businesses in the Commonwealth about existing or potential proposals for the
104 Program; and

105 3. Host or participate in industry hackathons or conferences to aid in the development of innovative
106 offerings for use within the Program.

107 **§ 2.2-2039. Application process.**

108 A. Any individual or business seeking to participate in the Program shall submit an application, on a
109 form prescribed by the Department for this purpose, for the innovative offering that the applicant seeks
110 to demonstrate. A separate application shall be submitted for each innovative offering. The Department
111 may require payment of an application fee in an amount not to exceed \$50.

112 B. The application for participation in the Program shall require the applicant to:

113 1. Confirm the applicant is subject to the jurisdiction of the Commonwealth;

114 2. Confirm that the applicant has established a physical or virtual location that is adequately
115 accessible to the Department and from which the demonstration of an innovative offering will be
116 developed and performed and where all required records, documents, and data will be maintained;

117 3. Confirm that the applicant has the necessary personnel, financial and technical expertise, and
118 access to capital and a developed plan to test, monitor, and assess the demonstration of an innovative
119 offering;

120 4. Disclose any criminal convictions of the applicant, including any participating personnel;

121 5. Identify the applicable agencies that regulate the applicant's business or industry;
 122 6. Provide a description of the innovative offering to be demonstrated. Such description shall include
 123 statements regarding the following:

124 a. How the offering is subject to licensing, legal prohibition, or other authorization requirements
 125 outside of the Program, including a specific list of all state laws, regulations, and licensing or other
 126 requirements that the applicant is seeking to have waived or suspended during the demonstration
 127 period;

128 b. How the offering would benefit consumers;

129 c. How the offering is different from other offerings available in Virginia;

130 d. The potential risks to consumers that use or purchase the offering;

131 e. How participating in the Program would enable a successful demonstration of the offering; and

132 f. How the applicant will end the demonstration and protect consumers if the demonstration fails,
 133 including providing evidence of sufficient liability coverage and financial reserves to protect consumers
 134 and to protect against insolvency by the applicant;

135 7. Provide a description of the proposed demonstration plan, including estimated time periods for
 136 initiating and concluding the demonstration and obtaining necessary licensure or authorizations after
 137 the conclusion of the demonstration;

138 8. Provide an overview of the applicant's ongoing duties, if any, and how the applicant will perform
 139 such duties after the conclusion of the demonstration; and

140 9. Provide any additional information requested or required by the Department.

141 **§ 2.2-2040. Review of applications for participation; approval or denial.**

142 A. After an application is filed and before approving an application, the Department may seek any
 143 additional information from the applicant that the Department, from its own research or in consultation
 144 with the applicable agencies, determines is necessary, including:

145 1. Proof of sufficient assets, accounts, liability coverage, surety bond coverage, or other preparation
 146 by the applicant to ensure that consumers are protected and that the applicant will be able to cover
 147 ongoing duties, if any, when the demonstration ends or if the demonstration ends early; and

148 2. Industry ratings and past performance of the applicant.

149 B. The Department shall inform the applicant as to whether the application is approved for entry
 150 into the Program no later than 90 days after a complete application is received by the Department.
 151 However, the Department and an applicant may mutually agree to extend the 90-day period for the
 152 Department to determine whether an application is approved.

153 C. In reviewing an application under this section, the Department may consult with each applicable
 154 agency before admitting an applicant into the Program, including seeking information about whether:

155 1. The applicable agency has previously issued a license or other authorization to the applicant;

156 2. The applicable agency has previously investigated, sanctioned, or pursued legal action against the
 157 applicant;

158 3. Whether the applicant could obtain a license or other authorization from the applicable agency
 159 after exiting the Program; and

160 4. Whether certain licensures, authorizations, or other laws or regulations should not be waived even
 161 if the applicant is accepted into the Program.

162 D. No later than 30 days after the day on which applicable agency has been consulted or asked to
 163 review an application to the Program, the applicable agency shall provide a written report of its
 164 findings to the Director.

165 1. The report shall (i) describe any identifiable, likely, and significant harm to the health, safety, or
 166 financial well-being of consumers that the relevant licensure, authorization, law, or regulation protects
 167 against and (ii) make a recommendation to the Department that the applicant's participation in the
 168 Program be approved or denied.

169 2. If the applicable agency recommends that an applicant be denied participation in the Program,
 170 the written report shall include a description of the reason for the recommendation, including why a
 171 temporary waiver or suspension of the relevant licensure, authorizations, laws, or regulations would
 172 potentially significantly harm the health, safety, or financial well-being of consumers of the public and
 173 the likelihood of such harm occurring.

174 3. If the applicable agency determines that the health, safety, or well-being of consumers or the
 175 public can be protected through less restrictive means than the existing licensure, authorizations, laws,
 176 or regulations, then the applicable agency shall provide a recommendation of how that can be achieved
 177 within the context of the Program.

178 4. If an applicable agency fails to provide a written report as described in this subsection, the
 179 Director shall assume that the applicable agency does not object to the temporary waiver or suspension
 180 of the relevant licensure, authorizations, laws, or regulations for an applicant seeking to participate in
 181 the Program.

182 E. In reviewing an application under this section, the Department shall consider whether a
183 competitor to the applicant is or has been a Program participant and, if so, weigh that as a factor in
184 favor of allowing the applicant to also become a participant.

185 F. An applicant becomes a Program participant if and when the Director approves admission into
186 the Program and enters into a written agreement with the applicant describing the specific licensure,
187 authorizations, laws, or regulations that are waived or suspended as part of participation in the
188 Program. When an applicant is approved for participation in the Program, the director may provide
189 notice of the approval to competitors of the applicant and to the public.

190 G. Notwithstanding any other provision of this chapter, and within the 90-day period described in
191 subsection B, the Director may deny any application if the Director determines, in the Director's sole
192 discretion, that:

193 1. The applicant's offering fails to comply with standards and specifications (i) required by federal
194 law or regulation or (ii) previously approved for use by a federal agency;

195 2. An applicant or participant has been convicted, entered a plea of nolo contendere, or entered a
196 plea of guilty or nolo contendere held in abeyance for a crime (i) involving theft, fraud, or dishonesty
197 or (ii) that bears a substantial relationship to the applicant's ability to safely or competently participate
198 in the Program; or

199 3. An applicant's participation in the program is deemed to create a substantial risk of harm to the
200 health, safety, or financial well-being of the public, or create an unreasonable expense for taxpayers in
201 the Commonwealth, including the Director's assessment of the applicant's ability to protect consumers in
202 the case of a failed demonstration or at the end of the demonstration period.

203 If the Department denies an application submitted under this section, the Department shall provide to
204 the applicant a written description of the reason for the denial within the same 90-day period described
205 in subsection B.

206 H. If the Director determines that a participant has engaged in, is engaging in, or is about to
207 engage in any practice or transaction that is in violation of this chapter, that constitutes a violation of a
208 law or regulation for which suspension or waiver has not been granted, or that constitutes a violation of
209 a state or federal criminal law, the Director may immediately remove the participant from the Program.

210 I. The denial of an application submitted under this section is not subject to agency or judicial
211 review.

212 J. Notwithstanding any other provision of this chapter, the Department may not enter into a written
213 agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the
214 Department of Taxation or that is described in Title 58.1.

215 **§ 2.2-2041. Participation in program; scope; fees and requirements; liability.**

216 A. If the Director approves an application under § 2.2-2040, the participant has 24 months after the
217 day on which the application was approved to demonstrate the offering described in the participant's
218 application.

219 B. The Department and a participant may mutually agree to extend the 24-month period described in
220 subsection A if deemed appropriate to the successful demonstration of an innovative offering. Such
221 agreement shall not extend beyond 30 months from the participant's date of entry into the Program.

222 C. A participant demonstrating an innovative offering within the Program is subject to the following:

223 1. Consumers shall be residents of the Commonwealth;

224 2. No law or regulation may be waived or suspended if doing so would prevent a consumer from
225 seeking restitution in the event that the consumer is harmed; and

226 3. The Department may, on a case-by-case basis, specify liability coverage requirements and
227 minimum financial reserve requirements that the participant shall meet during the demonstration of the
228 innovative offering.

229 D. This section does not restrict a participant who holds a license or other authorization in another
230 jurisdiction from acting in accordance with that license or other authorization.

231 E. A participant, solely by way of being a participant in the Program, is deemed to possess an
232 appropriate license or authorization under the laws of the Commonwealth for the purposes of any
233 provision of federal law requiring state licensure or authorization for the duration of the demonstration
234 period.

235 F. Subject to subsection G:

236 1. A participant that is demonstrating an innovative offering within the context of the Program is not
237 subject to state laws, regulations, licensing requirements, or authorization requirements that were
238 identified in the written agreement between the Department and the participant pursuant to § 2.2-2040.

239 2. An attorney for the Commonwealth or the Attorney General may not file or pursue charges
240 pertaining to a law or regulation identified in the written agreement between the Department and
241 participant pursuant to § 2.2-2040 that occurs during the demonstration period; and

242 3. A state agency may not file or pursue any punitive action against a participant, including a fine
243 or license suspension or revocation, for the violation of a law or regulation that (i) is identified as

being waived or suspended in the written agreement between the Department and the participant pursuant to § 2.2-2040 and (ii) occurs during the demonstration period.

G. Notwithstanding any other provision of this section, a participant does not have immunity related to any criminal offense committed during the participant's participation in the Program.

H. By written notice, the Department may end a participant's participation in the Program at any time and for any reason, including if the Director determines a participant is not operating in good faith to bring an innovative offering to market in the Commonwealth.

I. The Department and the employees of any applicable agency or related department are not liable for any business losses, or the recouping of application expenses, related to the Program, including in the cases of (i) denying an applicant's application to participate in the Program for any reason or (ii) ending a participant's participation in the Program at any time.

§ 2.2-2042. Consumer protection for the Virginia Regulatory Sandbox Program.

A. Prior to providing an innovative offering to a consumer, a participant must disclose the following to the consumer:

1. The name and contact information of the participant;

2. That the offering is authorized pursuant to the Program;

3. That the offering is undergoing demonstration and may not function as intended, potentially exposing the consumer to risk;

4. That the provider of the offering is not immune from civil liability for any losses or damages caused by the offering;

5. That the participant is not immune from criminal prosecution for violations of state law or regulations that are not suspended or waived as permitted by the Program;

6. That the Commonwealth does not endorse or recommend the offering;

7. That the offering is a temporary demonstration that may be discontinued at the end of the demonstration period;

8. The expected end date of the demonstration period; and

9. That a consumer may contact the Department to file a complaint regarding the offering being demonstrated and provide the Department's telephone number and website address where a complaint may be filed.

B. The disclosures required by subsection A shall be provided to a consumer in a clear and conspicuous manner and, for an Internet or application-based offering, a consumer shall acknowledge receipt of the disclosure before a transaction may be completed.

C. The Department may require that a participant make additional disclosures to a consumer.

§ 2.2-2043. Extensions.

A. Not later than 30 days before the end of the Program demonstration period, a participant may request an extension of the testing period for the purpose of obtaining a license or other authorization required by law.

B. The Department shall grant or deny a request for an extension in accordance with subsection A by the end of the Program demonstration period.

C. The Department may grant an extension in accordance with this section for not more than six months after the end of the Program demonstration period.

D. A participant that obtains an extension in accordance with this section shall provide the Department with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorizations, rejected applications, or issued licenses or other authorizations.

§ 2.2-2044. Recordkeeping and reporting requirements.

A. A participant shall retain records, documents, and data produced in the ordinary course of business regarding the innovative offering demonstrated in the Program.

B. If an innovative offering fails or ceases to provide an offering before the end of the demonstration period, the participant shall notify the Department and report on actions taken by the participant to ensure that consumers have not been harmed as a result.

C. The Department shall establish quarterly reporting requirements for a participant, including information about any consumer complaints.

D. The Department may request records, documents, and data from a participant, and, upon the Department's request, a participant shall make such records, documents, and data available for inspection by the Department.

E. The participant shall notify the Department and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer. If the participant fails to notify the Department and each applicable agency of any incidents pursuant to subsection D, or the Department or an applicable agency has evidence that significant harm to a consumer has occurred, the Director may immediately remove the participant from the Program.

F. No later than 30 days after the day on which the participant exits the Program, the participant shall submit a written report to the Department providing an overview of the participant's demonstration, including any:

1. Incidents of harm to consumers;
2. Legal action filed against the participant as a result of the participant's demonstration; and
3. Complaints filed with the Department or an applicable agency as a result of the participant's demonstration.

G. By October 1 of each year, the Director shall report to the General Assembly the following:

1. Information regarding each Program participant, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;
2. Information regarding outcomes for consumers; and
3. Recommendations regarding the effectiveness of the Program or any laws or regulations that should be permanently modified.

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

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

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

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

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

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by

the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

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

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body

428 or a private concern, when such information has not been publicly released, published, copyrighted, or
429 patented. This exclusion shall also apply when such information is in the possession of Virginia
430 Commonwealth University.

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

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

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

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

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

458 20. Information held by the Virginia Department of Emergency Management or a local governing
459 body relating to citizen emergency response teams established pursuant to an ordinance of a local
460 governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or
461 operating schedule of an individual participant in the program.

462 21. Information held by state or local park and recreation departments and local and regional park
463 authorities concerning identifiable individuals under the age of 18 years. However, nothing in this
464 subdivision shall operate to prevent the disclosure of information defined as directory information under
465 regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g,
466 unless the public body has undertaken the parental notification and opt-out requirements provided by
467 such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian
468 of such person, unless the parent's parental rights have been terminated or a court of competent
469 jurisdiction has restricted or denied such access. For such information of persons who are emancipated,
470 the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the
471 subject of the information may waive, in writing, the protections afforded by this subdivision. If the
472 protections are so waived, the public body shall open such information for inspection and copying.

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

479 23. Information held by the Judicial Inquiry and Review Commission made confidential by
480 § 17.1-913.

481 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local
482 retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement
483 system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

484 a. Internal deliberations of or decisions by the retirement system or the Virginia College Savings
485 Plan on the pursuit of particular investment strategies, or the selection or termination of investment
486 managers, prior to the execution of such investment strategies or the selection or termination of such
487 managers, if disclosure of such information would have an adverse impact on the financial interest of
488 the retirement system or the Virginia College Savings Plan; and

489 b. Trade secrets provided by a private entity to the retirement system or the Virginia College Savings

Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Virginia College Savings Plan.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the Virginia College Savings Plan:

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

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

(3) Stating the reasons why protection is necessary.

The retirement system or the Virginia College Savings Plan shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

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

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

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

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

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

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

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

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

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

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

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

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the

551 Authority), an advisory committee of the Authority, or any other entity designated by the Authority,
552 relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular
553 investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as
554 defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the
555 Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on
556 the financial interest of the Authority or a private entity.

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

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

561 38. *Any part of an application for participation in the Virginia Regulatory Sandbox Program*
562 *pursuant to Chapter 20.2 (§ 2.2-2035 et seq.) that the Governor or his designee determines is nonpublic,*
563 *confidential information that if disclosed would result in actual economic harm to the applicant.*
564 *However, this subdivision shall not be construed to mean that a record evidencing a final contract or*
565 *approval decision is excluded pursuant to this section.*