

**REPORT OF THE
VIRGINIA CODE COMMISSION ON**

**The Revision of
Title 1 and Title 7.1
of the Code of Virginia**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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RICHMOND
2005**

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**Report of the
Virginia Code Commission on the
Revision of Titles 1 and 7.1**

**Richmond, Virginia
January 2005**

**To: The Honorable Mark R. Warner, Governor of Virginia
and
The General Assembly of Virginia**

In May 2003, the Virginia Code Commission, in accordance with § 30-152 of the Code of Virginia, commenced its revision of Title 1 (General Provisions). Title 1 contains the original provisions related to the enactment of the 1950 Code of Virginia and the statutory rules of construction that apply to the Code of Virginia and the uncodified acts of the General Assembly. At the May meeting, the Commission decided to expand the scope of the revision to include the incorporation of Title 7.1 (Boundaries, Jurisdiction and Emblems of the Commonwealth) into Title 1. Titles 1 and 7.1 were last revised in 1966. The revision of Titles 1 and 7.1 provided an opportunity to consolidate two general titles that contain many provisions of great historical and fundamental significance.

The Commission was assisted by interested individuals, groups, and state agencies with a wide range of expertise in many subject matters of the law. The Commission wishes to express its sincere gratitude for the many hours of work that these individuals donated to this enormous endeavor.

The revision of Title 1 presented unique challenges compared to other title revisions. Because the provisions of Chapter 1 were part and parcel to the creation of the Code of 1950, they needed to be retained without any change in substance or form. This limitation necessitated that the revisions be done at the chapter level. The new Title 1 contains four revised chapters in which obsolete and duplicative provisions have been removed, nomenclature updated, and the structure and clarity of the laws improved.

The Virginia Code Commission recommends that the General Assembly enact legislation during the 2005 Regular Session to implement the revisions proposed in this report.

Respectfully submitted,

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EXECUTIVE SUMMARY

I. INTRODUCTION

In May 2003, the Virginia Code Commission commenced its revision of Title 1 of the Code of Virginia. Title 1 (General Provisions) contains the original provisions related to the enactment of the 1950 Code of Virginia and the statutory rules of construction that apply to the Code of Virginia and the uncodified acts of the General Assembly. At the May meeting, the Commission decided to expand the scope of the revision to include the incorporation of Title 7.1 (Boundaries, Jurisdiction and Emblems of the Commonwealth) into Title 1. The Commission believed that a combined title would serve several useful purposes. First, Title 1 is set out in Volume 1 of the Code, which also contains the Constitutions of the United States and the Commonwealth and Title 2.2 on the Administration of Government. Because the body of law contained in Volume 1 is of great historical significance and serves as an introduction to the Commonwealth, the Commission believed that the inclusion of the Commonwealth's boundaries and emblems would enhance and complement the volume. Second, a longer title would give Title 1 greater recognition -- an important quality because of the far-reaching application of the rules of construction currently contained in the title. Finally, a majority of other states have similarly arranged their introductory titles, which makes for easier state by state comparisons.

The Code Commission has prepared the proposed revisions to Titles 1 (General Provisions) and 7.1 (Boundaries, Jurisdiction and Emblems of the Commonwealth) for introduction at the 2005 Regular Session of the General Assembly. Titles 1 and 7.1 were last revised, together with Title 5, by the Virginia Code Commission in 1966. However, the Code Commission in 1966 concluded that there was no necessity for a wholesale revision and recommended only minor changes. In the last 40 years, there have been significant changes to the laws of the Commonwealth requiring a more extensive revision of Title 1. However, many of the statutory construction provisions remain as viable as they were on the day of their adoption several hundred years ago. For these sections only stylistic changes and the incorporation of consistent and modern terminology were needed. The Commission examined the provisions of the two titles in great detail, and consulted interested individuals, groups, and state agencies with a wide-range of expertise in many subject matters of the law.

II. ORGANIZATION OF THE NEW TITLE 1

The proposed title is divided into five chapters. The title number has not been changed because of the need to leave intact the provisions of Chapter 1. The Code Commission involved in the 1966 revision determined that the provisions of Chapter 1 "spoke as of April 6, 1948, as part and parcel of the Act which brought the Code into being the Code of Virginia and not merely as provisions of the Code itself...[A]ny amendment of any provision of Chapter 1, whether substantive or procedural, would invite interpretation as of the date of amendment or re-enactment rather than the date of the original enactment." The current Code Commission acknowledged this analysis and conclusion and determined that it could revise Title 1 at the chapter level and leave chapter 1 in pristine order. Other existing chapter numbers in Title 1 were renumbered with a .1 designation to indicate that they had been recodified and new chapters were added in chronological order. Chapter 2.1 contains the definitions and rules of construction that govern the interpretation of certain provisions in the Code of Virginia and the uncodified acts of the General Assembly. Chapters 3.1, 4, and 5 contain relocated provisions from Title 7.1. Chapter 3.1 covers the boundaries of the

Commonwealth as they have evolved from the early colonial charters through the various compacts entered into between the Commonwealth and its neighboring states. Chapter 4 deals with jurisdictional issues of property that has been ceded to the United States. Chapter 5 completes the title with a compilation of the Commonwealth's official emblems and designations.

III. REVIEW OF CHAPTERS AND SIGNIFICANT AND SUBSTANTIVE CHANGES

Chapter 1 - Code of Virginia

This chapter is retained without any change to the text or the section numbers.

Chapter 2.1 - Common Law and Rules of Construction

This chapter incorporates the statutory construction rules contained in chapter 2. The following definitions were eliminated as obsolete:

- **Court of Appeals** - the meaning is clear without the definition.
- **Compliance with Article IV, Section 12 of the Constitution of Virginia in certain cases; ratification, etc., of certain references** - the section's viability is questionable because of the existing case law and its possible encroachment into the prerogative of the judicial branch to interpret the Constitution of Virginia.
- **Effect of omission of certain language ("as amended in the title") of Acts of Assembly** - the section is no longer needed because the phrase has not been used in titles for over 35 years and the construction rule on the term "enacted" covers the purpose of this section.
- **Effect of references to former Codes in Acts of 1950** - this was a transitional section to address the status of legislation adopted at the 1950 session and is no longer needed.
- **Following** (when used for cross-referencing sections) - the use of specific cross-references has replaced the use of this term.
- **Governor** - the meaning is clear in the Constitution of Virginia.
- **Horse** - the meaning is clear with the new definition of gender.
- **Percent** - the meaning is clear without the definition.
- **Preceding** (as used for cross-referencing sections) - the use of specific cross-references has replaced the use of this term.
- **Railroad; railway** - a statutory distinction between railroad and railway is no longer helpful because of the plethora of transportation companies that do not include these words in their name.
- **Supreme Court of Appeals** - the meaning is clear without the definition.
- **Trial Justice** - all references to trial justice have been replaced with modern terminology in the title revision.

The Commission added the following four definitions to Chapter 2.1 to address certain issues:

- **Ex officio** - resolves the issue that these members have voting privileges unless otherwise provided.
- **Includes** - resolves the issue that the term means "includes, but not limited to."
- **Locality** - addresses the term's multiple references in the Code with the current definition used in Title 15.2.
- **Municipality; incorporated communities; and municipal corporation** - addresses the multiple references of these terms in the Code with the current definition used in Title 15.2.

The Commission made significant revisions to the following definitions:

- **Person** - adopts the broadest possible definition of person using commonly recognized classes of entities based on the definition of person in the Uniform Commercial Code.
- **Computation of Time** - three sections in Title 1 that deal with timing issues for filing legal pleadings and holding court and other proceedings have been combined into one section for convenience. The prohibition in Title 1 on holding court or other proceedings on Sundays and legal holidays is removed. The provision conflicted with other sections of the Code that often extended the exclusion to include Saturdays. The Code Commission also believed that in some circumstances a judge or judicial officer should have the option to extend a proceeding to one of these restricted dates.
- **United States and State** - the term "so called territories" for the United States in these definitions is replaced with the specific names of territories in which the citizens currently enjoy United States citizenship.

Chapter 3 - Citizenship

This chapter is repealed as obsolete. The chapter deals with the early issues of allegiance and expatriation during the time following the Revolutionary War. Its core provision dates back to a 1779 Act of the General Assembly that determined who would be considered British subjects. The determination of citizenship was particularly important at that time because all lands and personal property of British subjects escheated or were forfeited to the state. In addition, aliens could not inherit land in Virginia during that time. However, many of the reasons for this chapter do not exist today. The Fourteenth Amendment of the United States Constitution has since resolved the issue of citizenship and states that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." In addition, all rights and privileges bestowed upon citizens of the Commonwealth are defined in terms of residency or domicile, e.g. voting privileges, taxes, and in-state tuition. The law prohibiting aliens from inheriting land has been reversed. Section 55-1 provides that "any alien, not an enemy, may acquire by purchase or descent and hold real estate in this Commonwealth."

Chapter 3.1 - Boundaries of the Commonwealth

The Commission adopted a different approach in its revision to the sections governing the boundaries of the Commonwealth. Many of the current boundary provisions in Title 7.1 are descriptions of the legislative history leading to the appointment of commissioners to determine the boundary. The original act constituting the agreement on the boundary is the binding compact between the Commonwealth and the other state. Compacts are contracts between states and are treated differently than other legislation enacted. Both states must agree to the terms of the compact and the United States Congress must approve the compact before it becomes effective. A compact cannot be changed without the consent of the other state and the United States Congress. In consideration of these limitations, the Code Commission decided that the provisions in Title 1 should reference the authority of the compact and set out at length the original act embodying the compact in the Compacts volume of the Code. Sections that contain a discernable metes and bound description are also retained in Title 1 because of the value they add in their specificity to the boundary line. A description of what would appear in Title 1 and the Compacts volume is set out in the drafting note for each section.

Chapter 4 - Jurisdiction Over Lands Acquired by the United States

The definition of person is deleted as unnecessary because the new definition in Title 1 would suffice. Except for stylistic changes and updated cross-references, the rest of the chapter is retained without any substantive change because the sections constitute agreements with the United States that cannot be changed unilaterally.

Chapter 5 - Emblems

The significant change in this chapter is its reorganization. The chapter consolidates the several chapters of Title 7.1, which often only contained one section. The provisions governing the seals of the Commonwealth and the flag of the Commonwealth are combined into Article 1. The rationale for a separate article is that these emblems are symbols of the Commonwealth's sovereignty and are unique from the other official emblems and designations that are grouped together into Article 2.

Title 1

TITLE 1 -- GENERAL PROVISIONS

Chapter

1. Code of Virginia

2.1 Common Law and Rules of Construction

Article 1. Common Law and Acts of Parliament

Article 2. Rules of Construction and Definitions

3.1 Boundaries of the Commonwealth

4. Jurisdiction Over Lands Acquired by the United States

5. Emblems

Article 1. Symbols of Sovereignty

Article 2. Emblems, Designations, and Honors

Title 1.

General Provisions.

CHAPTER 1.

CODE OF VIRGINIA.

Chapter Drafting Note: Chapter 1 is retained in its entirety without change. The last report issued by the Code Commission on Title 1 determined that the first chapter of Title 1 contains provisions basic to and inseparable from the 1948 Act. The Code Commission acknowledges this analysis and conclusion and recommends no changes.

§ 1-1. Contents and designation of Code.

The laws embraced in this and the following titles, chapters, articles and sections of this act shall constitute, and be designated and cited as the "Code of Virginia," hereinafter referred to as "the Code" or "this Code."

Drafting Note: No change.

§ 1-2. Effective date of Code.

All the provisions of this Code shall be in force on and after February 1, 1950, except as provided in § 1-2.1.

Drafting Note: No change.

§ 1-2.1. Effective date of certain provisions.

The following provisions of this Code shall become effective July 1, 1948, namely:

Chapter 1 of Title 1; Chapters 1, 8, 9, 12, 14, 15, and 16 of Title 2; Chapter 13 of Title 3; Chapter 11 of Title 6; Chapters 2 and 5 of Title 9; all of Title 10; Article 7 of Chapter 1 of Title 14; Article 3 of Chapter 6 of Title 18; Chapter 2 of Title 19; Chapter 3 of Title 24; Chapter 3 of Title 27; Chapters 15 and 19 of Title 32; all of Title 41; Article 4 of Chapter 6 of Title 42; Articles 2 and 12 of Chapter 1 of Title 44 and all of Chapter 2 of Title 44; Chapter 3 of Title 51; Chapter 1 of Title 52; Chapters 1 through 14, inclusive, of Title 53; Chapter 24 of Title 54; Chapters 12 and 13 of Title 59; Chapter 7 of Title 62; all of Title 63 except Chapter 13.

Drafting Note: No change.

§ 1-3. Repeal of acts of a general nature.

All acts and parts of acts of a general nature, in force at the time of the adoption of this Code, shall be repealed from and after February 1, 1950, with such limitations and exceptions as are hereinafter expressed; and all acts and parts of acts of a general nature in force at the time of the adoption of this Code, and in conflict with any of the provisions of this Code which by virtue of § 1-2.1 become effective on July 1, 1948, shall be repealed from and after July 1, 1948, with such limitations and exceptions as are hereinafter expressed.

Drafting Note: No change.

§ 1-4. Effect of such repeal generally; effect of revision or amendment of state Constitution.

No such repeal nor any amendment or revision of the Constitution of Virginia shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any right established, accrued, or accruing before the day upon which such repeal, amendment or revision takes effect, or any prosecution, suit, or proceeding pending on that day, except that the proceedings thereafter had shall conform, so far as practicable, to the provisions of this Code; and where any penalty, forfeiture, or punishment is mitigated by those provisions, such provisions may, with the consent of the party affected, be applied to any judgment to be pronounced after that day; and such repeal, amendment or revision as to any statute of limitations, under which the bar of a right of action or remedy is complete at the time the repeal, amendment or revision takes effect, shall not be deemed a removal of such bar, but the bar shall continue, notwithstanding such repeal, amendment or revision.

Drafting Note: No change.

§ 1-5. Effect of such repeal as to persons in office.

All persons who, at the time when such repeal takes effect, shall hold any office under any of the acts hereby repealed, shall continue to hold the same according to the tenure thereof, except those offices which may have been abolished, and those as to which a different provision is made by this Code.

Drafting Note: No change.

§ 1-6. Effect of repeal of validating statutes.

The repeal by any provisions of this Code of a statute validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal, but no further.

Drafting Note: No change.

§ 1-7. Acts passed between certain dates not affected.

The enactment of this Code shall not affect any act passed by the General Assembly, which shall have become a law after January 14, 1948, and before February 1, 1950; but every such act shall have full effect, and so far as the same varies from or conflicts with any provision contained in this Code it shall have effect as a subsequent act, and as repealing any part of this Code inconsistent therewith; provided, however, that any such act which becomes a law between said dates and which amends and reenacts, or reenacts any previously existing provisions of law conferring any power or imposing any duty upon any department, board, commission, agency or officer of the state government whose functions, powers and duties are affected by any of the provisions of this Code becoming effective July 1, 1948, shall be construed as conferring the powers and imposing the duties specified therein upon the department, board, commission, agency or officer of the state government to which or to whom the duties and powers imposed or conferred by such previously existing provisions of law were transferred by the provisions of this Code becoming effective July 1, 1948.

Drafting Note: No change.

§ 1-8. Notice, recognizance or process given, taken or issued before Code in force.

Although a notice, recognizance or process shall have been given, taken or issued before the day prescribed for the commencement of this Code, or of any provisions of this Code, it may, nevertheless, be given, taken or returnable to a day after such commencement, or to a court established by this Code or the clerk's office of such court, in like manner as if this Code had commenced before the same was given, taken, or issued.

Drafting Note: No change.

§ 1-9. Pending cases; parties; where books, records and papers to remain.

Nothing in this Code shall operate to discontinue any cause or matter, civil or criminal, which shall be pending and undetermined in any court on the day before this Code, or any provision of this Code, takes effect; but every such cause and matter shall be proceeded in, tried and determined in such court, or in the court which succeeds to or has its jurisdiction, and in the names of the same parties, or in the names of any officers, boards, commission, or other persons or bodies who may have succeeded under the provisions of this Code to the rights or obligations of such parties, or any of them. The papers and records of such causes and matters, and all books, records and papers whatever which on such day may be in the custody of any clerk of a court shall remain in custody of the clerk of the same, or of such court as succeeds to or has its jurisdiction.

Drafting Note: No change.

CHAPTER ~~2~~2.1.

COMMON LAW ~~STATUTES~~ AND RULES OF CONSTRUCTION.

Chapter Drafting Note: Chapter 2.1 contains the statutory construction provisions previously contained in Chapter 2 of Title 1. Article 1 addresses the adoption of the common law and the general acts of Parliament as part of the law of the Commonwealth. Article 2 provides for the rules of construction for the Code and acts of the General Assembly. A separate chapter on statutory construction rules has existed since the 1849 Code. The rules have been reorganized for easier references.

Article 1.

Common Law and Acts of Parliament.

§ ~~1-101~~1-200. The common law.

The common law of England, insofar as it is not repugnant to the principles of the Bill of Rights and Constitution of this Commonwealth, shall continue in full force within the same, and be the rule of decision, except as altered by the General Assembly.

Drafting Note: No change. This provision dates back to the 1776 Ordinance of Convention and ensured that Virginia became a common law state.

§ ~~1-111~~1-201. Acts of Parliament.

The right and benefit of all writs, remedial and judicial, given by any statute or act of Parliament, made in aid of the common law prior to the fourth year of the reign of James

the First, of a general nature, not local to England, shall still be saved, insofar as the same are consistent with the Bill of Rights and Constitution of this Commonwealth and the Acts of Assembly.

Drafting Note: No change. The original provision adopted in 1776 provided that all the laws of England currently in effect were carried forward and incorporated into the law of the Commonwealth in order for "the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, till the same can be more amply provided for." By 1789, the General Assembly limited this section as it is currently written in recognition that the "good people of this Commonwealth may be ensnared by an ignorance of acts of Parliament, which have never been published in any collection of the laws." In addition, the General Assembly had during the 1789 session enacted all the statutes that "appeared to them worthy of adoption," and that had not already been made part of the laws of the Commonwealth.

Article 2.

Rules of Construction and Definitions.

~~§ 1-131-202.~~ Rules-General rule of construction.

~~In the construction of this Code and of all statutes, The rules and definitions set forth in this chapter shall be observed as set forth used in the following sections in the construction of this Code and the acts of the General Assembly,~~ unless the construction would be inconsistent with the manifest intention of the General Assembly.

Drafting Note: No substantive change. This section serves as an introduction for the rest of the chapter and provides the uniform standard for the application of all definitions and construction rules to follow. The term "act of the General Assembly" has consistently been used throughout the title revision as a substitution for the term "statute."

~~§ 1-13.421-203.~~ Age of majorityAdult.

~~(a) Unless a different meaning appears from the context:~~

~~(1) The words "infant," "child," "minor," "juvenile" or any combination thereof shall be construed to mean a person under eighteen years of age.~~

~~(2) When used to mean or include disability because of age, the term "person under disability" shall be construed to mean or include a person under eighteen years of age.~~

~~(3) The word "Adult" shall be construed to mean means a person eighteen 18 years of age or ~~ever~~more.~~

~~(4) The word "infancy" shall be construed to mean the state of being under eighteen years of age.~~

~~(b) For the purposes of all laws of the Commonwealth including common law, case law and statutory law, unless an exception is specifically provided in this Code, a person shall be an adult, shall be of full age and shall reach the age of majority when he becomes eighteen years of age.~~

Drafting Note: This section is separated into several definitional sections and a rule of construction for easier reference. The separate definition for "infancy" is deleted because its meaning is inherent in the definition of infant. The combined definition of infant, child, minor, and juvenile is relocated to § 1-207. The definition of person under disability is relocated to § 1-232. The rule of construction on determining the age of majority is relocated to § 1-204.

§ 1-204. Age of majority.

For the purposes of all laws of the Commonwealth including common law, case law, and ~~statutory law~~ the acts of the General Assembly, unless an exception is specifically provided in this Code, a person shall be an adult, shall be of full age, and shall reach the age of majority when he becomes ~~eighteen~~ 18 years of age.

Drafting Note: This section is relocated from § 1-13.42 with stylistic changes.

~~§ 1-13.1:~~ 1-205. "Bond with surety".

~~Whenever the term "Bond with surety" is used in this Code, it shall be construed to include~~ includes the payment in cash of the full amount of the required bond and, in such case, no surety shall be required.

Drafting Note: This section was enacted in 1977 and overturns preexisting case law to the contrary that held that an appeal bond paid in cash without surety made the appeal defective.

~~§ 1-15.1:~~ 1-206. Notice by Certified mail equivalent to ~~notice by~~ registered mail.

~~Whenever in the Code of Virginia Any~~ if any mail or notice is required to be sent by registered mail, it shall constitute compliance with ~~any such section~~ this requirement if such mail or notice is sent by certified mail.

Drafting Note: No change in substance. Registered mail provides the highest protection in transit by requiring a signature at each postal location. It provides the sender with a mailing receipt and online access to the delivery status and insurance on any item valued up to \$25,000. Certified mail provides proof of mailing and online access to delivery status. It does not include insurance and is not available for international mail. Typically, legal documents are sent by certified mail because the

documents have no intrinsic value requiring insurance. Although the Commission recognized that there are other commercial carriers that provide similar services, the members agreed that expanding the section to include such entities and services would constitute a substantive change beyond the scope of the Title 1 revision. However, the Commission encourages that this section be reviewed to determine what services could be included in its scope.

§ 1-207. Child; juvenile; minor; infant.

~~The words "infant," "Child," "juvenile," "minor," "juvenile""infant," or any combination thereof shall be construed to mean~~means a person ~~under eighteen~~less than 18 years of age.

Drafting Note: The definition is relocated from § 1-13.42. The terms are placed in the order that reflects their frequency in the Code.

§ 1-13.21-208. City.

~~The word "City"~~ means an independent incorporated community which became a city as provided by law before noon on July 1, 1971, or which has within defined boundaries a population of 5,000 or more and which has become a city as provided by law.

Drafting Note: No substantive change. A definition of city was first enacted in 1887 to address the growing distinction between cities and towns. The current definition of city in this section is identical to the definitions used in Article VII, Section 1 of the Constitution of Virginia and § 15.2-102. However, because the scope of the constitutional definition is limited to its use in Article VII and the scope of the definition of § 15.2-102 is limited to its use in Title 15.2, a separate definition is needed in Title 1 because of the term's use throughout the Code.

§ 1-13.4:11-209. Collegial body.

"Collegial body" means a governmental entity whose power or authority is vested within its membership.

Drafting Note: No substantive change. This definition was added by the 2004 General Assembly because the term "collegial body" was an undefined variant form of the term "collegium," but was often confused with the term "collegiate," a term that only encompasses colleges and universities. The definition was a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils and Other Governmental Entities pursuant to HJR 159 (2002).

§ 1-13.31-210. Computation of time.

A. When a statute~~an act of the General Assembly~~ or rule of court requires ~~a notice to be given, or any other that an act to be done~~performed, ~~a certain prescribed amount of time before any a motion or proceeding, there must be that time, exclusive of the day for of~~

such motion or proceeding shall not be counted against the time allowed, but the day on which such ~~notice is given, or such act is done,~~performed may be counted as part of the time; ~~but~~. When ~~a~~an ~~statute~~act of the General Assembly or rule of court requires a ~~notice to be given or any other~~that an act to be done ~~performed~~ within a certain prescribed amount of time after any event or judgment, ~~that time shall be allowed in addition to the day on which the event or judgment occurred~~ shall not be counted against the time allowed.

~~§ 1-13.3:1. When acts may be done in judicial proceedings where last day falls on Saturday, Sunday, legal holiday or day on which clerks' offices are closed.~~

B. ~~When the last day fixed by statute, or by rule of the Supreme Court of Virginia for the commencement of any proceeding, for any paper to be served, delivered or filed, or for performing any other~~an act to be done ~~induring~~ the course of judicial proceedings a judicial proceeding falls on a Saturday, Sunday, legal holiday, or any day or part of a day on which the clerk's office is closed as authorized by ~~statute~~an act of the General Assembly, the proceeding may be commenced, the paper may be served, delivered or filed and the act may be ~~done~~performed on the next day that is not a Saturday, Sunday ~~or~~, legal holiday, or day or part of a day on which the clerk's office is closed as authorized by ~~statute~~an act of the General Assembly.

~~§ 1-13.27. Sundays and holidays.~~

~~When a court is directed to be held, or any other proceeding directed by law to take place, on a particular day of a month, if that day happens to be Sunday, or any legal holiday within the meaning of § 2.2-3300, the court shall be held or the proceeding take place on the next day which is neither Sunday nor such legal holiday. And when a law authorizes~~ A. Any court, or the proceedings of an officer ~~proceeding authorized,~~ to be adjourned from day to day, ~~an adjournment to the next day which is neither~~ shall not be required to meet on a Sunday nor such ~~or legal holiday shall be legal.~~

Drafting Note: The section combines §§ 1-13.3, 1-13.3:1, and 1-13.27. These sections are also rewritten for clarity. Subsection B clarifies that when the clerk's office is closed for any part of a day, it is treated as if the office is closed the entire day. Section 1-13.3:1 was originally enacted in 1962 and may have been an outgrowth from the decision in the case of Jacob Cousins v. Commonwealth of

Virginia, 187 Va. 506, 47 S.E.2d 391(1948). In that case, the Supreme Court ruled that Saturday was not a legal holiday for the purpose of exclusion in the computation of time even though the Code declared that after noon, Saturday was a legal holiday. Subsection C contains a substantive change that would eliminate in Title 1 the requirement to carry over judicial proceedings to the next day that is not a Sunday or legal holiday. This part of the section is inherently inconsistent with other sections of the Code and current practices. There are number of instances in which certain proceedings, e.g., juvenile detention hearings must be held within a certain period. These sections currently exclude Saturdays as well as Sundays and legal holidays from the days on which those proceedings may be held.

~~§ 1-13.411-211. References to prior Constitution~~Constitutional references.

~~Whenever there appears in any statute~~act of the General Assembly in effect at noon on July 1, 1971~~-a reference,~~ refers to any section, article, or provision of the prior Constitution of Virginia~~-in effect immediately prior to such time,~~ such reference shall ~~be construed to apply~~apply to the any comparable section, article, or provision, ~~if such there be,~~ of the Constitution of Virginia then in force; ~~but such construction shall not apply if it clearly would be~~effect unless the construction would be contrary to the legislative intent ~~giving rise to such statute~~of the act.

Drafting Note: No substantive change. The language has been simplified to remove wordiness.

~~§ 1-13.5. Council.~~

~~The word "Council" unless a different meaning clearly appears from the context, shall include any body or bodies authorized to make ordinances for the government of a city or town.~~

Drafting Note: The section is repealed as unnecessary. The term is currently defined in § 15.2-102 for references in Title 15.2. Whenever the term is used in other titles, it is clear when it applies to cities and towns.

~~§ 1-13.5:11-212. Court~~Courts of record.

~~Trial courts of general jurisdiction, appellate courts, and such other courts as shall be so designated by law shall be known as "courts of record." The words "Courts of record" shall be construed to embrace corporation courts, hustings courts, chancery courts, law and equity courts, law and chancery courts and circuit courts~~means the Supreme Court of Virginia, the Court of Appeals of Virginia, and the circuit courts.

Drafting Note: This section is revised to insert the modern names for the current courts of record.

~~§ 1-17.21-213. Designation of person or body responsible to perform~~Delegation of
duties assigned to ~~an agency or~~ political subdivision.

~~Whenever a duty or responsibility is imposed upon an agency of the Commonwealth in this Code, the duty or responsibility is imposed upon the chief executive officer of that agency.~~

~~Whenever a duty or responsibility is imposed upon a political subdivision of the Commonwealth in this Code, the duty or responsibility is imposed upon the governing body of that political subdivision~~The governing body of a political subdivision shall be responsible for any duty or responsibility imposed upon its political subdivision.

Drafting Note: The provision on the responsibilities for duties imposed on agencies is relocated to § 2.2-604. This section contains other provisions governing the performance of duties assigned to an agency. The responsibility for duties imposed on political subdivisions is retained in Title 1 and reworded for clarity. There are numerous titles that give powers to local governments or create obligations. Section § 1-213 (existing § 1-17.2) makes it clear what entity in the local government structure has these powers or obligations.

~~§ 1-121-214. Commencement of statutes~~Effective dates.

A. All laws enacted at a regular session of the General Assembly, including laws which are enacted by reason of actions taken during the reconvened session following a regular session, but excluding general appropriation acts, decennial reapportionment acts, and emergency acts, shall take effect on the first day of July following the adjournment of the regular session at which they were enacted, unless a subsequent date is specified.

B. All laws enacted at a special session of the General Assembly, including laws which are enacted by reason of actions taken during the reconvened session following a special session, but excluding general appropriations acts, decennial reapportionment acts, and emergency acts, shall take effect on the first day of the fourth month following the month of adjournment of the special session at which they were enacted, unless a subsequent date is specified.

C. A general appropriation act shall take effect from its passage, unless another ~~day for the commencement thereof be particularly mentioned in the act itself~~effective date is specified in the act.

D. An emergency act shall take effect from its passage, or on a subsequent date if specified in the bill~~act~~, provided that the emergency shall be expressed in the body of the bill~~act~~ and that the emergency shall be approved by a four-fifths vote of the members voting in each house of the General Assembly. The name of each member voting and how he voted ~~is to~~shall be recorded in the journal.

~~E. The day upon which every act was approved by the Governor, or became a law without his approval, shall be noted after the title thereof in the next publication of the Acts of Assembly. After the last act published in each volume of the Acts of Assembly, there shall be printed a certificate of the Clerk of the House of Delegates stating the date of adjournment of the session or sessions of the General Assembly at which the acts printed in such volumes were enacted. A decennial reapportionment act to reapportion the Commonwealth into electoral districts shall take effect immediately.~~

Drafting Note: No substantive change. Subsections A and B parallel the language appearing in Article IV, Section 13 of the Constitution of Virginia with the additional reference to the effective date of reapportionment acts found in Article II, Section 6 of the Constitution of Virginia. Subsections C and D establish passage as the default effective day for general appropriation bills and emergency acts. The provisions in section E are relocated to § 30-14, which deals with the duties of the Clerk of the House of Delegates as the Keeper of the Rolls. The new provision in section E parallels the language appearing in Article II, Section 6 of the Constitution of Virginia. The terms "commences" and "commencement" are archaic and have been replaced by the more commonly used terms "effective" and "effective date."

1-215. Ex officio.

"Ex officio" means service by virtue of one's office and includes voting privileges unless otherwise provided.

Drafting Note: This new definition clarifies that any person who serves as an ex officio member has voting privileges unless those privileges are prohibited. Although this Latin term means literally "by virtue of one's office," the term has sometimes been associated with the lack of voting privileges. For instance, chairmen of standing committees in Congress serve ex officio without voting privileges on their subcommittees.

§ 1-13.6. Following.

~~The word "following," when used by way of reference to any section or sections of any statute, shall be construed to mean next following that in which such reference is made.~~

Drafting Note: The section is repealed. The term "following" is no longer used with the term "section" to indicate a cross-reference in the Code. The use of precise cross-references by section number has become the standard drafting practice.

~~§ 1-13.71-216. Gender.~~

~~A word importing the used in the masculine gender only may extend and be applied to females and to corporations as well as males includes the feminine and neuter.~~

~~The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import, when used in reference to discrimination, shall be construed to include, but shall not be limited to, because of or on the basis of pregnancy, childbirth or related medical conditions. Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.~~

Drafting Note: The first paragraph is revised to complement the expanded definition of person, which includes all types of legal entities in addition to corporations. The last paragraph was enacted in 1997 to codify the decision of Bailey v. Lee-Gallaher, 253 Va. 121, 480 S.E. 2d 502 (1997). Although the Court relied on the Human Rights Act for the public policy articulation against gender discrimination for the exception to the common law employment-at-will doctrine, the last provision in the section addresses the dissenting justices' concerns that the Human Rights Act does not address pregnancy discrimination. The second enactment clause of the 1997 act stated that the act was declaratory of existing law and did not create an additional cause of action. The last provision is relocated to § 2.2-3901 to be part of the Human Rights Act.

~~§ 1-13.8. Governor.~~

~~The words "the Governor" shall be equivalent to "the executive power of the Commonwealth" or to "the person having the executive power."~~

Drafting Note: The section is repealed as obsolete. Prior to 1851, the executive power was vested in the Governor and an advisory Council of State. Both the Governor and members of the Council were chosen by the General Assembly. The Governor was required to seek the advice of the Council before exercising his discretionary powers. In 1851, the Constitution vested the chief executive power solely in the Governor, and the Governor became a popularly elected official. The definition of Governor in Title 1 precedes the 1851 Constitution and can be traced back to 1849. The definition may have been needed to clarify the powers granted to the Governor because of the existence of the Council. The current Constitution of Virginia, in Article V, Section 1, clearly invests the chief executive power in the Governor. In addition, the Code of Virginia has been through several recodifications since 1849 and the phrases "executive power of the Commonwealth" and "the person having the executive power" are not currently used in the Code.

~~§ 1-13.91-217.~~ Headlines of sections.

The headlines of the ~~several sections of this Code~~ printed in black-face type are intended as mere catchwords to indicate the contents of the sections and ~~shall not be deemed or taken to be titles of such sections, nor as any part thereof, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the headlines, are amended or reenacted~~ do not constitute part of the act of the General Assembly.

Drafting Note: The revision to this section restates more clearly the principle that the headlines of sections are not part of the act of the General Assembly in accordance with the decisions of the Supreme Court of Virginia. See Krummert v. Commonwealth, 186 Va. 581, 584, 43 S.E.2d 831, 832 (1947); C.I.T. Corporation v. Guy, et als. 170 Va. 16, 26, 195 S.E. 659, 663 (1938); Chambers v. Higgins, 169 Va. 345, 351, 193 S.E. 531, 533 (1937); and Jordon, et als. v. So. Boston, 138 Va. 838, 845, 122 S.E. 265, 267 (1924). These cases state that: The headline, although not part of the statute, is indicative of legislative intent.

~~§ 1-13.10. Horse.~~

~~The word "horse" shall be construed to embrace a mare and a gelding.~~

Drafting Note: This section is repealed. At the request of the State Veterinarian and as part of the recodification of Title 3.1, the following definition will be added in Title 3.2: "Horse" means any stallion, colt, gelding, mare, or filly." This definition is more extensive than the current definition in Title 1, which is no longer need because of the revised definition of gender in § 1-216.

§ 1-218. Includes.

"Includes" means includes, but not limited to.

Drafting Note: This section adds a new definition to clarify that the terms "includes" and "includes, but not limited to" are equivalent. Both are used in the Code interchangeably, and it is not clear under Virginia law whether "includes" is a term of limitation or a term of enlargement.

~~§ 1-13.10:1. Inhabitants.~~

~~The word "inhabitants" used in any act of the General Assembly with reference to any county, city, or town, shall be construed to mean population as defined in § 1-13.22.~~

Drafting Note: The definition of inhabitants is included in the definition of population in § 1-235. Although a 1954 Attorney General's opinion issued 10 days prior to the introduction of the legislation creating this section concluded that the terms "inhabitants" and "population" were susceptible to the same meaning as that given that to population in § 1-13.22, the General Assembly nevertheless deemed it essential to define inhabitants. In deference to the prior General Assembly's decision to include a separate definition, the substance of the section is retained and incorporated into § 1-235 to eliminate a needless cross-reference.

§ ~~1-13.121-219~~. Land; real estate.

~~The word "Land," "lands," and or "real estate" shall be construed to include~~includes lands, tenements and hereditaments, and all rights and appurtenances thereto and interests therein, other than a chattel interest.

Drafting Note: No substantive change. This section negates the common law, which defined lands less extensively than either tenements (estates or holdings of land) or hereditaments (interests in real property that may be inherited). The phrase "lands, tenements, and hereditaments" was traditionally used in wills, deeds, and other instruments. See Black's Dictionary, 7th Edition.

§ ~~1-13.39:21-220~~. Local ordinances incorporating ~~provisions of the Code and regulations~~state law by reference.

When counties, cities and towns are empowered to incorporate by reference ~~state statutes~~provisions of the Code, acts of the General Assembly, or state regulations into a local ordinance, any ordinance incorporating by reference ~~state statutes~~provisions of the Code, acts of the General Assembly or state regulations may include future amendments to the ~~state statutes~~provisions of the Code, acts of the General Assembly or state regulations provided such intent is specifically stated in such ordinance.

Drafting Note: No change in substance. The general term "statutes" has been replaced with the more specific reference "provisions of the Code" and "acts of the General Assembly" for consistency. This section has a more recent history compared to other sections in Title 1. The rule of construction governing the incorporation by reference of future amendments to state statutes was enacted in 1993. The section was amended in 2001 to cover the incorporation by reference of state regulations.

§ 1-221. Locality.

"Locality" means a county, city, or town as the context may require.

Drafting Note: This section adds the definition of locality currently contained § 15.2-102 because of the term's use throughout the Code. The definition of local government is not included because in some Code sections, local government is defined to include other entities, e.g., authorities.

§ ~~1-13.11-222~~. Majority authority ~~to three or more~~.

~~Words purporting to give~~Whenever authority is conferred by law to three or more ~~public officers or other persons, shall be construed as giving such authority to a majority of such officers or other persons~~shall have the power to exercise such authority, unless it is otherwise expressly declared in the law giving authorityprovided.

Drafting Note: No substantive change. The section is rewritten for clarity.

~~§ 1-13.131-223. Month; year.~~

~~Unless otherwise expressed, the word "Month" shall be construed to mean means a calendar month.~~

~~§ 1-13.33. Year.~~

~~Unless otherwise expressed, the word and "year" shall be construed to mean means a calendar year; and the word "year" alone shall be equivalent to the expression "year of our Lord."~~

Drafting Note: Sections 1-13.13 and 1-13.33 have been combined. The new section ensures that a month's time follows the calendar and not the expiration of 30 days. The phrase "year of our Lord" is deleted as archaic. The phrase was included when dating important documents during the 1700s. However, the use of this phrase is no longer common and the Code does not contain this phrase. Although 10 states still define year using this phrase, most states simply define year as a calendar year.

§ 1-224. Municipality; incorporated communities; municipal corporation.

"Municipality," "incorporated communities," "municipal corporation," and words or terms of similar import mean cities and towns.

Drafting Note: This section adds the shared definition for the terms "municipality," "incorporated communities," and "municipal corporation" currently contained § 15.2-102 because these terms are used throughout the Code.

~~§ 1-13.13:11-225. Nonlegislative citizen member.~~

"Nonlegislative citizen member" means any natural person who is not a member of the General Assembly of Virginia.

Drafting Note: No substantive change. The term was added by the 2004 General Assembly to clarify that a local elected official could serve on a collegial body as a nonlegislative citizen member. The House and Senate Rules Committees developed the term "nonlegislative citizen member" to ensure that the membership of a collegial body consisted of citizens who were not members of the General Assembly.

~~§ 1-13.141-226. Notary ~~or notaries~~.~~

~~The word "Notary" or "notaries" shall be construed as if followed by the word "public." means notary public.~~

Drafting Note: No substantive change. The Commission recommends that a cross-reference to this section be included in a publisher's annotation to Title 47.1 (Notaries and Out-of-State Commissioners). The plural form of notary is deleted because of the existing rule of construction extending the meanings of words to their plural form.

§ ~~1-13.151-227~~. Number.

~~A word importing used in the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.~~ includes the plural and a word used in the plural includes the singular.

Drafting Note: No substantive change. The section is rewritten for clarity.

§ ~~1-13.161-228~~. Oath.

~~The word "Oath" shall be construed to include an~~ includes ~~affirmation in all cases in which by law an affirmation may be substituted for an oath.~~

Drafting Note: No substantive change. The definitions of "oath" and "swear" date back to at least 1849. The section is simplified with the last condition removed. The United States Supreme Court declared in Torcaso v. Watkins, 367 U.S. 488 (1961) that neither a state nor the federal government could constitutionally force a person to profess a belief or disbelief in any religion. The last provision of this section is nullified by that decision because the state could not impose an oath (a declaration in the belief in God) without the allowance for the substitution of an affirmation.

§ ~~1-13.35:11-229~~. ~~Effect of change in form of~~ Optional form of county government upon statutes identifying other political subdivisions by reference to county's prior form of government; effect of change in form.

Whenever any ~~statute heretofore or hereafter enacted identifies any county, city, town, political subdivision, or combination thereof~~ is identified in an act of the General Assembly by reference to the fact that it is ~~adjacent or contiguous to, surrounded by, or located within~~ its proximity to a county which ~~that~~ has adopted a ~~an optional~~ form of government provided in Chapters 13 (§ 15.1-582 et seq.), 14 (§ 15.1-669 et seq.), or 15 (§ 15.1-722 et seq.) of Title ~~15.1~~ 15.2, and that county changes its form of government, the ~~statute~~ act shall continue to apply to such county, city, town, political subdivision, or combination thereof and shall cease to apply only upon the subsequent enactment by the General Assembly of a measure in which such intent clearly is stated.

Drafting Note: No change in substance. This section was enacted in 1990 and establishes a policy rule of construction. Cross-references are updated so that the section covers all optional forms of county government in Title 15.2. Specific language that describes certain types of proximity to these counties is replaced with a more general inclusive term. The term "statute" is replaced by "act of the General Assembly" for consistency.

~~§ 1-13.18. Percent.~~

~~The word "percent" shall be equivalent to the words "per centum."~~

Drafting Note: This section is repealed. Percent is an abbreviation of the Latin word "percentum" where per mean divide and centum means 100. Percent is a common term used today and the two terms appear to be used interchangeably in case law. Only two sections of the Code (§§ 3.1-126.3 and 60.2-531) currently use percentum.

~~§ 4-13.191-230. Person.~~

~~The word "Person" shall include~~includes any individual, corporation, partnership, association, cooperative, limited liability company, business, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

Drafting Note: The current definition in § 1-13.19 was developed following the recodification of Title 54 (Professions) to address the emergence of new business entities legally recognized in the Commonwealth. The term "body politic" was deleted from the section and the catchall term "other legal entity" took its place. The proposed definition is the broadest possible definition of person using commonly recognized classes of entities and has been adapted from the current definition of person in the Uniform Commercial Code.

~~§ 4-13.19:41-231.~~ When "person" includes business trust and limited liability company.

Whenever the term "person" is defined to include both "corporation" and "partnership," such term shall ~~be deemed to also~~ include "business trust and limited liability company."

Drafting Note: The statutory rule to include business trust in the various definitions of person was enacted in 2002 and a comparable statutory rule for limited liability companies (§ 13.1-1069) was created in 1991. These rules were necessary because of the several definitions of person (171 currently identified) that are used throughout the Code. The definition in Title 1 is the default definition and applies if no other definition is provided. Any revision to the definition in Title 1 does not alter the other definitions of person appearing in the Code. Although business trusts and limited liability companies would have been covered by the definition in Title 1, they were not covered by the more restrictive definitions in other sections of the Code. Therefore, new statutory rules had to be enacted to expand the narrower definitions of person so that they would include business trusts and limited liability companies. Both rules of construction have been combined into one section.

§1-232. Person under disability.

"Person under disability" ~~shall be construed to mean or include~~includes a person under ~~eighteen~~less than 18 years of age.

Drafting Note: No change in substance. This definition is relocated from § 1-13.42.

§ ~~1-13.201-233~~. Personal estate.

The words "Personal estate" ~~shall include~~includes chattels real and such other estate as, upon the death of the owner intestate, would devolve upon his personal representative.

Drafting Note: No change in substance. This provision codifies the common law and treats chattels real, a term which includes periodic tenancies, tenancies-at-will, and tenancies for years as personal property rather than real property. The Code Commission recommends that a publisher's annotation contain a cross-reference to this section in Title 64.1 and another publisher's annotation be added to § 1-233 listing examples of chattels real.

§ ~~1-13.241-234~~. Personal representative.

The words "Personal representative" ~~shall be construed to include~~includes the executor of a will or the administrator of the estate of a decedent, the administrator of such estate with the will annexed, the administrator of such estate unadministered by a former representative, whether there ~~be~~is a will or not, ~~a sheriff or other officer~~any person who is under the order of a ~~court of probate~~circuit court to take into his possession the estate of a decedent ~~and administer the same~~for administration, and every other curator ~~or committee~~ of a decedent's estate, for or against whom suits may be brought for causes of action ~~which~~that accrued to or against the decedent.

Drafting Note: The specific reference to the sheriff appointed by the court as a personal representative has been replaced with "any person" to reflect that sheriffs are rarely, if ever, appointed. Section 64.1-131 permits the sheriff to decline the appointment when the responsibility would interfere with his other duties, and in most cases the sheriff would be expected to seek this exemption. The reference to "committee" has been stricken because it is a term not currently used in the administration of estates. The Code Commission recommends that a publisher's annotation in Title 64.1 cross-reference this section.

§ ~~1-13.221-235~~. Population: inhabitants.

The word "Population" used in this Code ~~or in any act of the General Assembly with reference to any county, city, town or political subdivision of the Commonwealth or any combination thereof, unless the context clearly indicates some other meaning,~~ shall be

~~construed to mean or "inhabitants" means with reference to any county, city, town, political subdivision of the Commonwealth or any combination thereof, the population of natural persons in such county, city, town, political subdivision or combination as shown by the unadjusted United States decennial census last preceding the time at which any provision dependent upon population is being applied, or the time as of which it is being construed, to the end that there will be such flexibility as will constitute the word of general and variable, instead of special and invariable, significance; provided, however, that~~ Where two or more political subdivisions are consolidated, the population of the consolidated county or city or other political subdivision shall be the combined population of the consolidating subdivisions, under the last preceding unadjusted United States decennial census.

Drafting Note: This section combines §§ 1-13.22 and 1-13.10:1, which provided the same definition for population and inhabitants with reference to political subdivisions. See drafting note for the repeal of § 1-13.10:1 for the legislative history of this section. The term "natural persons" is substituted for the term "population" to avoid the problem of repeating in the definition the term being defined. The language that elaborates on the flexibility of the application of the definition is deleted because § 1-236 (currently § 1-13.35) covers the ability of localities to grow into but not out of a population classification without an expressed intent of the General Assembly to the contrary. The reference to the United States census is clarified because census figures are often adjusted to correct misallocations of population. The practice has been for the General Assembly to rely on the first set of released figures to establish population brackets. The first released figures for counties and cities, but not towns, are currently printed in the appendix of the Acts of Assembly. A requirement to include the first release population figures for counties, cities, and towns in the appendix of the Acts of Assembly is added to § 30-13.

~~§ 1-13.351-236. Effect of population changes on statutes containing~~ Population classifications.

~~Whenever any county, city, town or political subdivision of the Commonwealth or any combination thereof is identified by population classification in any statute heretofore or hereafter enacted, such statute~~Any act of the General Assembly with a population classification applicable to any county, city, town, or subdivision of the Commonwealth or any combination thereof shall continue to apply to any such ~~county, city, town, political subdivision or combination~~body notwithstanding any subsequent change in population

~~and shall cease to so apply only upon the subsequent enactment by the General Assembly of a measure in which such intent is clearly stated. All actions of any such county, city or town or political subdivision of the Commonwealth or any combination thereof, and of the officers thereof and of the clerks of courts thereof in the operation of their respective offices either on a fee or salary basis for the calendar year of 1961, and until March 30, 1962, under any such act of Assembly or provision of the Code of Virginia enacted prior to July 1, 1960, are hereby ratified, validated and confirmed. Nothing in this section shall operate to prevent the application of any such statute to any county, city or town or political subdivision of the Commonwealth or any combination thereof, falling within the population classification therein prescribed apply to any county, city, town, or political subdivision of the Commonwealth or any combination thereof subsequently falling within such population classification. The provisions of this section shall not apply to, or limit, the distribution of any state funds, grants-in-aid, or other allocation from the state treasury, to any county, city, town, or other political subdivision of the Commonwealth.~~

Drafting Note: The section is reworded for clarity. The section was originally enacted in 1962 following the recodification of Title 15. At that time, the Code Commission noted in their report that several statutes that originally applied to one area had lost their application and become applicable to some other area with attendant difficulty and misunderstanding. The current section is revised using more succinct language adopted from language opined by the Attorney General. See 1993 Op. Atty. Gen. Va. 250. The provision pertaining to the removal of a locality from a population classification by the express intent of the legislature is deleted because the general construction rule in § 1-202 (currently § 1-13) covers the situation in which the General Assembly may manifest a contrary intent and negate this section's rule of construction. Section 1-13.36 pertaining to an exception to the construction rule for the distribution of state funds is relocated to this section. State funds distributed to localities based on population include salaries of constitutional officers and local registrars, ABC profits, grants to local libraries, grants for fire protection, and financial assistance to localities with police departments through the "599" program. References to the validity of certain actions by local officers at the time of the original enactment of this section in 1962 are relocated to an enactment clause because of their limited application.

~~§ 1-13.36. Section 1-13.35 not applicable to distribution of state funds.~~

~~The provisions of § 1-13.35 shall not apply to, or limit, the distribution of any state funds, grants in aid, or other allocation from the state treasury, to any county, city, town or other political subdivision of the Commonwealth.~~

Drafting Note: This section is relocated to § 1-236.

~~§ 1-13.37. Effect of References to former Codes in Acts of 1950.~~

~~In order to avoid confusion in any case in which any act passed at the 1950 Regular Session of the General Assembly contains a reference to any section of any Code of this Commonwealth in force prior to February 1, 1950, such reference shall be deemed to be to the appropriate section of the Code of 1950 unless the context of such act clearly indicates otherwise.~~

Drafting Note: This section is repealed as obsolete. The section was established as a transitional section during the 1950 session when the new Code of Virginia was adopted. The section is no longer needed.

~~§ 1-13.23. Preceding.~~

~~The word "preceding," when used by way of reference to any section or sections of any statute, shall be construed to mean next preceding that in which such reference is made.~~

Drafting Note: This section is repealed as obsolete. The term "preceding" is no longer used in the Code to refer to a particular section or sections. The use of precise cross-references is a standard practice in statutory drafting today.

~~§ 1-13.23:11-237. Process.~~

~~The word "Process" shall be construed to include includes subpoenas in chancery, notices to commence actions at law and process in statutory actions.~~

Drafting Note: No change in substance. This section was originally enacted in 1954 upon the recommendation of the Code Commission studying the repeal of obsolete procedural statutes. See House Document 16, 1954. Review of these statutes became urgent after the adoption of the Rules of the Supreme Court of Appeals of Virginia, which first became effective February 1, 1950. The Rules of Court used different terminology and this section was added for clarification.

~~§ 1-13.24. Railroad; railway.~~

~~The words "railroad" and "railway" shall be construed to mean the same thing in law; and in any proceeding wherein a railroad company or a railway company is a party, it shall not be deemed error to call a railway company a railroad company or vice versa; nor shall any demurrer, plea or any other defense be set up in bar or abatement to a motion, declaration or indictment in consequence of such description. All provisions of law relating to the regulation by the State Corporation Commission and to the taxation of steam railroads shall be applicable to all railroads regardless of their motive power.~~

Drafting Note: This section is repealed as obsolete. The definition of railroad first appeared in the 1904 Acts of Assembly during the time of increased regulation of railroads and the creation of the State Corporation Commission. A statutory distinction between railroad and railway is no longer helpful because of the plethora of transportation companies that do not include these words in their name. In addition, errors in pleadings because of misnomers are currently covered by § 8.01-6 for civil proceedings and § 19.2-226 in criminal proceedings. The second sentence concerning the scope of the State Corporation Commission's powers and taxation of railroads is unnecessary. The definition of railroad in § 56-1 grants the Commission jurisdiction over railroads regardless of the power source.

~~§ 1-13.27:3. Court of Appeals.~~

~~The words "Court of Appeals" shall be construed to mean the Court of Appeals of Virginia, unless otherwise expressly indicated or clearly indicated by context.~~

Drafting Note: This section is repealed as obsolete. The section was enacted in 1984 when the Court of Appeals was created. Initially, there may have been a need to address possible confusion between the Supreme Court of Virginia, formerly known as the Supreme Court of Appeals, and the new Court of Appeals of Virginia. However, the confusion probably no longer exists because the old name of the Supreme Court has been completely deleted from the Code.

~~§ 1-13.39:31-238. Statutory construction of titles and enactment clauses~~Reenacted.

~~Whenever the word "Reenacted" is used, when used in the title or enactment of a bill or act of the General Assembly, it shall mean~~means that the changes enacted to a section of the Code of Virginia or an act of the General Assembly are in addition to the existing substantive provisions in that section or act, and are effective prospectively unless the bill expressly provides that such changes are effective retroactively on a specified date.

The provisions of this section are declaratory of existing public policy and law.

Drafting Note: No substantive change. This section was enacted in 2001 to reverse the ruling in Rubio v. Rubio, 33 Va. App. 74, 531 S.E. 2d 612 (2000), which held that "by reenacting a statute, the legislature established it anew, superseding its prior form." See the second enactment of Chapter 720 of the 2001 Acts of Assembly for the statement of this intention.

~~§ 1-161-239.~~ Repeal not to affect liabilities; mitigation of punishment.

No new ~~law~~act of the General Assembly shall be construed to repeal a former law, as to any offense committed against the former law, or as to any act done, any penalty, forfeiture, or punishment incurred, or any right accrued, or claim arising under the former law, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture, or punishment so incurred, or any right accrued, or claim arising before the new ~~law~~act of the General Assembly takes effect; ~~save only~~except that the

proceedings thereafter ~~had held~~ shall conform, so far as practicable, to the laws in force at the time of such proceedings; and if any penalty, forfeiture, or punishment be mitigated by any provision of the new law act of the General Assembly, such provision may, with the consent of the party affected, be applied to any judgment pronounced after the new law act of the General Assembly takes effect.

Drafting Note: No change in substance. This section is a companion to § 1-4, which covers the repeal of the existing general statutes at the time of the approval of the 1950 Code. As recently stated in the Garraghty v. Virginia Department of Corrections, 52 F.3d 1274 (4th Cir. 1995), "this section or a predecessor has been the law of Virginia for more than 100 years and has long been held to apply to civil as well as criminal cases. Pursuant to it, both substantive and vested rights are protected from retroactive application of statutes. The term "act" is substituted for "law" in certain places to clarify that this section is a statutory construction rule applicable to new acts of the General Assembly. The term "law" is broader and includes acts of the General Assembly, as well as regulations, common law, and case law.

§ ~~1-171-240~~. Repeal not to revive former law act.

When a ~~law which an act of the General Assembly that~~ has repealed another law act shall itself be repealed, the previous law act shall not be revived without express words to that effect, unless the law act repealing it be passed during the same session.

Drafting Note: The origin of this section dates back to a 1789 act of the General Assembly. As explained in the case of Proudit v. Murray, 5 Va. 394 (1798), this section reversed the rule in England in which a repealed law was revived by the repeal of the law that had stopped its force. The court provided the following rationale for the section and the exception: "The English rule was certainly inconvenient since old acts, long since forgotten, might be revived upon the community; affecting their persons and property upon a legal fiction, without notice that such was the case: Which inconvenience was properly removed by the act of 1789." The court found that there was not a problem with the repeal of an act passed at the same session because it had not gone forth among the citizens, but was known only to the legislature. The term "act" is substituted for "law" for consistency. The terms are deemed to have the same meaning in this section.

§ ~~1-13.251-241~~. Seal.

~~In cases in which the seal of "Seal," when required to be affixed by any court or public office shall be required to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to include, includes an impression or print of such official seal made upon the paper alone, as well as an impression made by means of a wafer, or of wax affixed thereto. And in any case in which, When the seal of any natural~~

person ~~shall be~~ required to a paper, it shall be sufficient for ~~such the~~ person to affix to such paper a scroll by way of seal place a mark intended as a seal.

Drafting Note: This section is rewritten to reflect the current ways impressions of seals are made. The antiquated term "scroll by way of seal" is replaced by more modern descriptive language. Every deed or other document that

must be made "under seal" relies on this provision for the authority to use the following form:

_____ (Seal)

§ ~~1-13.25:11-242~~. Senate Committee on Privileges and Elections.

"Senate Committee on Privileges and Elections," whenever the Committee is referred to as an appointing authority, means the Senate Committee designated under the Rules of the Senate to make Senate appointments to study committees and commissions.

Drafting Note: No substantive change. This definition was added by the 2004 General Assembly to globally change in the Code the appointing authority of the Senate. On the first day of the 2004 Regular Session, the Senate changed in its Rules the appointing authority for all studies and committees from the Senate Committee on Privileges and Elections to the Senate Committee on Rules. However, there was no time to prepare an omnibus bill to change all the references in the Code. A corrective omnibus bill is expected to be introduced at the 2005 Session that would negate the necessity for this section.

§ ~~1-17.11-243~~. Severability.

The provisions of ~~statutes in this Code~~ acts of the General Assembly or the application thereof to any person or circumstances ~~which that~~ are held invalid shall not affect the validity of other ~~statutes~~ acts, provisions, or applications of ~~this Code which that~~ can be given effect without the invalid provisions or applications. The provisions of all ~~statutes~~ acts, except for the title of the act, are severable unless (i) the ~~statute~~ act specifically provides that its provisions are not severable; or (ii) it is apparent that two or more ~~statutes~~ acts or provisions must operate in accord with one another.

Drafting Note: This section was enacted in 1985 and provides a general severability clause for all acts of the General Assembly. The clarifying changes make it clear that the severability provision applies to enactment clauses and uncodified acts of the General Assembly, but does not apply to titles because the Constitution of Virginia requires that titles be sufficient. Without a general or specific severability clause, the courts would have to determine whether the act of the General Assembly is clear and unambiguous with the remaining provisions after the invalid provision is removed.

§ ~~1-13.9:11-244~~. Short title citations.

Whenever a subtitle, chapter, or article ~~in this Code~~ does not have a section or provision establishing or authorizing a short title citation for such subtitle, chapter or article, such subtitle, chapter or article may be cited by its caption. The caption is that word or group of words appearing directly below the numerical designation given the subtitle, chapter or article. Captions are intended as mere catchwords to indicate the contents of the subtitles, chapters, and articles and do not constitute part of the act of the General Assembly.

Drafting Note: To be consistent with the treatment of headlines, the last sentence is added to state that captions of subtitles, chapters, and articles are mere catchwords and do not constitute part of the act of the General Assembly. In comparing this section to § 1-13.9 (revised as § 1-217), the Court of Appeals in M.G. v. Albemarle County Department of Social Services, 41 Va. App. 170, 182; 583 S.E. 2d 761, 767 (2003) noted in a footnote the following distinction: "Unlike the contents of Code § 1-13.9 regarding the 'headlines' of code 'sections,' the Code contains no provision stating that captions of subtitles, chapters, or articles 'are intended as mere catchwords,' and it expressly provides that a 'subtitle, chapter, or article may be cited by its caption' where no 'section or provision establishes or authorizes a short title caption.'"

§ ~~1-13.261-245~~. State.

~~The word "State," when applied to a part of the United States, shall be construed to extend to and include the several commonwealths therein;~~ includes any of the 50 states, the District of Columbia and the several territories so called—Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, and the United States Virgin Islands.

Drafting Note: The phrase "several territories so called" is replaced by naming the territories of the United States in which the citizens of those territories are United States citizens. The term "so called" was defined in Alphonse Custodis Chimney Construction Co. v. Molina, 183 Va. 512, 32 S.E.2d 726 (1945) to mean "commonly named; thus termed, implying doubt as to the correctness or propriety of so designating the person or thing." In this case, the Court determined that Puerto Rico even as an incorporated territory was a territory within the section's definition. However, the court appeared to give considerable weight to the fact that Puerto Rico was a completely organized territory whose citizens are citizens of the United States. The new definition adopts the court's emphasis on citizenship by specifically naming these territories. Because the section uses the term "includes," other territories not named are not specifically excluded from its application. Residents of Puerto Rico, Guam, the United States Virgin Islands, and Northern Mariana Islands are United States citizens. Citizens of American Samoa are nationals and not United States citizens, but they may freely enter the United States and work and reside anywhere they choose.

§ ~~1-13.341-246~~. ~~Construction of the use of Stricken language or italics in the amendment of statutes.~~

Stricken language for deletions and italics for additions or changes may be used in legislative drafts, printed bills, enrolled bills, and printed Acts of Assembly, in an attempt to call attention to amendments to existing ~~statutes~~ acts of the General Assembly. The stricken language and italics shall not be construed as evidence of amendments to acts of the General Assembly.

Drafting Note: Legislative drafts are added to the list of legislation because these documents are used extensively during the legislative process for committee and floor substitutes. In addition, legislative draft files created for legislation effective in 1989 and later are public property under § 30-28.18. The term "acts of the General Assembly" is substituted for "statues" for consistency in terminology.

§ ~~30-19.03:21-247~~. ~~Legislative Summaries of legislation.~~

Any legislative summary associated with a bill, joint resolution or resolution, including any summary appearing on the face of such legislation, shall not constitute a part of the legislation considered, agreed to, or enacted, and shall not be used to indicate or infer legislative intent.

Drafting Note: This section is relocated to Title 1 because it contains a rule of construction. The section was originally enacted in 1997 to clarify that the legislative summaries prepared by the Division of Legislative Services were not part of the legislation and therefore the responsibility for the content of the summary remained with the Division. Because summaries are not even intended as catchwords, the rule of construction treats summaries differently than headlines and short title captions, and states that summaries cannot be used to indicate or infer legislative intent.

§ ~~1-13.171-248~~. ~~Ordinances, etc., not to be inconsistent with Constitution and laws~~ Supremacy of federal and state law.

~~When the council or authorities of any city or town,~~ The Constitution and laws of the United States and of the Commonwealth shall be supreme. Any ordinance, resolution, bylaw, rule, regulation, or order of any governing body or any corporation, board, or number of persons, ~~are authorized to make ordinances, bylaws, rules, regulations or orders, it shall be understood that the same must~~ shall not be inconsistent with the Constitution and laws of the United States or of ~~this the~~ Commonwealth.

Drafting Note: The section is rewritten with a new lead-in sentence that captures the purpose of the section by paraphrasing the Supremacy Clause of the

United States Constitution. The history of this section dates back to 1887 prior to the formal adoption of the Dillon Rule in case law and during a time when the General Assembly frequently enacted laws governing the charters of cities and towns and incorporations of companies, societies, associations, academies, clubs, chambers of commerce, etc. The General Assembly may have deemed it necessary to clarify that in chartering these entities, the General Assembly did not give them blanket authority to disregard the other laws. Also, the section may have been deemed important because of Virginia's status as a commonwealth - a name associated with the period in England when that nation was not ruled by a central authority - the King. Although the principle of supremacy appears implicit, this section has been cited in numerous Virginia court cases and is retained for this reason. The reference to counties is added for consistency and because the General Assembly has also granted three counties (Chesterfield, James City, and Roanoke) charters since the time this section was originally enacted. The term resolution is added because some localities pass resolutions that are operative law for certain single type of events.

~~§ 1-13.27:1. The Supreme Court of Appeals.~~

~~The words "Supreme Court of Appeals" shall be construed to mean the Supreme Court as provided for in Article VI of the Constitution of Virginia.~~

Drafting Note: This section is repealed as obsolete. This section was enacted at the 1971 Special Session of the General Assembly to obviate the numerous technical changes throughout the Code necessitated by the change in name of the court in the new constitution. See House Document 2, 1971. The term "Supreme Court of Appeals" no longer appears anywhere in the Code.

~~§ 1-13.27:21-249. Supreme Court.~~

~~The words "Supreme Court" shall be construed to mean means the Supreme Court of Virginia, unless otherwise expressly indicated or clearly indicated by context.~~

Drafting Note: No substantive change. To distinguish the Virginia Supreme Court from the United States Supreme Court the definition is retained.

~~§ 1-13.281-250. Swear; sworn.~~

~~The word "Swear" or "sworn" shall be equivalent to the word means "affirm" or "affirmed," in all cases in which by law an affirmation may be substituted for an oath.~~

Drafting Note: See drafting note for § 1-228. This section is simplified and parallels the changes made to the definition of oath.

~~§ 1-13.401-251. Systems of state highways.~~

~~The words "Systems of state highways" shall mean means all systems of highways within the Commonwealth over which the Commonwealth Transportation Board exercises jurisdiction and control. In context, such words shall apply to the extent, but only to the~~

extent, that the Commonwealth Transportation Board exercises such jurisdiction and control.

Drafting Note: No change in substance. The definition clarifies the Commonwealth's unique jurisdiction concerning its secondary roads. In 1932, the General Assembly enacted the Byrd Act, which established the secondary system and allowed counties to transfer their roads to the Commonwealth for future maintenance. Today, the Commonwealth is directly responsible for the maintenance of all roads on the interstate, primary, and secondary systems, except secondary roads in Arlington and Henrico Counties. Only Virginia, North Carolina, and Texas have state-maintained secondary highway systems.

~~§ 1-13.28:11-252. Definition Tier-city.~~

~~A "Tier-city" is means an incorporated community within a consolidated county which that (i) has within defined boundaries a population of 5,000 or more, which (ii) has been designated as a tier-city by the General Assembly, and which (iii) has both the powers of a town and such additional powers as may be granted tier-cities by the General Assembly. All references in this Code and the acts of the General Assembly to towns shall be deemed references to tier-cities, except to the extent tier-cities may be specifically excluded or where the context requires otherwise.~~

Drafting Note: The tier-city concept was first enacted in 1984 to allow for partial consolidations between cities and counties, but as of this date no such consolidation has occurred. The City of Staunton and Augusta County did develop a plan of partial consolidation that would have transformed the City of Staunton into a tier-city within the county, but the electorate rejected the plan in 1984. The section is retained to allow localities the continued option of adopting a consolidation plan. Section 1-13.28:2 is relocated to this section and covers when a tier-city is deemed a town in the Code and the acts of the General Assembly.

~~§ 1-13.28:2. References to towns deemed references to tier-cities.~~

~~All references in this Code to towns shall be deemed references to tier-cities, except to the extent tier cities may be specifically excluded or where the context requires otherwise.~~

Drafting Note: This section is relocated as part of the definition of tier-city in § 1-252.

~~§ 1-151-253. Standard Eastern time implied in laws, decrees, contracts, etc.; period during which daylight saving time effective Time zone.~~

~~The United States ~~standard~~ Eastern Standard Time shall be in effect in all parts of the Commonwealth ~~of Virginia~~ except during the period when the United States Eastern~~

Daylight ~~saving~~ Time shall be in effect as provided by federal law. This section shall not be construed to be in contravention of federal law, or duly authorized orders of the ~~Interstate Commerce Commission~~ United States Secretary of Transportation with respect to the time zones of the United States and the application of standard time to interstate commerce and other matters within such zones.

In all laws, statutes, orders, decrees, rules and regulations relating to the time of performance of any act by any officer or agency of the Commonwealth, or any political subdivision thereof, or relating to the time in which any rights shall accrue or determine, or within which any act shall or shall not be performed by any person subject to the jurisdiction of the Commonwealth, and in all public schools, institutions of the Commonwealth or its political subdivisions, and contracts or choses in action made or to be performed in the Commonwealth, it shall be understood and intended that the time applicable thereto or referred to or implied therein shall be the United States standard Eastern Standard Time, or the United States Eastern Daylight ~~saving~~ Time, when and during such is in effect.

Drafting Note: No change in substance. The section substitutes terminology that is used in the more common abbreviations (EST and EDT). This section satisfies the federal law requirements pursuant to the Uniform Time Act of 1966 (15 U.S.C. 260a et seq.) for the election of the Commonwealth to follow daylight saving time. The reference to the Interstate Commerce Commission has been changed to the Secretary of Transportation because Congress has transferred the authority over time zone boundaries to the United States Department of Transportation. The language of the last paragraph is modeled after language contained in the federal act as it applies to federal agencies. The same language is used by many states.

§ ~~1-13.291-254~~. Town.

~~The word~~ "Town" means any existing town or an incorporated community within one or more counties which became a town before noon, July 1, 1971, as provided by law or which has within defined boundaries a population of 1,000 or more and which has become a town as provided by law.

Drafting Note: No substantive change. A definition of town was first enacted in 1887 to address the growing distinction between cities and towns. The current definition of town in this section is identical to the definitions used in Article VII, Section 1 of the Constitution of Virginia and § 15.2-102. However, because the scope of the constitutional definition is limited to its used in Article VII and the scope of

the definition of § 15.2-102 is limited to its use in Title 15.2, a separate definition is needed in Title 1 because of the term's use throughout the Code.

~~§ 1-13.30. Trial justice.~~

~~The term "trial justice" shall be construed to include every judge or substitute judge of every court authorized, established or continued by any provision of Title 16.1~~

Drafting Note: This section is repealed because all references to trial justice in the Code have been replaced by more specific or modern terminology.

~~§ 1-13.311-255. United States.~~

~~The words "United States" shall be construed to include includes the 50 states, the District of Columbia and the several territories so-called the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands and the United States Virgin Islands.~~

Drafting Note: See the definition of state in § 1-245 for an explanation for the substitution of the names of certain territories for the term "the several territories so called."

~~§ 1-15.21-256. Weights and measurements; metric equivalents.~~

~~Whenever any Words or terms relating to the customary system of weights and measurements are used in the Code of Virginia or in any other laws of Virginia, they shall be taken to include include their International System (SI) metric equivalents; ~~provided, however, that there shall be no obligation or requirement for International System (SI) metric equivalents to be posted or published, but shall not require the posting or publishing of the equivalents along with those of the customary system of weights and measurements.~~~~

Drafting Note: No change in substance. Article I, Section 8 of the United States Constitution gives Congress the power to "fix the standard of weights and measures" for the nation. In the 1970's there was a major effort to increase the use of the metric system and Congress passed the Metric Conversion Act of 1975. Section 1-15.2 was enacted in 1980 at the peak of the interest at the federal level in promoting the conversion of metric system and may have been deemed necessary to avoid possible future requirements for dual postings, e.g., (mile/kilometer). Currently, federal law designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce and requires federal agencies to use the metric system in nearly all their activities, although there are still exceptions allowing traditional units to be used in documents intended for consumers. This section complements existing provisions in §§ 33.1-190.2 and 33.1-190.3 that restrict the use of metrics in advertisement and transportation projects and in the expenditure of funds for metric equivalent highway signs.

~~§ 1-13.321-257.~~ Written; writing; ~~writings;~~ in writing.

~~The words "Written," "writing," "writings," and "in writing" shall include~~include any representation of words, letters, symbols, numbers, or figures, whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form and whether an electronic signature authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is or is not affixed.

Drafting Note: No substantive change. This definition was substantially expanded in 1999 upon the recommendation of the Joint Commission on Technology and Science to include electronic representations of words, letters, symbols, numbers, and figures. The plural form of "writing" is deleted because of the existing statutory construction rule that provides that the singular includes the plural form.

~~§ 1-13.38. Compliance with Article IV, Section 12 of the Constitution of Virginia in certain cases; ratification, etc., of certain references.~~

~~It shall be deemed a sufficient compliance with Article IV, Section 12 of the Constitution of Virginia if, in any bill introduced in the General Assembly or enacted by it, the title and other portions of such bills refer to the act, or to the section involved, by the section number given the same by the Code Commission pursuant to law and set forth in the appropriate volume, replacement volume or supplement of the Code of Virginia; provided, however, that this shall not apply if the title of any such bill or act is not otherwise in compliance with Article IV, Section 12 of the Constitution of Virginia. All references to such section numbers given by the Code Commission pursuant to law are hereby ratified, validated and confirmed.~~

Drafting Note: This section is repealed. First enacted in 1962, this section codifies the principle expounded in Iverson Brown's Case, 91 Va. 762, 21 S.E. 357 (1895) relating to the constitutional sufficiency of titles by reference to Code sections. See Parker v. Commonwealth, 215 Va. 281, 208 S.E.2d 757 (1974) for this conclusion. The Commission determined that the section was inappropriate because its provisions encroach into the judicial prerogative by statutorily instructing the courts how to interpret a constitutional requirement. The Commission also determined that the section was confusing in number of places and added no value beyond what is contained in established case law. The last sentence is also unnecessary because the Code Commission has the authority pursuant to § 30-149 to "renumber, rename, and rearrange any Code of Virginia titles, chapters, articles, and sections in the statutes adopted."

~~§ 1-13.39:1. Effect of omission of certain language in Acts of Assembly.~~

~~The omission of, or inclusion of, the phrase "as amended" or similar words, in a title or body of an Act of Assembly shall not in any event affect the validity of such act, it being the intent of the General Assembly of Virginia to amend the law in effect at the time of amendment.~~

Drafting Note: Enacted in 1977, this section provided a means to eliminate safely an established practice of stating in the title of bills whether the code sections previously had been amended. The section is deleted because the practice has been abandoned for more than 35 years and the construction rule regarding the term "enacted" addresses the prospective application of an act of the General Assembly.

~~CHAPTER 3~~

~~CITIZENSHIP.~~

Chapter Drafting Note: This chapter deals with the early issues of allegiance and expatriation during the time following the Revolutionary War. Its core provision dates back to a 1779 Act of the General Assembly that determined who would be considered British subjects. The determination of citizenship was particularly important at that time because all lands and personal property of British subjects escheated or were forfeited to the state. In addition, aliens could not inherit land in Virginia during that time. However, many of the reasons for this chapter do not exist today.

The Fourteenth Amendment of the United States Constitution has since resolved the issue of citizenship and states that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. In addition, all rights and privileges bestowed upon citizens of the Commonwealth are defined in terms of residency or domicile, e.g. voting privileges, taxes, in-state tuition, etc. Section 55-1 of the Code of Virginia permits "any alien, not an enemy, may acquire by purchase or descent and hold real estate in this Commonwealth." For these reasons, the chapter is repealed as obsolete.

~~§ 1-18. Who are citizens.~~

~~All persons born in this Commonwealth; all persons born in any other state of this Union, who may be or become residents of this Commonwealth; all aliens naturalized under the laws of the United States, who may be or become residents of this Commonwealth; all persons who have obtained a right to citizenship under former laws; and all children, wherever born, whose father, or, if he be dead, whose mother, shall be a citizen of this Commonwealth at the time of the birth of such children, shall be deemed citizens of this Commonwealth.~~

~~§ 1-19. How citizenship relinquished.~~

~~Whenever a citizen of this Commonwealth, by deed in writing, executed in the presence of and subscribed by two witnesses, and by them proved in the circuit court of the county or the corporation court of the city where he resides, or by open verbal declaration made in such court and entered of record, shall declare that he relinquishes the character of a citizen of this Commonwealth, and shall depart out of the same, such person shall, from the time of such departure, be considered as having exercised his right of expatriation, so far as regards this Commonwealth, and shall thenceforth be deemed no citizen thereof.~~

~~§ 1-20. When citizenship suspended.~~

~~When any citizen of this Commonwealth, being eighteen years of age, shall reside elsewhere, and in good faith become the citizen of some other state of the United States, or the citizen or subject of a foreign state or sovereign, he shall not, while the citizen of another state, or the citizen or subject of a foreign state or sovereign, be deemed a citizen of this Commonwealth.~~

~~§ 1-21. Relinquishment of citizenship not allowed during war.~~

~~No such act of becoming the citizen or subject of a foreign state or sovereign, and no act under § 1-19 shall have any effect, if done while this Commonwealth, or the United States, shall be at war with any foreign power.~~

TITLE 7.1

~~BOUNDARIES, JURISDICTION AND EMBLEMS OF THE COMMONWEALTH~~

CHAPTER ~~13.1.~~

~~BOUNDARIES AND COMPACTS WITH ADJOINING STATES OF THE~~
COMMONWEALTH.

Chapter Drafting Note: This chapter begins the recodification of Title 7.1 by its incorporation into Title 1. The Commission believed that a combined title would serve several useful purposes. First, Title 1 is set out in Volume 1 of the Code, which also contains the Constitutions of the United States and the Commonwealth and Title 2.2 on the Administration of Government. Because the body of law contained in Volume 1 is of great historical significance and serves as an introduction to the Commonwealth, the Commission believed that the inclusion of the Commonwealth's boundaries and emblems would enhance and complement the volume. Second, a longer title would give Title 1 greater recognition -- an important quality because of the far-reaching application of the rules of construction currently contained in the title. Finally, a majority of other states have similarly arranged their introductory titles, which makes for easier state by state comparisons.

§1-300. Boundaries.

The territory and boundaries of the Commonwealth shall be and remain the same as they were after the Constitution of Virginia was adopted on June 29, 1776, except for the territory that constitutes West Virginia and its boundaries, and other boundary adjustments as provided in this chapter.

Drafting Note: This is a new section containing declaratory language relocated from the end of § 7.1-1 and rewritten for clarity to serve as an introduction to the rest of the chapter.

§ ~~7.1-11-301.~~ Extent of territory of ~~Virginia under the royal government~~the Commonwealth after the Constitution of 1776.

The authorities in determining the extent of the territory of the Commonwealth after the adoption of the Constitution of 1776 shall consist of:

1. The charter of April 10, 1606, granted by James the First, in the fourth year of his reign, ~~having that~~ authorized the first plantation at any place upon the coast of ~~Virginia~~the Commonwealth between the thirty-fourth and forty-first degrees of north latitude; and granted the territory from the seat of the plantation (which under this charter was begun at Jamestown), for 50 miles along the coast towards the west and southwest, as the coast lay, and for 50 miles along the coast, towards the east and northeast, or towards the north,

as the coast lay, together with all the islands within 100 miles directly over against the seacoast, and all the territory from the same 50 miles every way on the seacoast, directly into the mainland for the space of 100 miles:.

2. The second charter of James, dated May 23, 1609, in the seventh year of his reign, ~~having that~~ granted all the territory from the point of land called Cape or Point Comfort, all along the seacoast to the northward 200 miles, and from the ~~said~~ point of Cape Comfort all along the seacoast to the southward 200 miles, and all that space and circuit of land lying from the seacoast of the precinct ~~aforesaid~~, up into the land, throughout from sea to sea, west and northwest, and also all the islands lying within 100 miles along the coast of both seas of the precinct aforesaid:.

3. The third charter of James, dated March 12, 1611-12, in the ninth year of his reign, ~~having that~~ granted all the islands in any part of the seas within 300 leagues of any territory granted in the former patents:.

4. Under theThe 1763 treaty of peace between Great Britain and France ~~in the year 1763, a that established a~~ line ~~drawn~~ along the middle of the river Mississippi ~~having become Virginia's~~and became the Commonwealth's western boundary: ~~And the people of Virginia, when they adopted their Constitution or form of government, on~~

5. Section 21 of the Constitution of Virginia adopted June 29, 1776, ~~having by the twenty-first section thereof that~~ ceded, released, and confirmed to the people of Maryland, Pennsylvania, North and South Carolina, such parts of the territory of ~~Virginia~~the Commonwealth as were contained within the charters erecting those colonies, with all the rights in those parts ~~which that~~ might ~~theretofore~~ have been claimed by ~~Virginia~~the Commonwealth, except the free navigation of the Rivers Potomac and Pocomoke, with the property of the ~~Virginia~~Commonwealth shore or strands bordering on either of the ~~said~~ rivers, and all improvements thereon; and ~~having that~~ at the same time laid down in the ~~said~~ section that the western and northern extent of ~~Virginia~~the Commonwealth should in all other respects stand as fixed by the ~~said~~ charter of James the First, granted in 1609, and by the treaty of peace between Great Britain and France in 1763, unless by act of the legislature one or more territories should thereafter be laid off, and governments

established, westward of the Alleghany mountains: ~~The General Assembly of Virginia does hereby declare that the territory of this Commonwealth and the boundaries thereof remain as they were after the Constitution was adopted on June 29, 1776, except so much thereof as constitutes the territory of West Virginia and its boundaries, and except also as limited by the following sections of this chapter.~~

Drafting Note: An introductory provision is added and the section is divided to list the separate sources of authorities that defined the Commonwealth's boundaries during the colonial and Revolutionary War eras. The catchline is changed to reflect the full extent of the boundaries set forth in the section. The last provision is relocated to § 1-300.

§ ~~7-1-21-302~~. Jurisdiction and ownership of Commonwealth over offshore waters and submerged lands ~~thereunder~~.

~~(1)A.~~ The jurisdiction of this Commonwealth shall extend to and over, and be exercisable with respect to, waters offshore from the coasts of this Commonwealth as follows:

~~(a)1.~~ The marginal sea and the high seas to the extent claimed in the Virginia Constitution of 1776 and not thereafter ceded by action of the General Assembly ~~of Virginia~~.

~~(b) [Repealed.]~~

~~(c)2.~~ All submerged lands, including the subsurface thereof, lying under ~~said aforementioned the~~ waters listed in subdivision 1 of this subsection.

~~(2)B.~~ The ownership of the waters and submerged lands enumerated or described in subsection ~~(1)A~~ of this section shall be in ~~this the~~ Commonwealth unless it shall be, with respect to any given parcel or area, in any other person or entity by virtue of a valid and effective instrument of conveyance or by operation of law.

~~(3)C.~~ Nothing contained herein shall be construed to limit or restrict in any way:

~~(a)1.~~ The jurisdiction of ~~this the~~ Commonwealth over any person or with respect to any subject within or without the Commonwealth which jurisdiction is exercisable by reason of citizenship, residence, or for any other reason recognized by law; ~~and~~.

~~(b)2.~~ The jurisdiction or ownership of or over any other waters or submerged lands ~~thereunder~~, within or forming part of the boundaries of ~~this the~~ Commonwealth. Nor

shall anything ~~herein in this section~~ be construed to impair the exercise of legislative jurisdiction by the United States ~~of America~~ over any area to which such jurisdiction has been validly ceded by ~~this the~~ Commonwealth and ~~which that~~ remains in the ownership of the United States ~~of America~~.

(4)D. Nothing in this section shall alter the geographic area to which any ~~statute act~~ of ~~this Commonwealth the~~ General Assembly applies if ~~such statute the act~~ specifies ~~such the~~ area precisely in miles or by some other numerical designation of distance or position. However, nothing in ~~any such statute the act~~ or in this section shall be construed as a waiver or relinquishment of jurisdiction or ownership by ~~this the~~ Commonwealth over or in any area to which such jurisdiction or ownership extends by virtue of this section or any other provision or rule of law.

Drafting Note: No change in substance. Stylistic changes only.

§ ~~7.1-31-303~~. Cession of territory northwest of Ohio River.

A. The territory northwest of the Ohio River ceded by the Commonwealth shall be and remain the same as provided by:

1. The General Assembly of Virginia having, on An act of the General Assembly passed on January 2, 1781, that resolved that this Commonwealth would on certain conditions yield for the benefit of the United States all her right to the territory northwest of the Ohio River ~~Ohio~~; ~~having, after the act of Congress of September 13, 1783, passed a formal act on December 20, 1783, authorizing.~~

2. An act of the General Assembly passed on December 20, 1783, that authorized the transfer to the United States ~~of all right, as well of soil as of jurisdiction, which this Commonwealth had to the territory,~~ subject to the terms and conditions contained in the act of the United States Congress; passed on September 13, 1783 and the deed of cession ~~having been that was~~ made accordingly, ~~and.~~

3. An act of the General Assembly having afterwards been passed on December 13, 1788, whereby, after referring to an ordinance for the government of the territory, passed by the United States Congress on July 13, 1787, and reciting a particular article declared in the ordinance to be part of the compact between the original states and the

people and states in the territory, the article of compact was ratified and confirmed: ~~It is hereby declared that such~~.

B. Such cession ~~is to~~shall be deemed and taken according to the true intent and meaning of the acts and deed ~~aforsaid~~, and subject to all the terms and conditions therein expressed.

Drafting Note: An introductory sentence is added and the section is divided into subdivisions to cover the historical legislation passed for the cession. The original acts will be set out in their entirety in the Compacts volume of the Code of Virginia.

§ ~~7.1-41-304~~. Boundary ~~line between Virginia and~~with North Carolina.

The boundary line between the Commonwealth and North Carolina shall ~~The boundary line between Virginia and North Carolina having been~~ be and remain the same as the line run ~~after the inhabitants of this Commonwealth and those of North Carolina had settled themselves farther westward than the line was so run, the General Assembly of Virginia having, at October session, 1778, passed an act under which Thomas Walker and Daniel Smith were appointed commissioners on the part of this Commonwealth to meet others on the part of North Carolina, and extend and mark the line between Virginia and North Carolina, which commissioners on the part of this Commonwealth made a report of the line run under the act; and the line so run, commonly called and known by the name of Walker's line, having been established as the boundary between North Carolina and this Commonwealth, first by the legislature of that state, and then, by Fry and Jefferson, and afterwards extended by Walker and Smith and approved on December 7, 1791, by an act of the General Assembly~~ ~~of this Commonwealth: It is hereby declared that the line so run by Fry and Jefferson, and afterwards extended by Walker and Smith as before mentioned, constitutes the boundary line between Virginia and North Carolina; but the claims for lands lying between Walker's line and the line commonly called Henderson's line, are to be decided in favor of the oldest title, whether derived from this Commonwealth or from the State of North Carolina.~~

Drafting Note: The section is rewritten to streamline the historical references to legislation that established the boundary between the Commonwealth and North Carolina. The original act is currently and will continue to be set out in its entirety in the Compacts volume of the Code of Virginia.

§ ~~7.1-4.11-305~~. Boundary ~~line between Virginia and~~with North Carolina eastward from low-water mark of Atlantic Ocean.

The boundary line between ~~Virginia~~ the Commonwealth and North Carolina eastward from the low-water mark of the Atlantic Ocean shall be and ~~hereby is~~ remain the line beginning at the intersection with the low-water mark of the Atlantic Ocean and the existing North Carolina-Virginia boundary line; thence due east to the seaward jurisdictional limit of Virginia; such boundary line to be extended on the true ~~ninety~~ 90 degree bearing as far as a need for further delimitation may arise.

~~This section shall become effective upon the ratification and approval thereof, and concurrence therein, by the General Assembly of the State of North Carolina and upon the approval of and consent to this section by the Congress of the United States.~~

Drafting Note: Stylistic changes only. The last provision is deleted as obsolete. The original act is currently and will continue to be set out in its entirety in the Compacts volume of the Code of Virginia.

§ ~~7.1-51-306~~. Boundary ~~line between Virginia and~~with Tennessee.

The boundary line between the ~~states of Virginia~~Commonwealth and Tennessee shall be and remain the same as established by the Supreme Court of the United States in the case of Tennessee v. Virginia, 190 U.S. 64, ~~23 S. Ct. 827, 47 L. Ed. 956 (1903)~~, ~~so much of the boundary line as lies in the city of Bristol being established by and the compact between the Commonwealth and Tennessee approved on February 9, 1901, by an act of the General Assembly approved February 9, 1901, entitled "An act to accept the cession by the State of Tennessee to the State of Virginia, of a certain narrow strip of territory claimed as belonging to the State of Tennessee, and described as lying between the northern boundary line of the City of Bristol, in the County of Sullivan, State of Tennessee, and the southern boundary line of the City of Bristol, in the County of Washington, State of Virginia, being the northern half of the main street of the said two cities," which line outside of the City of Bristol is marked by monuments as described in the decree in the above-styled cause.~~

Drafting Note: The section is rewritten to streamline the historical references to case law (Tennessee v. Virginia, 190 U.S. 64 (1903)) and the compact that established the boundary between the Commonwealth and Tennessee. The compact, agreed to by Tennessee in an act adopted January 28, 1901, and agreed to

by the Commonwealth in an act of the General Assembly adopted February 9, 1901, and assented to by the United States Congress by joint resolution on March 8, 1901 (31 Stat. 1405) is and will continue to be set out in its original form in the Compacts volume of the Code of Virginia.

§ ~~7.1-61~~1-307. Compact and boundary ~~between Virginia and~~with Kentucky.

~~The General Assembly of Virginia having, on December 8, 1789, passed an act authorizing a convention to be held in the district of Kentucky, to consider and determine whether it was expedient for the people of the said district that the same should be erected into an independent state on the terms and conditions set forth in eight articles, the first of which was, that the boundary between the proposed state and Virginia should remain the same as then separated the district from the residue of the Commonwealth of Virginia: The convention so held having approved of the erection of the district into an independent state on those terms and conditions, and having according to the act fixed a day posterior to November 1, 1791, on which the authority of this Commonwealth and of its laws, under the exceptions aforesaid, should cease and determine over the proposed State, and the articles become a solemn compact mutually binding on the parties, and unalterable by either without the consent of the other; the state so formed within the jurisdiction of Virginia with the consent of the legislature thereof, having upon June 1, 1792, by virtue of an act of Congress, approved February 4, 1791, been admitted by the name of Kentucky into this Union, as a member of the United States: Commissioners having afterwards been appointed to adjust the boundary line between Virginia and Kentucky, who agreed that the boundary line between such states should be and remain as follows: "To begin at the point where the Carolina, now Tennessee line, crosses the top of the Cumberland mountain, near Cumberland Gap; thence northeastwardly along the top or highest part of the said Cumberland mountain, keeping between the head waters of Cumberland and Kentucky rivers on the west side thereof, and the head waters of Powell's and Guest's rivers, and the Pound fork of Sandy, on the east side thereof, continuing along the said top or highest part of said mountain, crossing the road leading over the same at the little Paint Gap, where by some it is called the Hollow mountain, to where it terminates at the west fork of Sandy, commonly called Russell's fork; thence with a line to be run north forty-five degrees east,~~

~~till it intersects the other great principal branch of Sandy, commonly called the northeastwardly branch; thence down the said northeastwardly branch to its junction with the main west branch and down main Sandy to its confluence with the Ohio:." And by an act of the General Assembly of Virginia, passed January 13, 1800, the boundary line between this State and Kentucky having been established, as laid down by the commissioners, whose report is set forth in the act: It is hereby declared that the line so laid down, except such part as constitutes the boundary line between West Virginia and Kentucky, remains the true boundary line between Virginia and Kentucky; but all claims to lands founded on entries in any surveyor's office of the State of Kentucky, made after the separation thereof from this State, and before January 13, 1800, which, by means of the establishment of the boundary line above mentioned, have fallen into this State, shall be as valid as if such entries had been made in the proper surveyors' offices of this State.~~

A. Except such part as may constitute the boundary line between West Virginia and the Commonwealth of Kentucky, the boundary between this Commonwealth and the Commonwealth of Kentucky, shall be and remain as the line approved on January 13, 1800, by an act of the General Assembly.

~~It is also hereby declared, that~~ B. The articles set forth in the act of separation of the Commonwealth of Kentucky from this Commonwealth adopted by the General Assembly on December 18, 1789, shall be and remain a solemn compact mutually binding on the states Commonwealths of Virginia and Kentucky, and unalterable by either without the consent of the other, by which articles it was stipulated thirdly, that all private rights and interests of lands within Kentucky, derived from the laws of Virginia, prior to the separation, shall remain valid and secure under the laws of Kentucky, and be determined by the laws existing in Virginia when the act passed; fourthly, that the lands within Kentucky, of nonresident proprietors, should not in any case be taxed higher than the lands of residents at any time prior to the admission of Kentucky to a vote by its delegates in Congress, where such nonresidents reside out of the United States; nor at any time either before or after such admission, where such nonresidents reside within this Commonwealth, within which this stipulation should be reciprocal; or where such nonresidents reside within any

~~other of the United States, which should declare the same to be reciprocal within its limits; fifthly, that no grant of land or land warrant issued by Kentucky, should interfere with any warrant issued from the land office of Virginia, which should, on or before September 1, 1791, be located on land within Kentucky, liable thereto at the date of that act; eighthly, that in case any complaint or dispute should at any time arise between Virginia and Kentucky, concerning the meaning or execution of the foregoing articles, the same should be determined by six commissioners, of whom two should be chosen by each of the parties, and the remainder by the commissioners so first appointed.~~

Drafting Note: The section has been rewritten to streamline the references to the compacts between the Commonwealths of Virginia and Kentucky. These compacts are currently and will continue to be set out in their entirety in the Compacts volume of the Code of Virginia.

~~§ ~~7.1-71~~-308. Compact and Boundary between Virginia and~~with Maryland.

~~Commissioners appointed by the General Assembly of the State of Maryland, and also of the State of Virginia, having met at Mount Vernon, in Virginia, on March 28, in the year 1785, and mutually agreed to a compact; the said compact having been confirmed, first by the General Assembly of Maryland, and afterwards, on January 3, 1786, by an act of the General Assembly of Virginia: It is hereby declared that the said compact remains obligatory, except so far as it may have been superseded by the provisions of the Constitution since formed for the United ; and it shall be faithfully observed and kept by this government and all its citizens, so far as may not be incompatible with the said Constitution. Amongst the articles of the said compact are the following:~~

~~"Seventh, The citizens of each state, respectively, shall have full property in the shores of Potowmack river adjoining their lands, with all emoluments and advantages thereunto belonging, and the privilege of making and carrying out wharves and other improvements, so as not to obstruct or injure the navigation of the river; but the right of fishing in the river shall be common to, and equally enjoyed by, the citizens of both states: Provided, that such common right be not exercised by the citizens of the one state to the hindrance or disturbance of the fisheries on the shores of the other state; and that the~~

~~citizens of neither state shall have a right to fish with nets or seines on the shores of the other;~~

~~"Eighth, All laws and regulations which may be necessary for the preservation of fish, or for the performance of quarantine in the river Potowmack, or for preserving and keeping open the channel and navigation thereof, or of the river Pocomoke, within the limits of Virginia, by preventing the throwing out ballast, or giving any other obstruction thereto, shall be made with the mutual consent and approbation of both states;~~

~~"Tenth, All piracies, crimes, or offenses committed in that part of Chesapeake bay which lies within the limits of Virginia, or that part of the said bay where the line of division from the south point of Potowmack river (now called Smith's point) to Watkin's point, near the mouth of Pocomoke river, may be doubtful, and on that part of Pocomoke river within the limits of Virginia, or where the line of division between the two states upon the said river is doubtful, by any persons not citizens of the Commonwealth of Virginia, against the citizens of Maryland, shall be tried in the court of the State of Maryland, which hath legal cognizance of such offense. And all piracies, crimes, or offenses committed on the before mentioned parts of Chesapeake bay and Pocomoke river, by any persons, not citizens of Maryland, against any citizens of Virginia, shall be tried in the court of the Commonwealth of Virginia, which hath legal cognizance of such offense. All piracies, crimes, and offenses committed on the said parts of Chesapeake bay and Pocomoke river, by persons not citizens of either state, against persons not citizens of either state, shall be tried in the court of the Commonwealth of Virginia, having legal cognizance of such offenses. And all piracies, crimes, and offenses committed on the said parts of Chesapeake bay and Pocomoke river, by any citizen of the Commonwealth of Virginia, or of the State of Maryland, either against the other, shall be tried in the court of that state of which the offender is a citizen. The jurisdiction of each state over the river Potowmack, shall be exercised in the same manner as is prescribed for the before-mentioned parts of Chesapeake bay and Pocomoke river, in every respect, except in the case of piracies, crimes, and offenses committed by persons not citizens of either state, upon persons not citizens of either state, in which case the offenders shall be tried by the court of the state to~~

~~which they shall first be brought. And if the inhabitants of either state shall commit any violence, injury, or trespass, to or upon the property or lands of the other, adjacent to the said bay or rivers, or to any person upon such lands, upon proof of due notice to the offender to appear and answer, any court of record, or civil magistrate of the state where the offense shall have been committed, having jurisdiction thereof, may enter the appearance of such person, and proceed to trial and judgment, in the same manner as if legal process had been served on such offender; and such judgment shall be valid and effectual against the person and property of such offender, both in the state where the offense shall have been committed, and also in the state where the said offender may reside; and execution may be issued by the court or magistrate giving such judgment, in the same manner as upon judgments given in other cases; or upon a transcript of such judgment, properly authenticated, being produced to any court or magistrate of the state where such offender may reside, having jurisdiction within the state or county where the offender may reside, in cases of a similar nature, such court or magistrate shall order execution to issue upon such authenticated judgment, in the same manner, and to the same extent, as if the judgment had been given by the court or magistrate to which such transcript shall be exhibited.~~

~~"Eleventh, Any vessel, entering into any port of the river Potowmack, may be libelled or attached for debt by process from the state in which such vessel entered. And if the commercial regulations of either state shall be violated by any person carrying on commerce in Potowmack or Pocomoke rivers, the vessel owned or commanded by the person so offending, and the property on board may be seized by process from the state whose laws are offended, in order for trial. And if any person shall fly from justice in a civil or criminal case, or shall attempt to defraud creditors by removing his property, such person, or any property so removed, may be taken on any part of Chesapeake bay, or the rivers aforesaid, by process of the state from which such person shall fly, or property be removed; and process from the State of Virginia may be served on any part of the said rivers, upon any person, or property of any person not a citizen of Maryland, indebted to any citizen of Virginia, or charged with injury having been by him committed; and process~~

~~from the State of Maryland may be served on any part of the said rivers, upon any person, or property of any person, not a citizen of Virginia, indebted to a citizen of Maryland, or charged with injury by him committed. And in all cases of trial in pursuance of the jurisdiction settled by this compact, citizens of either state shall attend as witnesses in the other, upon a summons from any court or magistrate, having jurisdiction, being served by a proper officer of the county where such citizen shall reside."~~

~~The General Assembly of the State of Virginia, and the General Assembly of the State of Maryland, having appointed the Hon. Jeremiah S. Black, of Pennsylvania, the Hon. James B. Beck, of Kentucky, and the Hon. Charles A. Jenkins, of Georgia, arbitrators to settle and determine the true line of boundary between the states of Virginia and Maryland, and a majority of said arbitrators having ascertained and determined the said true line of boundary, and having, on January 16, 1877, made an award as to the same in words following, to wit: "January sixteenth, Anno Domini, eighteen hundred and seventy-seven, the undersigned, being a majority of the arbitrators to whom the states of Virginia and Maryland, by acts of their respective legislatures, submitted the controversies concerning their territorial limits, with authority to ascertain and determine the true line of boundary between them, having heard the allegations of the said states, and examined the proofs on both sides, do find, declare, award, ascertain, and determine that the true line of boundary between the said states, so far as they are coterminous with one another, is as follows, to wit:~~

~~"Beginning at the point on the Potomac river where the line between Virginia and West Virginia strikes the said river at low water mark, and thence, following the meanderings of said river, by the low water mark, to Smith's point, at or near the mouth of the Potomac, in the latitude thirty seven degrees, fifty three minutes, eight seconds, and longitude seventy six degrees, thirteen minutes, forty six seconds; thence crossing the waters of the Chesapeake bay, by a line running north sixty five degrees, thirty minutes east, about nine and a half nautical miles, to a point on the western shore of Smith's island, at the north end of Sassafras hammock, in latitude thirty seven degrees, fifty seven minutes, thirteen seconds, longitude seventy six degrees, two minutes, fifty two seconds;~~

thence across Smith's island, south, eighty-eight degrees, thirty minutes east, five thousand six hundred and twenty yards to the centre of Horse hammock, on the eastern shore of Smith's island, in latitude thirty-seven degrees, fifty-seven minutes, eight seconds, longitude seventy-five degrees, fifty-nine minutes, twenty seconds; thence south seventy-nine degrees, thirty minutes east, four thousand eight hundred and eighty yards, to a point marked "A" on the accompanying map, in the middle of Tangier sound, in latitude thirty-seven degrees, fifty-six minutes, forty-two seconds, longitude seventy-five degrees, fifty-six minutes, twenty-three seconds, said point bearing from Jane's island light, south, fifty-four degrees west, and distant from that light three thousand five hundred and sixty yards; thence south ten degrees, thirty minutes, west four thousand seven hundred and forty yards, by a line dividing the waters of Tangier sound to a point where it intersects the straight line from Smith's point to Watkins' point, said point of intersection being in latitude thirty-seven degrees, fifty-four minutes, twenty-one seconds; longitude seventy-five degrees, fifty-six minutes, fifty-five seconds, bearing from Jane's island light south, twenty-nine degrees west, and from Horse hammock, south, thirty-four degrees, thirty minutes east; this point of intersection is marked "B" on the accompanying map; thence north eighty-five degrees, fifteen minutes, east, six thousand seven hundred and twenty yards along the line above mentioned, which runs from Smith's point to Watkins' point until it reaches the latter spot, namely, Watkins' point, which is in latitude thirty-seven degrees, fifty-four minutes, thirty-eight seconds, longitude seventy-five degrees, fifty-two minutes, forty-four seconds; from Watkins' point the boundary line runs due east seven thousand eight hundred and eighty yards, to a point where it meets a line running through the middle of Pocomoke sound, which is marked "C" on the accompanying map, and is in latitude thirty-seven degrees, fifty-four minutes, thirty-eight seconds, longitude seventy-five degrees, forty-seven minutes, fifty seconds; thence by a line dividing the waters of Pocomoke sound, north forty-seven degrees, thirty minutes, east five thousand two hundred and twenty yards, to a point in said sound marked "D" on the accompanying map, in latitude thirty-seven degrees, fifty-six minutes, twenty-five seconds, longitude seventy-five degrees, forty-five minutes, twenty-six seconds; thence following the middle of the

Pocomoke river by a line of irregular curves, as laid down on the accompanying map, until it intersects the westward protraction of the boundary line marked by Scarborough and Calvert, May twenty-eight, eighteen hundred and sixty-eight, at a point in the middle of Pocomoke river, and in the latitude thirty-seven degrees, fifty-nine minutes, thirty-seven seconds, longitude seventy-five degrees, thirty-seven minutes, four seconds; thence by the Scarborough and Calvert line, which runs five degrees, fifteen minutes north of east, to the Atlantic ocean; the latitudes, longitudes, courses, and distances here given have been measured upon the Coast Chart, number thirty-three, of the United States coast survey, (sheet number three, Chesapeake bay,) which is herewith filed as part of this award, and explanatory thereof; the original charter line is marked upon the said map and shaded in blue; the present line of boundary, as ascertained and determined, is also marked and shaded in red, while the yellow indicates the line referred to in the compact of seventeen hundred and eighty-five, between Smith's point and Watkins' point; in further explanation of this award, the arbitrators deem it proper to add that:

"First, The measurements being taken and places fixed according to the coast survey, we have come as near to a perfect mathematical accuracy as in the nature of things is possible; but in case of any inaccuracy in the described course or length of a line, or in the latitude or longitude of a place, the natural objects called for must govern;

"Second, The middle thread of Pocomoke river is equidistant as nearly as may be, between the two shores, without considering arms, inlets, creeks, or affluents as parts of the river, but measuring the shore lines from headland to headland;

"Third, The low-water mark on the Potomac, to which Virginia has a right in the soil, is to be measured by the same rule; that is to say, from low-water mark at one headland to low-water at another, without following indentations, bays, creeks, inlets, or affluent rivers;

"Fourth, Virginia is entitled not only to full dominion over the soil to low-water mark on the south shore of the Potomac, but has a right to such use of the river beyond the line of low-water mark as may be necessary to the full enjoyment of her riparian ownership, without impeding the navigation or otherwise interfering with the proper use of it by

~~Maryland, agreeably to the compact of seventeen hundred and eighty-five: In testimony whereof we have hereunto set our hands the day and year aforesaid.~~

~~—————"J. S. Black, of Pennsylvania,
—————"Charles J. Jenkins, of Georgia."~~

~~And the General Assembly of Virginia, having approved and confirmed the award by the act of March 14, 1878, and the act having declared that so soon as such award is also approved, accepted, confirmed, and ratified by the General Assembly of the State of Maryland, and by the Congress of the United States, thereupon, and immediately thereafter, the award and survey, matter and thing therein contained, shall be obligatory on the Commonwealth and the citizens thereof, and should be forever faithfully and inviolably observed and kept by the Commonwealth and all its citizens according to the true intent and meaning of the same; and the award and survey, matter and thing therein contained, having been so approved, accepted, confirmed and ratified by the General Assembly of the State of Maryland and by the Congress of the United States: It is hereby declared that the award and survey, matter and thing therein contained, are obligatory on this Commonwealth and the citizens thereof, and shall be forever observed and kept by the Commonwealth and all of its citizens according to the true intent and meaning of the same, and to that end the faith of the Commonwealth stands pledged.~~

~~The documents in relation to the boundary between the states of Maryland and Virginia, which were obtained under the resolution adopted by the General Assembly of Virginia, on March 20, 1832, and the report relative to the boundary, referred to in the subsequent resolution of February 21, 1835, and the award with the map and other papers accompanying the same, made under the act of March 28, 1874, and the act of February 10, 1876, amendatory thereof, and approved and confirmed by the act of March 14, 1878, shall be preserved in the executive department as contemplated by the resolutions, and by the last mentioned act.~~

The Black-Jenkins Award, which established the boundary line between the Commonwealth and Maryland and was ratified on March 14, 1878, by an act of the General Assembly shall be and remain obligatory on this Commonwealth and the citizens thereof, and shall be forever observed and kept by the Commonwealth and all of its

citizens according to the true intent and meaning of the same, and to that end the faith of the Commonwealth stands pledged.

Drafting Note: The boundaries of Virginia and Maryland and control of the Potomac River have been under dispute for nearly 400 years because of conflicting royal charters issued from different British monarchs. Although the 1785 Compact resolved important navigational and jurisdictional issues, it did not determine the boundary line between the states. In 1874, Virginia and Maryland submitted the boundary dispute to binding arbitration before arbitrators who issued their award placing the boundary at the low-water mark on the Virginia shore of the Potomac. In 1959, Virginia and Maryland entered into a new compact (§ 28.2-1001), which stated that it took the place of the Compact of 1785, but specifically preserved the rights delineated in Article Seven of the 1785 Compact. The articles of the 1785 Compact previously contained in this section are currently in the Compacts volume of the Code as a historical reference only and are deleted from the Code as obsolete. The Black-Jenkins Award compact is and will continue to be set out in its entirety in the Compacts volume of the Code.

§ ~~7.1-7.11~~309. Boundary ~~line between Virginia and~~with Maryland eastward from Assateague Island.

The boundary line between ~~Maryland and Virginia~~the Commonwealth and Maryland eastward from Assateague Island shall be, ~~and hereby is, established and described and~~ remain as follows: Beginning at a point on the Maryland-Virginia line located on Assateague Island designated as station "Pope Island Life Saving Station (1907)" defined by latitude 38°01'36.93" and longitude 75°14'47.105"; thence running N 84°05'43.5" E (true) - 1,100.00 feet to station "Atlantic"; thence due east (true) to the Maryland-Virginia jurisdictional limit.

~~This section shall become effective upon the ratification and approval thereof, and concurrence therein, by the General Assembly of the State of Maryland and upon the approval of and consent to this section by the Congress of the United States.~~

Drafting Note: Technical changes only. The last provision is obsolete because Maryland by chapter 220 of the Maryland Laws of 1970 and the United States Congress by P.L. 92-565 (86 Stat. 1179) consented to this adjusted boundary. The original act is currently and will continue to be set out in its entirety in the Compacts volume of the Code of Virginia.

§ ~~7.1-7.21~~310. Boundary ~~line between Virginia and~~with Maryland in upper reaches of Pocomoke sound and lower reaches of Pocomoke River.

~~(1) In addition to the boundaries between the states of Virginia and Maryland as heretofore established, there is hereby established~~ A. The boundary line between the

Commonwealth and Maryland in the previously undescribed portion of the Maryland-Virginia line in the upper reaches of the Pocomoke sound and lower reaches of the Pocomoke River, shall be and remain as follows:

~~"Technical description of previously undescribed portion of the Maryland-Virginia line in the upper reaches of the Pocomoke sound and lower reaches of the Pocomoke river."~~

Beginning at a point which is corner D defined by latitude 37°56'28.00" and longitude 75°45'43.56"; which is the last point on the Maryland-Virginia line that was defined by the "joint report of engineers on relocating and remarking Maryland-Virginia boundary line across Tangier and Pocomoke sounds December 1916"; thence running N 73°34'31.9" E about 17,125.11 feet to corner H a point defined by latitude 37°57'115.82" and longitude 75°42'18.48"; thence running N 85°39'33.9" E about 3,785.82 feet to corner J a point defined by latitude 37°57'18.65" and longitude 75°41'31.25"; thence running S 74°16'00.8" E about 7,278.41 feet to corner K a point defined by latitude 37°56'59.13" and longitude 75°40'03.89"; thence running S 61°57'55.7" E about 3,664.73 feet to corner L a point defined by latitude 37°56'42.10" and longitude 75°39'23.51"; thence running N 76°15'24.5" E about 2,263.49 feet to corner M a point defined by latitude 37°56'47.65" and longitude 75°38'54.85"; thence running N 00°49'51.5" W about 7,178.56 feet to corner N a point defined by latitude 37°57'58.61" and longitude 75°38'56.15"; thence northeasterly about 3 1/2 miles following the middle thread of the meandering Pocomoke river to corner P a point defined by latitude 37°59'39.37" and longitude 75°37'26.52", which is at or near the point of intersection with the 'Scarborough and Calvert boundary line of May 28, 1668'; corners N and P are connected by a line running N 35°08'33.5" E about 12,465.32 feet; thence N 83°45'59.9" E about 24,156.95 feet to the boundary monument near triangulation station Davis on the 'Scarborough and Calvert boundary line of May 28, 1668.' Geographic positions are based on 1927 datum."

~~(2)~~B. No vested right of any individual, partnership or corporation within the area affected by this section shall in any wise be impaired, restricted or affected thereby. This section shall not be retrospective in its operation nor shall it in any way affect the rights of

any individual, partnership or corporation in any suit now pending in any of the courts of this Commonwealth or of the United States wherein such cause of action arose over, or is in any way based upon, the area affected. This section shall in no wise preclude the Commonwealth ~~of Virginia~~ from prosecuting any individual, partnership or corporation for violation of any of the criminal laws of this Commonwealth within such area until this section shall become effective.

~~(3) This section shall become effective at such time as the State of Maryland, by appropriate similar legislation, has accepted the provisions hereof, and the Congress of the United States, by appropriate legislation, has ratified the boundary line set out in subsection 1 of this section.~~

Drafting Note: Technical and style changes only. The last provision is deleted as obsolete because Maryland by chapter 210 of the Maryland Laws of 1970 and the United States Congress by P.L. 92-565 (86 Stat. 1179) consented to this adjusted boundary. The original act is currently and will continue to be set out in its entirety in the Compacts volume of the Code of Virginia.

§ ~~7.1-9~~1-311. Recession of portion of District of Columbia.

That portion of the District of Columbia which, by an act of the General Assembly ~~of Virginia~~, passed December 3, 1789, was ceded to the United States, ~~and all the rights and jurisdiction therewith ceded over the same, having, with the assent of the people of the county and town of Alexandria, ascertained, as prescribed by an act of Congress, approved July 9, 1846, been ceded~~ and receded and forever relinquished to this Commonwealth by an act of Congress approved July 9, 1846, and accepted by the Commonwealth by an act of the General Assembly adopted on February 3, 1846, ~~in full and absolute right and jurisdiction, as well of soil as of persons residing or to reside therein: It is hereby declared, that the same is now~~ shall be and remain reannexed to this Commonwealth and constitutes a portion thereof, subject to such reservation and provisions respecting the public property of the United States, as the United States Congress has enacted in its act of recession.

Drafting Note: The section has been rewritten to streamline the historical reference to the cession and recession. The compact contained in Chapter 64 of the 1846 Acts of Assembly will be set out in its entirety in the compacts Volume of the Code of Virginia. The Virginia portion retroceded includes the areas that currently constitute Arlington County and the older part of the City of Alexandria.

§ ~~7.1-10~~1-312. Boundary ~~line between Virginia and~~with District of Columbia.

~~Whereas, there has been passed~~ The boundary line between the Commonwealth and the District of Columbia shall be and remain as described by the Congress of the United States Public Law 208, Seventy-Ninth Congress, approved October 31, 1945, entitled "An act to establish a boundary line between the District of Columbia and the Commonwealth of Virginia, and for other purposes," Title I of the act being as follows:

~~"Section 101. The boundary line between the District of Columbia and the Commonwealth of Virginia is hereby established as follows:~~

~~"Said boundary line shall begin at a point where the northwest boundary of the District of Columbia intercepts the high-water mark on the Virginia shore of the Potomac river and following the present mean high-water mark; thence in a southeasterly direction along the Virginia shore of the Potomac river to Little river, along the Virginia shore of Little river to Boundary channel, along the Virginia side of Boundary channel to the main body of the Potomac river, along the Virginia side of the Potomac river across the mouths of all tributaries affected by the tides of the river to Second street, Alexandria, Virginia, from Second street to the present established pierhead line, and following said pierhead line to its connection with the District of Columbia-Maryland boundary line; that whenever said mean high-water mark on the Virginia shore is altered by artificial fills and excavations made by the United States, or by alluvion or erosion, then the boundary shall follow the new mean high-water mark on the Virginia shore as altered, or whenever the location of the pierhead line along the Alexandria waterfront is altered, then the boundary shall follow the new location of the pierhead line.~~

~~"Section 102. All that part of the territory situated on the Virginia side of the Potomac river lying between the boundary line as described in section one hundred one and the mean high-water mark as it existed January twenty-fourth, seventeen hundred ninety-one, is hereby ceded to and declared to be henceforth within the territorial boundaries, jurisdiction, and sovereignty of the State of Virginia: Provided, however, that concurrent jurisdiction over the said area is hereby reserved to the United States.~~

~~"Section 103. Nothing in this act shall be construed as relinquishing any right, title, or interest of the United States to the lands lying between the mean high-water mark as it existed January twenty-fourth, seventeen hundred ninety-one, and the boundary line as described in section one hundred one; or to limit the right of the United States to establish its title to any of said lands as provided by act of Congress of April twenty-seventh, nineteen hundred twelve (37 Stat. 93); or the jurisdiction of the courts of the United States for the District of Columbia to hear and determine suits to establish the title of the United States in all lands in the bed, marshes, and lowlands of the Potomac river, and other lands as described by said act below the mean high-water mark of January twenty-fourth, seventeen hundred ninety-one; or to limit the authority to make equitable adjustments of conflicting claims as provided for in the act approved June fourth, nineteen hundred thirty-four (48 Stat. 836).~~

~~"Section 104. The "present" mean high-water mark shall be construed as the mean high-water mark existing on the effective date of this act.~~

~~"Section 105. The United States Coast and Geodetic Survey is hereby authorized, empowered, and instructed to survey and properly mark by suitable monuments the said boundary line as described in section one hundred one, and from time to time to monument such sections of said boundary line as may be changed as provided for in section one hundred one; and the necessary appropriations for this work are hereby authorized.~~

~~"Section 106. The provisions of sections two hundred seventy-two to two hundred eighty-nine, inclusive, of the Criminal Code (U.S.C.A. title eighteen, sections four hundred fifty-one to four hundred sixty-eight) shall be applicable to such portions of the George Washington Memorial Parkway and of the Ronald Reagan Washington National Airport as are situated within the Commonwealth of Virginia. Any United States commissioner specially designated for that purpose by the district court of the United States for the Eastern District of Virginia shall have jurisdiction to try and, if found guilty, to sentence persons charged with petty offenses against the laws of the United States committed on the above-described portions of the said parkway or airport. The probation laws shall be~~

~~applicable to persons so tried. For the purposes of this section, the term "petty offense" shall be defined as in section three hundred thirty-five of the Criminal Code (U.S.C.A., title eighteen, section five hundred forty-one). If any person charged with any petty offense as aforesaid shall so elect, however, he shall be tried in the said district court.~~

~~"Section 107. The State of Virginia hereby consents that exclusive jurisdiction in the Ronald Reagan Washington National Airport (as described in section one (b) of the act of June twenty-ninth, nineteen hundred forty (fifty-four Stat. six hundred eighty-six)), title to which is now in the United States, shall be in the United States. The conditions upon which this consent is given are the following and none other: (one) There is hereby reserved in the Commonwealth of Virginia the jurisdiction and power to levy a tax on the sale of oil, gasoline, and all other motor fuels and lubricants sold on the Ronald Reagan Washington National Airport for use in over-the-road vehicles such as trucks, buses, and automobiles, except sales to the United States: Provided, that the Commonwealth of Virginia shall have no jurisdiction or power to levy a tax on the sale or use of oil, gasoline, or other motor fuels and lubricants for other purposes; (two) there is hereby expressly reserved in the Commonwealth of Virginia the jurisdiction and power to serve criminal and civil process on the Ronald Reagan Washington National Airport; and (three) there is hereby reserved in the Commonwealth of Virginia the jurisdiction and power to regulate the manufacture, sale, and use of alcoholic beverages on the Ronald Reagan Washington National Airport (as described in section one (b) of the act of June twenty-ninth, nineteen hundred forty (fifty-four Stat. six hundred eighty-six)).~~

~~"Subject to the limitation on the consent of the State of Virginia as expressed herein exclusive jurisdiction in the Ronald Reagan Washington National Airport shall be in the United States and the same is hereby accepted by the United States.~~

~~"This act shall have no retroactive effect except that taxes and contributions in connection with operations, sales and property on and income derived at the Ronald Reagan Washington National Airport heretofore paid either to the Commonwealth of Virginia or the District of Columbia are hereby declared to have been paid to the proper jurisdictions and the Commonwealth of Virginia and the District of Columbia each hereby~~

~~waives any claim for any such taxes or contributions heretofore assessed or assessable to the extent of any such payments to either jurisdiction.~~

~~"Any provisions of law of the United States or the Commonwealth of Virginia which is to any extent in conflict with this act is to the extent of such conflict hereby expressly repealed.~~

~~"Section 108. This title shall not become effective unless and until the State of Virginia shall accept the provisions thereof."~~

~~Whereas, the boundary line as established by such act of Congress is acceptable and satisfactory to the Commonwealth of Virginia; and whereas, it is desirable that the Commonwealth consent that exclusive jurisdiction over the Ronald Reagan Washington National Airport, subject to the reservations and conditions prescribed in section one hundred seven of such act of Congress and hereinafter, shall be in the United States; now, therefore,~~

~~(1) The boundary line between the District of Columbia and the Commonwealth of Virginia is hereby established as set out in the act of Congress above quoted.~~

~~(2) The Commonwealth of Virginia hereby accepts the provisions of Title I of the act of Congress, subject to the provisions of subdivisions (3) and (4), such acceptance to be effective upon March 10, 1968.~~

~~(3) The Commonwealth of Virginia consents that exclusive jurisdiction over the Ronald Reagan Washington National Airport, subject to the reservations and conditions prescribed in section 107 of the act of Congress above quoted not inconsistent with the provisions of subdivision (4) below and subject to the reservations and conditions hereinafter prescribed, shall be in the United States, and the powers reserved to the Commonwealth of Virginia in such section 107 and hereinafter shall be vested, reside and remain in this Commonwealth.~~

~~(4) There is hereby reserved in the Commonwealth of Virginia the jurisdiction and power to levy taxes as provided in the act of Congress of the United States of July 30, 1947, chapter 389, § 1 (61 Stat. 644), and the reservation of jurisdiction and power in the~~

Commonwealth of Virginia, and the proviso thereto, prescribed in paragraph 1 of section 107 of the act of Congress above quoted is hereby revoked.

~~(5) [Repealed.]~~

~~This section shall not become effective unless and until the provisions thereof are ratified and accepted by the Congress of the United States.~~ and amended by Chapter 772 of the 1968 Acts of Assembly and Chapter 94 of the 2002 Acts of Assembly.

Drafting Note: The section is rewritten to streamline the historical references to the boundary line compact between the Commonwealth and the District of Columbia. The compact as amended is currently and will continue to be set out at length in the Compacts volume of the Code of Virginia.

§ ~~7.1-10.11-313~~. Boundary line between Loudoun County, Virginia, and Jefferson County, West Virginia.

A. The boundary line between Loudoun County, Virginia, and Jefferson County, West Virginia, ~~is hereby, on the part of this Commonwealth, established and declared to~~ shall be the watershed line of the top of the ridge of the Blue Ridge Mountains as established by the survey approved by the Commission on April 29, 1997, and recorded in the land books in the courthouses of Loudoun County, Virginia, and Jefferson County, West Virginia.

B. No vested right of any individual, partnership, or corporation within the territory affected by this act shall in any wise be impaired, restricted, or affected by this act. This act shall not be retrospective in its operation nor shall it in any way affect the rights of any individual, partnership, or corporation in any suit now pending in any of the courts of this Commonwealth or of the United States wherein the cause of action arose over, or is in any way based upon, the territory affected. ~~This act shall in no wise preclude the Commonwealth of Virginia from prosecuting any individual, partnership, or corporation for violation of any of the criminal laws of this Commonwealth within the territory until this act shall go into effect.~~

~~C. The Keeper of the Rolls of the Commonwealth shall furnish a certified copy of this act to the Governor of the State of West Virginia and shall also furnish certified copies to the United States Senators from the Commonwealth of Virginia and to the~~

~~Representative from the Tenth Congressional District of Virginia in the House of Representatives, who are requested to have the act presented to the Congress of the United States.~~

~~D. The Commission created by Chapter 181 of the 1986 Acts of Assembly, and extended pursuant to Chapter 606 of the 1988 Acts of Assembly, Chapter 52 of the 1991 Acts of Assembly, and Chapter 448 of the 1992 Acts of Assembly, is continued and is directed, in cooperation with the like Commission created by the State of West Virginia, or other agency designated by the State of West Virginia for the purpose, to complete its work, including the recordation of the survey in the Loudoun County Courthouse, and to erect permanent markers designating the boundary line set forth in subsection A. The markers shall be of the nature and kind the Commission deems appropriate.~~

~~E. This section shall become effective upon its ratification and approval by the West Virginia Legislature.~~

Drafting Note: No change in substance. Obsolete provisions contained in subsections C through E and the last sentence in B are deleted. This act is now effective. West Virginia approved this section as § 29-23-3 of the West Virginia Code and the deed was filed in both jurisdictions. The original act is currently and will continue to be set out in its entirety in the Compacts volume of the Code of Virginia.

~~CHAPTER 2~~

~~COAST SUREVY~~

Chapter Drafting Note: This chapter is repealed as obsolete. In the report of the last recodification of Title 7.1 in 1966, § 7.1-11 was retained at the request of the United States Coast and Geodetic Survey. The Office of Coast Survey and the Office of the Geodetic Survey, who are the successors to the United States Coast and Geodetic Survey concur that this section is no longer needed. The surveying technology and operations have changed in the last couple of decades with less reliance on line-of-sight techniques, and increased reliance on satellite-based positioning capabilities by federal, state, and local government surveyors as well as the private sector. The federal surveying operations no longer require such legislative authority to enter property, remove fences, or cut down trees. The updated positioning capabilities allow for operations to locate survey control points at flexible locations, in collaboration with property owners as needed, with less impact on the surrounding environment.

~~§ 7.1-11. Removal of fences and trees for coast survey.~~

~~Any person employed in the coast survey under any act of the Congress of the United States, may, for the purpose of effecting the objects of such survey, enter upon~~

~~lands within the Commonwealth, remove the fences, cut down trees, or do any other matter or thing necessary to effect such survey.~~

~~This section shall not limit any right of a person to recover damages to persons or property.~~

CHAPTER ~~34~~.

JURISDICTION OVER LANDS ACQUIRED BY THE UNITED STATES.

Chapter Drafting Note: This chapter is retained with minimum change to the wording of each section. The one exception is the substitution of the broader definition of person in Title 1 for the definition of person currently contained in § 7.1-12. Sections containing general provisions on ceding jurisdiction have been reordered to appear consecutively.

~~§ 7.1-12. "Person" defined.~~

~~The following word or term, whenever used or referred to in this chapter, shall have the following respective meaning unless a different meaning clearly appears from the context:~~

~~"Person" means an individual, corporation other than municipal corporation, business trust, estate, trust, partnership or two or more of any of the foregoing having a joint or common interest.~~

Drafting Note: This section is repealed as unnecessary. This section was added during the last recodification in 1966 "to clarify and give uniformity" to the sections in the chapter. The Uniform Commercial Code (UCC) was cited as the source of the definition. At the time of the recodification, the UCC's definition of person included government and governmental subdivisions and agencies and this section excluded the term "municipal corporation" from its scope. Because the terms "person" and "persons" are used only a few times in this chapter and the context is clear that those terms do not apply to municipal corporations, the definition of person is deleted. The new definition of person in Title 1, which is based on the current definition in the Uniform Commercial Code will now cover these references.

~~§ 7.1-18.11-400. Conditional consent given to acquisition of lands by United States; concurrent jurisdiction ceded.~~

~~A. On and after July 1, 1981, the conditional consent of the Commonwealth of Virginia is hereby given in accordance with clause 17, § 8, Article 1 of the United States Constitution to the acquisition by the United States, or under its authority, by purchase, lease, condemnation, or otherwise, of any lands in Virginia the Commonwealth, whether~~

under water or not, required for customhouses, post offices, arsenals, forts, magazines, dockyards, military reserves, or for needful public buildings.

B. The acquisition by condemnation of any property within the Commonwealth, not expressly consented to in subsection A of this section, shall require the prior approval of the General Assembly.

C. Over all lands hereafter acquired by the United States, the Commonwealth hereby cedes to the United States concurrent governmental, judicial, executive and legislative power and jurisdiction.

D. There is hereby expressly reserved in the Commonwealth, over all lands so acquired by the United States, ~~the following:~~

1. Tax on motor vehicle fuels and lubricants. - The Commonwealth shall have the jurisdiction and power to levy a tax on oil, gasoline and all other motor fuels and lubricants thereon owned by others than the United States and a tax on the sale thereof, on such lands, except sales to the United States for use in the exercise of essentially governmental functions. ~~There is further expressly reserved in~~

2. Service of civil and criminal process. - The Commonwealth shall have the jurisdiction and power to serve criminal and civil process on such lands ~~and.~~

3. Sale of intoxicating liquors. - The Commonwealth shall have the jurisdiction and power to license and regulate, or to prohibit, the sale of intoxicating liquors on any such lands ~~and.~~

4. Tax on property and businesses. - The Commonwealth shall have the jurisdiction and power to tax all property, including buildings erected thereon, not belonging to the United States, and to require licenses and impose license taxes upon any business or businesses conducted thereon.

E. For all purposes of taxation and of the jurisdiction of the courts of ~~Virginia~~ the Commonwealth over persons, transactions, matters and property on such lands, the lands shall be deemed to be a part of the county or city in which they are situated.

F. Any such acquisition by or conveyance or lease to the United States, as ~~is herein~~ provided ~~for~~ in this section, shall be deemed to have been secured or made upon the

express condition that the reservations of power and limitations ~~hereinabove~~ provided for in this section are recognized as valid by the United States and, in the event the United States shall deny the validity of the ~~same~~ reservations, as to all or any part of such lands, then and in that event, the title and possession of all or any such part of such lands, conveyed to the United States by the Commonwealth, shall immediately revert to the Commonwealth.

G. Nothing ~~herein~~ contained in this section shall affect any special act ~~heretofore or hereafter~~ adopted ceding jurisdiction to the United States, nor any deeds executed pursuant to § ~~7.1-211-401~~.

Drafting Note: No change in substance. The style of this section parallels the style used currently in § 7.1-19 (proposed § 1-302) to improve readability.

§ ~~7.1-211-401~~. Ceding additional jurisdiction to United States.

~~(1)~~ [Repealed.]

~~(2)~~A. Whenever the head or other authorized officer of any department or independent establishment or agency of the United States shall deem it desirable that additional jurisdiction or powers be ceded over any lands in ~~Virginia~~ the Commonwealth acquired or proposed to be acquired by the United States under his immediate jurisdiction, custody or control, and whenever the Governor and Attorney General of ~~Virginia~~ the Commonwealth shall agree to the same, the Governor and Attorney General shall execute and acknowledge a deed in the name of and under the lesser seal of the Commonwealth ceding such additional jurisdiction. The deed shall accurately and specifically describe the area and location of the land over which the additional jurisdiction and powers are ceded and shall set out specifically what additional jurisdiction and powers are ceded, and may set out any reservations in the Commonwealth of jurisdiction which may be deemed proper in addition to those referred to in subsection ~~(6)~~ hereof.

~~(3)~~ [Repealed.]

~~(4)~~B. No such deed shall become effective or operative until the jurisdiction therein provided for is accepted on behalf of the United States as required by ~~section 355 of the Revised Statutes of the United States~~ 40 U.S.C. § 255. The head or other authorized officer

of a department or independent establishment or agency of the United States shall indicate such acceptance by executing and acknowledging such deed and admitting it to record in the office of the clerk of the court in which deeds conveying the lands affected would properly be recorded.

~~(5)~~C. When such deed has been executed and acknowledged on behalf of the Commonwealth and the United States, and admitted to record as ~~hereinbefore set forth~~provided in subsection B, it shall have the effect of ceding to and vesting in the United States the jurisdiction and powers therein provided for and none other.

~~(6)~~D. Every such deed as is provided for in this section shall reserve in the Commonwealth over all lands therein referred to the jurisdiction and power to serve civil and criminal process on such lands and in the event that the lands or any part thereof shall be sold or leased to any person, under the terms of which sale or lease the vendee or lessee shall have the right to conduct thereon any private industry or business, then the jurisdiction ceded to the United States over any such lands so sold or leased shall cease and determine, and thereafter the Commonwealth shall have all jurisdiction and power she would have had if no jurisdiction or power had been ceded to the United States. This provision, however, shall not apply to post exchanges, officers' clubs and similar activities on lands acquired by the United States for purposes of national defense. It is further provided that the reservations provided for in this subsection shall remain effective even though they should be omitted from any deed executed pursuant to this section.

~~(7)~~E. Nothing contained in this section shall be construed as repealing any special acts ceding jurisdiction to the United States to acquire any specific tract of land.

Drafting Note: No change in substance.

§ ~~7.1-191~~402. Shenandoah National Park.

The respective jurisdiction and powers of the Commonwealth and the United States over all lands within the Shenandoah National Park, as it is now constituted or may hereafter be extended, shall be as follows:

~~(a)~~1. Criminal and police jurisdiction. - The United States shall have exclusive jurisdiction, legislative, executive and judicial, with respect to the commission of crimes,

and the arrest, trial and punishment therefor, and exclusive general police jurisdiction thereover.

~~(b)~~2. Sale of alcoholic beverages. - The United States shall have the power to regulate or prohibit the sale of alcoholic beverages on such lands; provided, that, if the sale of alcoholic beverages is prohibited by general law in the Commonwealth outside of such lands, no such alcoholic beverages shall be sold on the lands contained in the Park area; and provided further, that if the general laws of the Commonwealth permit the sale of alcoholic beverages, then the regulations of the United States relating to such sales on such lands shall conform as nearly as possible to the regulatory provisions in accordance with which such sales are permitted in the Commonwealth outside of such Park lands. Nothing in this subsection shall be construed as reserving in the Commonwealth power to require licenses of persons engaged in the sale of intoxicating beverages on such lands, nor the power to require that any sales be made through official liquor stores.

~~(c)~~3. Service of civil and criminal process. - The Commonwealth shall have jurisdiction to serve civil process within the limits of the Park in any suits properly instituted in any of the courts of the Commonwealth and to serve criminal process within such limits in any suits or prosecutions for or on account of crimes committed in the Commonwealth but outside of the Park.

~~(d)~~4. Tax on alcoholic beverages. - The Commonwealth shall have jurisdiction and power to levy a nondiscriminatory tax on all alcoholic beverages possessed or sold on such lands.

~~(e)~~5. Tax on motor vehicle fuels and lubricants. - The Commonwealth shall have jurisdiction and power to tax the sales of oil and gasoline, and other motor vehicle fuels and lubricants for use in motor vehicles. This subsection shall not be construed as a consent by the United States to the taxation by the Commonwealth of such sales for the exclusive use of the United States.

~~(f)~~6. Tax on businesses. - The Commonwealth shall have jurisdiction and power to levy nondiscriminatory taxes on private individuals, associations and corporations, their franchises and properties, on such lands, and on their businesses conducted thereon.

~~(g)~~7. Jurisdiction of courts. - The courts of the Commonwealth shall have concurrent jurisdiction with the courts of the United States of all civil causes of action arising on such lands to the same extent as if the cause of action had arisen in the county or city in which the land lies outside the Park area, and the state officers shall have jurisdiction to enforce on such lands the judgments of the state courts and the collection of taxes by appropriate process.

~~(h)~~8. Voting residence. - Persons residing in or on any of the lands embraced in the Park shall have the right to establish a voting residence in ~~Virginia~~ the Commonwealth by reason thereof, and the consequent right to vote at all elections within the county or city in which the land or lands upon which they reside are located upon like terms and conditions, and to the same extent as they would be entitled to vote in such county or city if the lands on which they reside had not been deeded or conveyed to the United States.

~~(i)~~9. Fugitives. - All fugitives from justice taking refuge in the Park shall be subject to the same laws as refugees from justice found in the Commonwealth ~~of Virginia~~.

Drafting Note: No change in substance. This section codifies the agreement between the Commonwealth and the United States regarding their respective jurisdiction over lands in the Shenandoah National Park enacted as Chapter 402 of the 1940 Acts of Assembly and currently codified as 16 U.S.C. §403c-1.

§ ~~7.1-201-403~~. Conveyances of certain waste, and unappropriated lands and marshlands to the United States.

~~(1) Waste and unappropriated lands.~~ A. The Governor is authorized to execute in the name of the Commonwealth deeds conveying, subject to the jurisdictional and other limitations and reservations contained in §§ ~~7.1-18.11-400~~ and ~~7.1-221-405~~, to the United States such title as the Commonwealth may have in waste and unappropriated lands entirely surrounded by lands owned by the United States, when the same are certified as being vacant and unappropriated by a duly authorized agent of the United States and are described by metes and bounds descriptions filed with the Secretary of the Commonwealth and with the clerk of the court in the county wherein such unappropriated land is situated.

~~(2) Marshlands in certain counties.~~ B. The Governor is authorized to execute, in the name and on behalf of the Commonwealth, a deed or other appropriate instrument

conveying to the United States, without any consideration but subject to the jurisdictional limitations and reservations contained in §§ ~~7.1-18.11-400~~ and ~~7.1-221-405~~, such right, title and interest in or easement over and across the marshes lying along the seaside of the Counties of Accomack and Northampton as may be necessary and proper for the construction, operation and maintenance of a canal or channel for small boats over and through such marshlands.

Drafting Note: No change in substance.

§ ~~7.1-21.11-404~~. Licensing sale of mixed alcoholic beverages on lands ceded to or owned by United States.

The Virginia Alcoholic Beverage Control Board may license the sale of mixed alcoholic beverages as defined in Chapter 1 (§ 4.1-100 et seq.) of Title 4.1 at places primarily engaged in the sale of meals on lands ceded by the Commonwealth to the United States or owned by the government of the United States or any agency thereof provided that such lands are used as ports of entry or egress to and from the United States, and provided that such lands lie within or partly within the boundaries of any county in this Commonwealth which permits the lawful dispensing of mixed alcoholic beverages. The Board is hereby authorized to adopt rules and regulations governing the sale of such spirits, and to fix the fees for such licenses, within the limits fixed by general law.

Drafting Note: No change in substance. This section was enacted in 1968 and it is used for the sale of mixed beverages at Washington Dulles International Airport and Ronald Reagan Washington National Airport.

§ ~~7.1-221-405~~. Reversion to Commonwealth; recorded title prerequisite to vesting jurisdiction.

A. As used in this section, unless the context requires otherwise:

"Corrective action" means the response and remediation to environmental contamination to the extent required by any applicable environmental law or regulation applicable to the property.

"Environmental contamination" means any hazardous waste, substance or toxic material, or its discharge or release, that is regulated under any environmental law or

regulation applicable to the property, and shall include petroleum (including crude oil), natural gas, liquefied natural gas, ordnance, unexploded munitions, and asbestos.

B. If the United States shall cease to be the owner of any lands, or any part thereof, granted or conveyed to it by the Commonwealth; if the purposes of any such grant or conveyance to the United States shall cease; or if the United States shall for five consecutive years fail to use any such land for the purposes of the grant or conveyance, then, and in that event, the right and title to such land, or such part thereof, shall immediately revert to the Commonwealth unless such land, or part thereof, contains environmental contamination. No land containing environmental contamination shall be transferred or revert to the Commonwealth, unless and until all corrective action necessary to protect human health and the environment with respect to any environmental contamination on the lands, or portion thereof, has been completed to the satisfaction of the Commonwealth and approved by the Governor pursuant to § 2.2-1149, and the United States has executed and delivered a transfer instrument including covenants warranting that (i) all corrective action necessary to protect human health and the environment with respect to any environmental contamination on the land or any portion thereof has been taken, and (ii) any corrective action for environmental contamination occurring before the date of transfer found to be necessary after the date of the transfer of the title of the land or any portion thereof shall be conducted by the United States.

In cases where the Defense Base Closure and Realignment Commission (BRAC Commission) established pursuant to P.L. 101-510 (1990), as amended, identifies ~~U.S.-United States~~ military bases located in ~~Virginia~~ the Commonwealth for closure, the Commonwealth shall have, in addition to the foregoing, the right to enter upon such lands so identified for the purpose of inspection for environmental contamination. Upon completion of such inspection, the Commonwealth shall report its findings to the Governor and the appropriate federal agencies.

C. All deeds, conveyances or title papers for the transfer of title of lands to the United States shall be recorded in the county or ~~corporation~~ city wherein the land or the

greater part thereof lies, but no tax shall be required on any such instrument made to the United States by which they acquire lands for public purposes.

D. The jurisdiction ceded by § ~~7.1-18.11-400~~ shall not vest until the United States shall have acquired the title of record to such lands, or rights or interest therein, by purchase, condemnation, lease or otherwise. So long as the lands, or any rights or interest therein, are held in fee simple by the United States, and no longer, such lands, rights or interest, as the case may be, shall continue exempt and exonerated, from all state, ~~county and municipal~~ and local taxes which may be levied or imposed under the authority of ~~this~~ the Commonwealth.

Drafting Note: The phrase "as amended" has been added to the public law reference to reflect that a new series of base evaluations have been authorized by the National Defense Authorization Acts of Fiscal Years 2002 and 2004. These acts amend P.L. 101-510 (1990).

§ ~~7.1-231-406~~. Conveyances to political subdivisions of lands ceded to and no longer used by United States.

Whenever any land in ~~Virginia~~ the Commonwealth has been or is conveyed to the United States with a provision in the deed that upon abandonment or use for any purpose other than that stated in the deed such land shall revert to the Commonwealth ~~of Virginia~~, and if any such land is abandoned or is no longer used for the purpose for which conveyed, the Governor is hereby authorized to convey to the political subdivision in which such land is situated, all right, title and interest of the Commonwealth in and to such land.

This section shall not affect any lease made under Chapter 321 of the Acts of 1952.

Drafting Note: No change in substance. Chapter 321 of the Acts of 1952 relates to the 99 year lease with the right of renewal for rental housing at Fort Monroe.

§ ~~7.1-241-407~~. Concurrent jurisdiction of Commonwealth and United States over certain lands leased to political subdivisions.

Whenever the United States government has exclusive jurisdiction over property located in the Commonwealth of Virginia, and leases ~~such~~ the property, or part thereof, to any political subdivision to be used by it for a public purpose, ~~such~~ the exclusive jurisdiction shall cease ~~and determine~~ as to the property so leased and the Commonwealth ~~of Virginia~~ and the United States government shall have concurrent jurisdiction over ~~such~~

~~the~~ property so long as ~~such the~~ lease continues. At the termination of ~~such the~~ lease the jurisdiction of the Commonwealth shall cease and the United States shall have exclusive jurisdiction thereof.

Drafting Note: No change in substance. The catchline is revised to better reflect the provisions of the section. The word "determine" following "cease" is deleted as not necessary because the section is directed at jurisdictional issues and not property issues that are associated with the word determine. This section was enacted on March 31, 1964, with an emergency clause and may have been in response to the United States Supreme Court ruling in Humble Pipe Line Co. v. Waggoner, 376 U.S. 369 (1964), decided on March 23, 1964. In that case, the court determined that the United States did not lose its exclusive jurisdiction by leasing the right to exploit parts of a military reservation for oil and gas and for an oil pipeline.

§ ~~7.1-25.11-408~~. Relinquishment by United States of jurisdiction over lands in ~~Virginia~~ the Commonwealth.

Whenever a duly authorized official or agent of the United States, acting pursuant to authority conferred by the United States Congress, notifies the Governor that the United States desires or is willing to relinquish to the Commonwealth the jurisdiction, or a portion thereof, held by the United States over lands located in ~~Virginia~~ the Commonwealth, as designated in such notice, the Governor may, in his discretion, accept such relinquishment. Such acceptance shall be made by sending a notice of acceptance to the official or agent designated by the United States to receive such notice of acceptance. The Governor shall send a signed copy of the notice of acceptance, together with the notice of relinquishment received from the United States, to the Secretary of the Commonwealth, who shall maintain a permanent file of said notices.

Upon the sending of ~~said the~~ notice of acceptance to the designated official or agent of the United States, the Commonwealth shall immediately have such jurisdiction over the lands designated in the notice of relinquishment as ~~said the~~ notice shall specify.

Upon receipt of a copy of the notice of relinquishment and a copy of the notice of acceptance, the Secretary of the Commonwealth shall immediately give written notice of such change in jurisdiction to the Attorney General and the attorney for the Commonwealth of the city or county in which such lands are located. The Secretary of the Commonwealth shall also ~~forthwith~~ certify a copy of each of ~~such the~~ notices to the clerk of court in which

deeds are admitted to record for the city or county in which such lands are located ~~who~~.
The clerk shall record the ~~same notices~~ in his deed book and index ~~the same them~~ in the name of the United States ~~of America~~ and the Commonwealth ~~of Virginia~~.

Drafting Note: No change in substance. Stylistic changes only to improve readability and remove archaic terminology.

CHAPTER 4.

SEALS AND FLAG OF THE COMMONWEALTH

CHAPTER 5.

EMBLEMS.

Article 1.

Symbols of Sovereignty.

Chapter Drafting Note: Chapters 4 and 5 of Title 7.1 have been combined into one chapter titled Emblems. Article 1 (Symbols of Sovereignty) contains the former chapter 4 that covered the seal and flag of the Commonwealth, which were uniquely designed for the Commonwealth. In Article 2 (Emblems, Designations, and Honors), the multiple sections that designated things and places as official emblems of the Commonwealth are grouped into one section. The other two stand alone sections designate English as the official language of the Commonwealth and provides for the appointment of an honorary poet laureate for the Commonwealth.

§ ~~7.1-261-500~~. The great seal.

The great seal of the Commonwealth ~~of Virginia~~ shall consist of two metallic discs, two and one-fourth inches in diameter, with an ornamental border one fourth of an inch wide, with such words and figures engraved ~~thereon as will, when used, produce impressions to be~~ described as follows: On the obverse, Virtus, the genius of the Commonwealth, dressed as an Amazon, resting on a spear in her right hand, point downward, touching the earth; and holding in her left hand, a sheathed sword, or parazonium, pointing upward; her head erect and face upturned; her left foot on the form of Tyranny represented by the prostrate body of a man, with his head to her left, his fallen crown nearby, a broken chain in his left hand, and a scourge in his right. Above the group and within the border conforming therewith, shall be the word "Virginia," and, in the space below, on a curved line, shall be the motto, "Sic Semper Tyrannis." On the reverse, shall be placed a group consisting of Libertas, holding a wand and pileus in her right hand; on her right, Aeternitas, with a globe and phoenix in her right hand; on the left of Libertas,

Ceres, with a cornucopia in her left hand, and an ear of wheat in her right; over this device, in a curved line, the word "Perseverando."

Drafting Note: No change in substance. Superfluous language that describes essentially how a seal is used is deleted. The great seal of the Commonwealth was adopted by the Commonwealth's Constitutional Convention on July 5, 1776. Because the original design was never properly cast and a number of variations came into use, a committee was established in 1930 to prepare an accurate and faithful description of the great seal of the Commonwealth as adopted by Virginia's Constitutional Convention of 1776. The current official design is the result of the work of that committee.

§ ~~7.1-271-501~~. The lesser seal.

The lesser seal of the Commonwealth shall be one and nine sixteenths inches in diameter, and ~~have be~~ engraved ~~thereon with~~ the device and inscriptions contained in the obverse of the great seal.

Drafting Note: No substantive change. Stylistics changes only.

§ ~~7.1-281-502~~. Custody ~~and use of seals~~; impressions displayed in The Library of Virginia.

The seals of the Commonwealth described in §§ ~~7.1-261-500~~ and ~~7.1-271-501~~ shall be kept by the Secretary of the Commonwealth and used as provided by law, and at least three clear impressions ~~thereof of the seals~~ shall be kept and displayed by the Librarian of Virginia in some suitable place in The Library of Virginia, for public inspection.

Drafting Note: Language from § 7.1-29 that states that the Secretary of the Commonwealth is the keeper of the seals is relocated to this section.

~~§ 7.1-29. Canceled seals.~~

~~Former seals of the Commonwealth, which were required to be canceled by quartering the same with two straight lines crossing at right angles at the center of the disc, and cut at least as deep as the figures thereon, shall be safely kept in the office of the Secretary of the Commonwealth and at least three clear impressions thereof filed with the Librarian of Virginia to be by him duly indexed and safely kept in a suitable place.~~

Drafting Note: This section is repealed as obsolete. Neither the Secretary of the Commonwealth nor the Librarian of Virginia currently have in their possession any canceled seals.

§ ~~7.1-301~~1-503. ~~When great seal used; tax thereon~~Uses and tax of great seal.

The great seal shall be affixed to documents, signed by the Governor, which are to be used before tribunals, or for purposes outside of the jurisdiction of ~~this—the~~ Commonwealth; and in every such case, except where the Commonwealth is a party concerned in the use to be made of the document, the tax imposed by ~~law § 58.1-1725~~ on the seal of the Commonwealth shall be collected and accounted for by the Secretary of the Commonwealth, ~~as keeper of the seals.~~

Drafting Note: The reference to the Secretary of the Commonwealth as keeper of the seals is relocated to § 1-502. Other changes are stylistic in nature.

§ ~~7.1-31~~1-504. ~~When lesser seal used; tax thereon~~Uses and tax on lesser seal.

The lesser seal shall be affixed to all grants for lands and writs of election issued by the Governor; to all letters of pardon and reprieve; to all commissions, civil and military, signed by the Governor, and to all other papers, requiring a seal, authorized to be issued by the Governor for the purpose of carrying the laws into effect within ~~this—the~~ Commonwealth; and also, when deemed necessary by the Secretary of the Commonwealth, may be used by him as an authentication of his official signature; ~~but no~~ No tax shall ~~hereafter be charged upon~~ imposed on the use of such lesser seal, except upon commissions appointing notaries, ~~inspectors of tobacco and other commodities,~~ ~~commissioners of wrecks,~~ and commissioners in other states for taking acknowledgments, and upon certificates of the Secretary of the Commonwealth, when, at the request of the parties desiring such certificates, the seal is attached. In all such cases the tax shall be the same as upon the great seal, and shall be collected and accounted for in the same manner.

Drafting Note: No change in substance. The reference to commissioners of wrecks is deleted because the Commonwealth no longer appoints commissioners of wrecks. During colonial days, the states salvaged the goods tossed upon their beaches from shipwrecks. Many states also required the salvagers to rescue persons on board shipwrecked vessels in order to obtain salvage rights. Persons appointed by the states, were called "wreckmasters," "commissioners of vendue," "commissioners of wrecks," etc., and were charged with assembling a volunteer boat crew within the wreckmaster's jurisdiction for the purpose of rescue and salvage. The reference to the use of the lesser seal by inspectors of tobacco and other commodities is also deleted as obsolete.

§ ~~7.1-31.1~~11-505. Seals deemed property of Commonwealth; unauthorized use; penalty.

The seals of the Commonwealth shall be deemed the property of the Commonwealth; and no persons shall exhibit, display, or in any manner utilize the seals or any facsimile or representation of the seals of the Commonwealth for nongovernmental purposes unless such use is specifically authorized by law.

Except for the authorized commercial use of the seal as provided in § 2.2-122, any person violating the provisions of this section shall be punished by a fine of not more than \$100, or by imprisonment for not more than ~~thirty~~30 days or both.

Drafting Note: No change in substance. An explanation of the scope of § 2.2-122 is added for clarity.

§ ~~7.1-32~~1-506. Flag of the Commonwealth.

The flag of the Commonwealth shall ~~hereafter be made of bunting or merino~~. It shall be a deep blue field, with a circular white centre of the same material. Upon this circle shall be painted or embroidered, to show on both sides alike, the coat of arms of the Commonwealth, as described in § ~~7.1-26~~1-500 for the obverse of the great seal of the Commonwealth; and there ~~shall~~may be a white ~~silk~~ fringe on the outer edge, furthest from the flagstaff. This shall be known and respected as the flag of ~~Virginia~~the Commonwealth.

Drafting Note: The section is rewritten to reflect that many modern flags are made of nontraditional fabrics without a fringe border.

§ ~~7.1-33~~1-507. Governor to prescribe size of flag.

The Governor shall regulate the size and dimensions of the flag proper for forts, arsenals and public buildings, for ships-of-war and merchant marine, for troops in the field, respectively, and for any other purpose, according to his discretion; ~~which regulations shall be proclaimed and published by him as occasion may require~~ by proclamation.

Drafting Note: No change in substance. The change is stylistic in nature.

§ ~~7.1-341-508~~. Director of ~~Purchases and Supply~~General Services to have available flags of the Commonwealth for sale.

The Director of the Department of ~~Purchases and Supply~~General Services shall have available at all times flags of the Commonwealth ~~of Virginia~~, to be offered for sale to the public in such manner as the Director may determine.

Such flags shall be of good quality, shall conform to the specifications ~~therefor~~ prescribed in § ~~7.1-321-506~~, and shall be offered in the various sizes prescribed by the Governor pursuant to § ~~7.1-331-507~~.

The prices to be charged for such flags shall be at cost as determined by the Director.

Drafting Note: No change in substance. The Division of Purchases and Supply is currently within the Department of General Services.

§ ~~7.1-351-509~~. When flag to be suspended over Capitol.

During the sessions of either house of the General Assembly the flag of the Commonwealth shall be kept raised over the respective chambers of the Capitol, or other place of session, if practicable, and the as directed by the Director of the ~~Division of Engineering and Buildings shall see that the same be done~~Department of General Services and the Chief of the Virginia Capitol Police in consultation with the Clerk of the House of Delegates and the Clerk of the Senate.

Drafting Note: The revision distinguishes between the flags raised and lowered over the respective chambers and the permanent flags that are always flown from the top of the Capitol. The responsibility for raising and lowering the flags is revised to reflect the roles of the Virginia Capitol Police and Clerks of the House of Delegates and Senate in coordinating this tradition. The duty to keep the flags flown is qualified in cases where it would not be practicable. Flying the flag over the place of session may not be practicable during the 2006 Regular Session when the Capitol will be under renovation and the General Assembly will be conducting its sessions in the Old State Library or during emergencies if the session needs to be moved from the Capitol.

Article 2.

Emblems, Designations, and Honors.

§ ~~7.1-40.111-510~~. ~~Official artisans center.~~Official emblems and designations.

The following are hereby designated official emblems and designations of the Commonwealth:

~~The Artisan Center - "Virginia Artisans Center," to be located in the City of Waynesboro, is hereby designated the official artisans center of the Commonwealth.~~

~~§ 7.1-40.1. Official Beverage. - Milk is hereby accepted, designated and adopted as the official beverage of this Commonwealth.~~

~~§ 7.1-40.2. Blue Ridge Folklore State Center.~~

~~The - Blue Ridge Institute located in the village of Ferrum is hereby designated the State Center for Blue Ridge Folklore.~~

~~§ 7.1-40.3. Official Boat.~~

~~The - "Chesapeake Bay Deadrise," is hereby designated as the official boat of the Commonwealth.~~

~~§ 7.1-39. Official dog.~~

~~The Dog - American Foxhound is hereby designated the official dog of the Commonwealth.~~

~~§ 7.1-40.2:1. Official Emergency medical services museum. -~~

~~"To The Rescue," located in the City of Roanoke, is hereby designated the official emergency medical services museum of the Commonwealth.~~

~~§ 7.1-40.12. Official Fleet of the Commonwealth.~~

~~The - Replicas of the three ships, Susan Constant, Godspeed, and Discovery, which comprised ~~Virginia's~~ the Commonwealth's founding fleet that brought the first permanent English settlers to Jamestown in 1607, and which are exhibited at the Jamestown Settlement museum in Williamsburg, are hereby designated the official fleet of the Commonwealth.~~

~~§ 7.1-38. Floral emblem.~~

~~The Flower commonly known as - American Dogwood (Cornus florida) is declared to be the floral emblem of the Commonwealth.~~

~~§ 7.1-40.4. Official Folk dance. -~~

~~Square dancing, the American folk dance ~~which~~ that traces its ancestry to the English Country Dance and the French Ballroom Dance, and ~~which~~ is called, cued, or prompted to the dancers, and includes squares, rounds, clogging, contra, line, the Virginia~~

~~Reel, and heritage dances, is hereby designated as the official folk dance of the Commonwealth.~~

~~§ 7.1-40.6. Official Fossil.~~

~~The Chesapecten jeffersonius is hereby designated as the official fossil of the Commonwealth.~~

~~§ 7.1-40.13. Official Gold mining interpretive center.~~

~~Monroe Park, located in the County of Fauquier, is hereby designated the official gold mining interpretive center of the Commonwealth.~~

~~§ 7.1-40.5. Official Insect.~~

~~The Tiger Swallowtail Butterfly (Papilio glaucus Linne) is hereby designated the official insect of the Commonwealth.~~

~~§ 7.1-40.2:2. Official Motor sports museum.~~

~~The "Wood Brothers Racing Museum and Virginia Motor Sports Hall of Fame," located in Patrick County, is hereby designated the official motor sports museum of the Commonwealth.~~

~~§ 7.1-40.8. Official Outdoor dramas.~~

~~"The Trail of the Lonesome Pine Outdoor Drama," adapted for the stage by Clara Lou Kelly and performed in the Town of Big Stone Gap, is hereby designated the official outdoor drama of the Commonwealth.~~

~~Outdoor drama, historical - "The Long Way Home" based on the life of Mary Draper Ingles ~~and~~, adapted for the stage by Earl Hobson Smith, and performed in the City of Radford is hereby designated the official historical outdoor drama of the Commonwealth.~~

~~§ 7.1-40. Official Shell (Crassostraea virginica).~~

~~The Oyster shell (Crassostrea virginica) is hereby designated as the official shell of the Commonwealth.~~

~~§ 7.1-37. Official Song emeritus.~~

~~The song "Carry Me Back to Old Virginia," by James A. Bland, as set out in the House Joint Resolution 10, adopted by the General Assembly of Virginia at the Session of 1940, is declared to be the official song emeritus of the Commonwealth.~~

~~§ 7.1-40.9. Official Sports hall of fame.~~

~~The - "Virginia Sports Hall of Fame," located in the City of Portsmouth, is hereby designated the official sports hall of fame of the Commonwealth.~~

~~§ 7.1-40.10. Official War memorial museum.~~

~~The - "Virginia War Museum," (formerly known as the War Memorial Museum of Virginia), located in the City of Newport News, is hereby designated the official war memorial museum of the Commonwealth.~~

Drafting Note: The various sections designating animals, plants, places and objects as emblems of the Commonwealth are combined in one section in alphabetical order.

~~CHAPTER 6.~~

~~ARMORIAL BEARINGS OF THE SENATE OF VIRGINIA~~

~~§ 7.1-41. Use of Senate armorial bearings.~~

~~The utilization of any armorial bearings adopted by the Senate of Virginia as their official armorial bearings shall carry the following protections:~~

~~1. Only current and former members of the Senate of Virginia and the Clerk of the Senate shall have the authority to utilize such armorial bearings or any facsimile or representations thereof.~~

~~2. Representations of such armorial bearings used by former members of the Senate shall be colored blue.~~

~~3. Such use shall not be for any commercial purpose.~~

~~4. Any person violating the provisions of subdivision 1 herein shall be punished as for a Class 3 misdemeanor. Any person violating the provisions of subdivisions 2 and 3 herein shall be punished as for a Class 4 misdemeanor.~~

Drafting Note: This section is relocated to Title 30 (General Assembly) as a new section (§ 30-15.1:1) with minor revisions.

~~CHAPTER 7.~~

~~OFFICIAL LANGUAGE OF THE COMMONWEALTH~~

~~§ 7.1-421-511. English designated the official language of the Commonwealth.~~

~~English shall be designated as the official language of the Commonwealth of Virginia. Except as provided by law, no state agency or local government shall be required~~

to provide and no state agency or local government shall be prohibited from providing any documents, information, literature or other written materials in any language other than English.

Drafting Note: No change in substance. This section is set out apart from the other designations because it contains certain substantive provisions.

§ ~~7.1-431-512~~. Poet laureate.

The honorary position of Poet Laureate of Virginia is hereby created. ~~Beginning in 1998, the~~ The Governor may appoint a poet laureate from a list of nominees submitted by the Poetry Society of Virginia. Each poet laureate shall serve a term of two years with no restrictions on reappointment.

Drafting Note: No change in substance. This section is set out apart from the other designations because it creates an honorary position. An obsolete provision regarding the effective date of this section is deleted.

§ ~~7.1-4130-15.1:1~~. Use of Senate armorial bearings.

~~The utilization of any~~ The armorial bearings adopted by the Senate of Virginia as their official armorial bearings shall carry the following protections on their use:

1. Only current and former members of the Senate of Virginia and the Clerk of the Senate shall have the authority to utilize such armorial bearings or any facsimile or representations ~~thereof~~ of the armorial bearings.

2. Representations of such armorial bearings used by former members of the Senate shall be colored blue.

3. Such use shall not be for any commercial purpose.

4. Any person violating the provisions of subdivision 1 ~~herein of this section~~ shall be ~~punished as for a~~ guilty of a Class 3 misdemeanor. Any person violating the provisions of subdivisions 2 and 3 ~~herein of this section~~ shall be ~~punished as for a~~ guilty of a Class 4 misdemeanor.

Drafting Note: No change in substance. This section is relocated to Title 30 (General Assembly) with stylistic changes.

APPENDICES

TITLE 1 (OLD) - GENERAL PROVISIONS**Chapter 1- Code of Virginia**

Old Section	New Section
1-1	1-1
1-2	1-2
1-3	1-3
1-4	1-4
1-5	1-5
1-6	1-6
1-7	1-7
1-8	1-8
1-9	1-9

Chapter 2- Common Law, Statutes and Rules of Construction

Old Section	New Section
1-10	1-200
1-11	1-201
1-12	1-214 30-14
1-13	1-202
1-13.1	1-222
1-13.1:1	1-205
1-13.2	1-208
1-13.3	1-210
1-13.3:1	1-210
1-13.4:1	1-209
1-13.5	Repealed
1-13.5:1	1-212
1-13.6	Repealed
1-13.7	1-216 2.2-3901
1-13.8	Repealed
1-13.9	1-217
1-13.9:1	1-244
1-13.10	Repealed
1-13.10:1	1-235
1-13.12	1-219
1-13.13	1-223
1-13.13:1	1-225

Chapter 2- Common Law, Statutes and Rules of Construction (Continued)

Old Section	New Section
1-13.14	1-226
1-13.15	1-227
1-13.16	1-228
1-13.17	1-248
1-13.18	Repealed
1-13.19	1-230
1-13.19:1	1-231
1-13.20	1-233
1-13.21	1-234
1-13.22	1-235
1-13.23	Repealed
1-13.23:1	1-237
1-13.24	Repealed
1-13.25	1-241
1-13.25:1	1-242
1-13.26	1-245
1-13.27	1-210
1-13.27:1	Repealed
1-13.27:2	1-249
1-13.27:3	Repealed
1-13.28	1-250
1-13.28:1	1-252
1-13.28:2	1-252
1-13.29	1-254
1-13.30	Repealed
1-13.31	1-255
1-13.32	1-257
1-13.33	1-223
1-13.34	1-246
1-13.35	1-236
1-13.35:1	1-229
1-13.36	1-236
1-13.37	Repealed
1-13.38	Repealed
1-13.39:1	Repealed
1-13.39:2	1-220
1-13.39:3	1-238
1-13.40	1-251
1-13.41	1-211
1-13.42	1-203 1-204 1-207 1-232

Chapter 2- Common Law, Statutes and Rules of Construction (Continued)

Old Section	New Section
1-13.42	1-203 1-204 1-207 1-232
1-15	1-253
1-15.1	1-206
1-15.2	1-256
1-16	1-239
1-17	1-240
1-17.1	1-243
1-17.2	1-213 2.2-604

Chapter 3 - Citizenship

Old Section	New Section
1-18	Repealed
1-19	Repealed
1-20	Repealed
1-21	Repealed

TITLE 7.1 - BOUNDARIES, JURISDICTION AND EMBLEMS OF THE COMMONWEALTH

Chapter 1 - Boundaries and Compacts with Adjoining States

Old Section	New Section
7.1-1	1-300 1-301
7.1-2	1-302
7.1-3	1-303
7.1-4	1-304
7.1-4.1	1-305
7.1-5	1-306
7.1-6	1-307
7.1-7	1-308
7.1-7.1	1-309
7.1-7.2	1-310
7.1-9	1-311
7.1-10	1-312
7.1-10.1	1-313

Chapter 2 - Coast Survey

Old Section	New Section
7.1-11	Repealed

Chapter 3 - Jurisdiction Over Lands Acquired by the United States

Old Section	New Section
7.1-12	Repealed
7.1-18.1	1-400
7.1-19	1-402
7.1-20	1-403
7.1-21	1-401
7.1-21.1	1-404
7.1-22	1-405
7.1-23	1-406
7.1-24	1-407
7.1-25.1	1-408

Chapter 4 - Seals and Flag of the Commonwealth

Old Section	New Section
7.1-26	1-500
7.1-27	1-501
7.1-28	1-502
7.1-29	Repealed
7.1-30	1-503
7.1-31	1-504
7.1-31.1	1-505
7.1-32	1-506
7.1-33	1-507
7.1-34	1-508
7.1-35	1-509

Chapter 5 - Song, Floral Emblem, Official Dog, Shell, Beverage, etc. of the Commonwealth

Old Section	New Section
7.1-37	1-510
7.1-38	1-510
7.1-39	1-510
7.1-40	1-510
7.1-40.1	1-510

**Chapter 5 - Song, Floral Emblem, Official Dog, Shell, Beverage, etc. of the Commonwealth
(Continued)**

Old Section	New Section
7.1-40.2	1-510
7.1-40.2:1	1-510
7.1-40.2:2	1-510
7.1-40.3	1-510
7.1-40.4	1-510
7.1-40.5	1-510
7.1-40.6	1-510
7.1-40.7	1-510
7.1-40.8	1-510
7.1-40.9	1-510
7.1-40.10	1-510
7.1-40.11	1-510
7.1-40.12	1-510
7.1-40.13	1-510

Chapter 6 - Armorial Bearings of the Senate of Virginia

Old Section	New Section
7.1-41	30-15.1:1

Chapter 7 - Official Language of the Commonwealth

Old Section	New Section
7.1-42	1-511

Chapter 8 - Poet Laureate of Virginia

Old Section	New Section
7.1-43	1-512

TITLE 1 (NEW) - GENERAL PROVISIONS

Chapter 1- Code of Virginia

New Section	Old Section
1-1	1-1
1-2	1-2
1-3	1-3
1-4	1-4
1-5	1-5
1-6	1-6
1-7	1-7
1-8	1-8
1-9	1-9

Chapter 2.1- Common Law and Rules of Construction

New Section	Old Section
1-200	1-10
1-201	1-11
1-202	1-13
1-203	1-13.42
1-204	1-13.42
1-205	1-13.1:1
1-206	1-15.1
1-207	1-13.42
1-208	1-13.2
1-209	1-13.4:1
1-210	1-13.3 1-13.3:1 1-13.27
1-211	1-13.41
1-212	1-13.5:1
1-213	1-17.2
1-214	1-12
1-215	New
1-216	1-13.7
1-217	1-13.9
1-218	New
1-219	1-13.12
1-220	1-13.39:2
1-221	New

Chapter 2.1- Common Law and Rules of Construction (Continued)

New Section	Old Section
1-222	1-13.1
1-223	1-13.13 1-13.33
1-224	New
1-225	1-13.13:1
1-226	1-13.14
1-227	1-13.15
1-228	1-13.16
1-229	1-13.35:1
1-230	1-13.19
1-231	1-13.19:1
1-232	1-13.42
1-233	1-13.20
1-234	1-13.21
1-235	1-13.10:1 1-13.22
1-236	1-13.35 1-13.36
1-237	1-13.23:1
1-238	1-13.39:3
1-239	1-16
1-240	1-17
1-241	1-13.25
1-242	1-13.25:1
1-243	1-17.1
1-244	1-13.9:1
1-245	1-13.26
1-246	1-13.34
1-247	30-19.93
1-248	1-13.17
1-249	1-13.27:2
1-250	1-13.28
1-251	1-13.40
1-252	1-13.28:1 1-13.28:2
1-253	1-15
1-254	1-13.29
1-255	1-13.31
1-256	1-15.2
1-257	1-13.32

Chapter 3.1 - Boundaries of the Commonwealth

New Section	Old Section
1-300	7.1-1
1-301	7.1-1
1-302	7.1-2
1-303	7.1-3
1-304	7.1-4
1-305	7.1-4.1
1-306	7.1-5
1-307	7.1-6
1-308	7.1-7
1-309	7.1-7.1
1-310	7.1-7.2
1-311	7.1-9
1-312	7.1-10
1-313	7.1-10.1

Chapter 4 - Jurisdiction Over Lands Acquired by the United States

New Section	Old Section
1-400	7.1-18.1
1-401	7.1-21
1-402	7.1-19
1-403	7.1-20
1-404	7.1-21.1
1-405	7.1-22
1-406	7.1-23
1-407	7.1-24
1-408	7.1-25.1

Chapter 5 - Emblems

New Section	Old Section
1-500	7.1-26
1-501	7.1-27
1-502	7.1-28
1-503	7.1-30
1-504	7.1-31
1-505	7.1-31.1
1-506	7.1-32
1-507	7.1-33
1-508	7.1-34
1-509	7.1-35

Chapter 5 - Emblems (Continued)

New Section	Old Section
1-510	7.1-37 7.1-38 7.1-39 7.1-40 7.1-40.1 7.1-40.2 7.1-40.2:1 7.1-40.2:2 7.1-40.3 7.1-40.4 7.1-40.5 7.1-40.6 7.1-40.7 7.1-40.8 7.1-40.9 7.1-40.10 7.1-40.11 7.1-40.12 7.1-40.13
1-511	7.1-42
1-512	7.1-43

Sections in Other Titles Affected by the Revision of Titles 1 and 7.1.

§ 2.2-122. Commercial use of seals of the Commonwealth.

A. Notwithstanding the provisions of § ~~7.1-31.11-505~~, the Governor may authorize the use of the seals of the Commonwealth for commercial purposes upon a finding that such use promotes an appropriate image of the Commonwealth, its heritage and its history, and that such use is carried out in accordance with the laws of the Commonwealth. In considering whether the use of the seals in association with a product promotes an appropriate image of the Commonwealth, preference shall be given to products that (i) preserve traditional methods of production, including handcrafting techniques, (ii) enhance public appreciation of the Commonwealth's aesthetic values, and (iii) incorporate workmanship and materials of the highest quality. A prospective licensee shall be deemed qualified to protect and promote the image of the Commonwealth if it holds licenses to produce products associated with museums and sites of major historical importance in the Commonwealth, including but not limited to homes of Presidents of the United States and restored historical areas.

B. The Secretary of the Commonwealth and the Director of the Division of Purchases and Supply shall assist the Governor in determining the appropriateness of (i) any contract entered into for the commercial use of the seals of the Commonwealth, (ii) the product intended to be sold, (iii) any marketing activities undertaken to promote the sale of the product, and (iv) the pricing structure, including royalties to be paid to the Commonwealth for such use and sale. Any such royalties paid to the Commonwealth shall be deposited in the general fund.

Drafting Note: A cross-reference of a Title 7.1 section is updated.

§ 2.2-604. Performance of duties assigned to an agency.

The chief executive officer shall be responsible for any duty or task imposed upon his agency. The chief executive officer may delegate or assign to any officer or employee of his agency any tasks required to be performed by him or the agency and, in the case of an

agency with a supervisory board, such board may delegate or assign the tasks. Except as otherwise provided by law, the chief executive officer may also delegate to any officer or employee of any state or quasi-state agency nondiscretionary duties conferred or imposed upon the chief executive officer or his agency by law where the delegation of duties is necessary to achieve efficiency and economy in the administration of government. The chief executive officer or supervisory board delegating or assigning tasks shall remain responsible for the performance of such tasks.

Any delegation pursuant to this section shall, where appropriate, be accompanied by written guidelines for the exercise of the tasks delegated. Where appropriate, the guidelines shall require that agency heads receive summaries of actions taken. Such delegation shall not relieve the chief executive officer or supervisory board of the responsibility to ensure faithful performance of the duties and tasks.

Drafting Note: The new provision is relocated from § 1-17.2 and reworded for clarity and consistency with the other provisions contained in § 2.2-604 relating to the performance of duties imposed on agencies.

§ 2.2-2200. Definitions.

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

"Authority" means the respective political subdivisions of the Commonwealth created in this subpart.

"Board" means the respective boards of directors for the authorities created in this subpart.

"Bonds" means any bonds, refunding bonds, notes, debentures, interim certificates, or any bond, grant, revenue anticipation notes or any other evidences of indebtedness or obligation of an authority, whether in temporary or definitive form and whether the interest thereon is exempt from federal income taxation.

"Commonwealth" or "state" means the Commonwealth of Virginia or any of its agencies or departments.

"Federal agency" means the United States; the President of the United States; and any department, corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States.

~~"Person" means the same as that term is defined in § 1-13.19 of Title 1.~~

Drafting Note: The cross-reference to person in Title 1 is deleted. The cross-reference is duplicative and not necessary.

§ 2.2-3901. Unlawful discriminatory practice and gender discrimination defined.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability shall be an "unlawful discriminatory practice" for the purposes of this chapter.

The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of pregnancy, childbirth or related medical conditions. Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.

Drafting Note: The last paragraph is relocated from § 1-13.7.

§ 3.1-383. Food forbidden to be sold; seizure; prosecution and punishment; inspection.

It shall be unlawful for any person, ~~firm or corporation~~ to sell or to offer or expose for sale for human food any article which has been prepared, handled or kept where the sanitary conditions are such that the article is rendered unhealthy, unwholesome, deleterious, or otherwise unfit for human food, or which consists in whole or in part of diseased, filthy, decomposed or putrid animal or vegetable matter.

The Commissioner, his agents or assistants, and all peace and health officers shall have the power and are required to seize any and all articles which are offered or exposed for sale for human food, which have been prepared, handled or kept where the sanitary conditions are such that the article is rendered unhealthy, unwholesome, deleterious or

otherwise unfit for human food, or which consist in whole or in part of diseased, filthy, decomposed or putrid animal or vegetable matter; and shall deliver the same forthwith to and before the nearest ~~justice of the peace~~ magistrate, or other officer authorized to issue such warrants, together with all information obtained, and the ~~justice~~ magistrate or other officer shall, upon sworn complaint being filed, issue a warrant, for the arrest of any person charged in any such complaint with a violation of the provisions of this section, returnable before the ~~trial justice of the city or county~~ general district court, ~~who~~ which shall proceed to try the case. Any person, ~~firm or corporation~~ who shall violate any of the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10 nor more than \$100, and the article or articles of food in question shall be destroyed.

The Commissioner, his agents or assistants, and all peace and health officers in the execution of the provisions of this section, shall have full right to enter and inspect all places in which any articles of human food are stored, offered or exposed for sale; and any person, ~~firm or corporation~~ who shall hinder or obstruct any of the officers in the discharge of the authority or duty imposed by the provisions of this section shall be guilty of a violation of the same.

Drafting Note: "The reference to "justice of the peace" is replaced with "magistrate," who is the person currently authorized to issue warrants. The office of justice of the peace was phased out in 1974 and the Virginia magistrate system was established as part of a statewide court reorganization plan. Violations of this section are tried in the general district court. The term "general district court" is used instead of "general district judge" because typically these matters are returnable to the court as opposed to the person. The references to "firm" and "corporation" are deleted after person because these entities are included in the definition of person in § 1-230.

§ 3.1-411. Proceeding for forfeiture ~~before trial justice~~.

If upon such analysis it shall appear that the food or dairy products are adulterated, substituted, misbranded, or imitated within the meaning of this chapter, the Commissioner, or his deputy, or any person by him duly authorized may make complaint before ~~any justice of the peace~~ a magistrate, or other officer authorized to issue such summons, having jurisdiction where such goods were seized, and thereupon the ~~justice of the peace~~ magistrate or other officer shall issue his summons to the person from whom such goods

were seized, directing him to appear before the ~~trial justice~~ general district court in such jurisdiction not less than six nor more than ~~twelve~~ 12 days from the date of issuing the summons and show cause why the goods should not be condemned and disposed of. If the person from whom the goods were seized cannot be found, the summons shall be served upon the person then in possession of the goods. The summons shall be served at least six days before the time of appearance mentioned therein. If the person from whom the goods were seized cannot be found, and no one can be found in possession of the goods, and the defendant shall not appear on the return day, then the ~~trial justice~~ general district court shall proceed in the cause in the same manner as where a writ of attachment is returned not personally served upon any of the defendants and none of the defendants shall appear upon the return day.

Drafting Note: The term "magistrate" is substituted for "justice of the peace" and "general district court" is substituted for "trial justice." For a full explanation of the change see § 3.1-383.

§ 3.1-412. Judgment as to goods seized; procedure before ~~trial justice~~ general district court; appeal.

Unless cause to the contrary thereof is shown, or if the goods shall be found upon trial to be in violation of any of the provisions of this chapter or other laws which now exist or which may be hereafter enacted, it shall be the duty of the ~~trial justice~~ general district court to render judgment that the seized property be forfeited to the Commonwealth, and that the goods be destroyed or sold by the Commissioner for any purpose other than to be used for food. The mode of procedure before the ~~trial justice~~ general district court shall be the same, as near as may be in civil proceedings. Either party may appeal to the circuit ~~or corporation courts~~ court as appeals are taken from the ~~trial justices' courts~~ general district court, but it shall not be necessary for the Commonwealth to give any appeal bond.

Drafting Note: The term "magistrate" is substituted for "justice of the peace" and "general district court" is substituted for "trial justice." For a full explanation of the change see § 3.1-383. In addition, the archaic reference to corporation courts is removed.

§ 8.01-227.2. Definitions.

For purposes of this article:

"Person" means the same as defined in § ~~1-13.191-230~~.

"Regulated entity" means any insured financial institution or public utility.

"Third party" means, with respect to a person against whom a claim for damages is made based upon a Year 2000 problem, any (i) person having no contractual or affiliate relationship with the person against whom a claim is made, (ii) state or federal governmental or quasi-governmental agency or entity, or (iii) regulated entity other than the person against whom a claim is made.

"Year 2000 problem" means any computing, physical, enterprise, or distribution system complication that has occurred or may occur as a result of the change of the year from 1999 to 2000 in any person's technology system, including, without limitation, computer hardware, programs, software, or systems; embedded chip calculations or embedded systems; firmware; microprocessors; or management systems, business processes, or computing applications that govern, utilize, drive, or depend on the Year 2000 processing capabilities of the person's technology systems. Such complications may include the common computer programming practice of using a two-digit field to represent a year, resulting in erroneous date calculations; an ambiguous interpretation of the term or field "00"; the failure to recognize 2000 as a leap year; algorithms that use "99" or "00" to activate another function; or the use of any other applications, software, or hardware that are date-sensitive.

"Year 2000 processing" means the processing, calculating, comparing, sequencing, displaying, storing, transmitting, or receiving of date or date-sensitive data from, into, or between the twentieth and twenty-first centuries, during the years 1999 and 2000, and leap year calculations.

Drafting Note: A cross-reference to the definition of person in Title 1 is updated. The cross-reference is needed because Title 8.01 contains a different titlewide definition of person.

~~§ 13.1-1069. When "person" includes limited liability company.~~

~~For purposes of this Code, whenever the term person is defined to include both corporation and partnership, it shall be deemed to include limited liability company.~~

Drafting Note: This section is relocated to § 1-231.

§ 15.2-715. Abolition of offices and distribution of duties.

The board, by a majority vote of all the members elected, may abolish any board, commission, or office of such county except the school board, and school superintendent ~~and trial justice~~, and the officers elected by popular vote provided for in Article VII, Section 4 of the Constitution of Virginia, and may delegate and distribute the duties, authority and powers of the boards, commissions, or offices abolished to the county manager or to any other officer of the county it may think proper. If any such board, commission, or office is abolished, those to whom the duties thereof are delegated or distributed shall discharge the duties and exercise the powers and authorities of the abolished entity. Both they and the county for which they were appointed, or by whom they were employed, shall enjoy the immunities and exemptions from liability or otherwise that were enjoyed by the abolished boards, commissions, or offices, prior to the adoption of the county manager plan of government, except insofar as such duties, powers, authority, immunities and exemptions have been or hereafter may be changed according to law.

Drafting Note: The term "trial justice" is deleted because a district judge is not a board, commission, or officer of a county. A judge or magistrate is a member of a judicial district.

§ 15.2-2000. State highway systems excepted; town streets.

A. Nothing contained in this chapter, except as otherwise provided, shall apply to any highway, road, street or other public right-of-way which constitutes a part of any system of state highways ~~as defined in § 1-13.40~~; however, any highway for which a locality receives highway maintenance funds pursuant to § 33.1-23.5:1 or § 33.1-41.1 shall not, for purposes of this section, be deemed to be a part of any system of state highways.

B. Public rights-of-way subject to local control under this chapter which lie within the boundaries of incorporated towns which receive highway maintenance funds pursuant to §

33.1-41.1 shall be subject to the jurisdiction of the town council of such town and not the board of supervisors of the county in which such town is located.

C. The term "public right-of-way" as used in this chapter means any area over which the public has a general privilege to travel. It includes, but is not limited to, ways, areas between deeded right-of-way boundary lines, and easements of all descriptions that are available for general travel by the public.

Drafting Note: A cross-reference to the definition of "system of state highways" in Title 1 is deleted. The cross-reference is duplicative and unnecessary.

§ 15.2-6301. Definitions.

As used in this chapter, unless the context or subject matter requires otherwise:

"Adjacent to such authority" includes real or personal property which is contiguous, neighboring, or within reasonable proximity of an authority.

"Area of operation" means an area coextensive with the territorial boundaries of the land acquired from the federal government by the authority.

"Authority" means any political subdivision created by this chapter. The terms "an authority" or "the authority" refer to each such authority.

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this chapter.

"Commissioners" means the members of the board of commissioners of an authority.

"Facility" means a particular building or structure or particular buildings or structures, including all equipment, appurtenances and accessories necessary or appropriate for the operation of such facility.

"Federal government" includes the United States of America, or any department, agency or instrumentality, corporate or otherwise, of the United States of America.

"Former federal area" means an area coextensive with the territorial boundaries which is, or has been, occupied by a United States governmental military installation and which is, or appears likely to be, subject to disposal by the United States government to public bodies, or otherwise.

"Obligee of the authority" or "obligee" includes any bondholder, trustee or trustees for any bondholders, and the federal government when it is a party to any contract with the authority.

~~"Person" means as defined in Chapter 2 (§ 1-10 et seq.) of Title 1.~~

"Project" means any specific enterprise undertaken by an authority, including the facilities as hereinafter defined, and all other property, real or personal or any interest therein, necessary or appropriate for the operation of such property.

"Public body of the Commonwealth" means any city, town, county, municipal corporation, commission, district, authority, other political subdivision or public body of ~~this~~ the Commonwealth.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

Drafting Note: A cross-reference to the definition of person in Title 1 is deleted. The cross-reference is duplicative and not necessary.

§ 16.1-69.35. Administrative duties of chief district judge.

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge if such judge consents or the chief district judge may

request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than 90 days, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than 90 days, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court there is in his opinion need therefor, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any

judge of the district for which he is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a separate division of such court in that part of Richmond south of the James River with concurrent jurisdiction in civil matters whenever one or more of the defendants reside or the cause of action or any part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that part of the city and exclusive jurisdiction over all other criminal matters arising in that part of the city.

5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall determine when the district courts or divisions of such courts shall be open for the transaction of business. The chief judge or presiding judge of any district court may authorize the clerk's office to close on any date when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health or safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the same effect as provided in ~~§ 1-13.3:1~~ subsection B of § 1-210. In determining whether to close because of a threat to the health or safety of the general public, the chief judge or the presiding judge of the district court shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and appropriate, both the circuit and district courts take the same action. He shall determine the times each such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine whether, in the case of district courts in counties, court shall be held at any place or places in addition to the county seat. He shall determine

the office hours and arrange a vacation schedule of the judges within his district, in order to ensure the availability of a judge or judges to the public at normal times of business. A schedule of the times and places at which court is held shall be filed with the Executive Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such other place or places where court may be held, and the clerk shall make such schedules available to the public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district judge, be removed from any one of such designated places to another, or to or from the county seat, in order to serve the convenience of the parties or to expedite the administration of justice; however, any town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge as a place to hold court.

6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief judge of a juvenile and domestic relations district court may establish a voluntary civil mediation program for the alternate resolution of disputes. The costs of the program shall be paid by the local governing bodies within the district or by the parties who voluntarily participate in the program.

Drafting Note: A cross-reference to a section in Title 1 involving the computation of time is updated.

§ 16.1-241. Jurisdiction; consent for abortion.

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or § 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244; and

6. Who is charged with a traffic infraction as defined in § 46.2-100.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as

provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63 or subsection B of § 18.2-366 when the

child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the commitment of a mentally ill person or judicial certification of eligibility for admission to a treatment facility of a mentally retarded person in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1. Jurisdiction of the commitment and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H hereof, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown, (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or § 63.2-1817 or is otherwise before the court pursuant to subdivision A 4 of this section; or

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law that causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any

such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or § 16.1-279.1.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20.

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to ~~§ 1-13.3:1~~ subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if

there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his

usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in §§ 18.2-72, 18.2-73 or § 18.2-74.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

W. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) of this chapter relating to standby guardians for minor children.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision 3 of subsection A, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M or R of this section.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection V shall be guilty of a Class 3 misdemeanor.

Drafting Note: A cross-reference to a section in Title 1 involving the computation of time is updated.

§ 17.1-207. Days of operation of clerks' offices.

A. The clerk's office of every court shall be kept open on every day except Saturday, except as provided in subsection B, and Sunday, and the days provided for in § 2.2-3300, for the transaction of business; provided that:

1. The clerk's office of the circuit court of any county or city may be closed on any day which is established as a general holiday for the employees of such county or city by a resolution duly adopted by the governing body of such county or city and approved by the

judge or judges of the circuit court and filed in the office of the clerk; provided that such general holiday shall have the same force and effect as a legal holiday as set forth in ~~§ 1-13.3:1~~ subsection B of § 1-210;

2. The judge or judges of any circuit court in any county or city may authorize the clerk of such court to close the clerk's office on Christmas Eve; provided that the closing of any clerk's office as provided by this subdivision shall have the same force and effect as a legal holiday as set forth in ~~§ 1-13.3:1~~ subsection B of § 1-210;

3. The chief judge or presiding judge of any circuit court may authorize the clerk of the court to close the clerk's office on any day when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health and safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this subdivision shall have the same effect as provided in ~~§ 1-13.3:1~~ subsection B of § 1-210;

4. The judge or judges of the circuit court of any county or city may authorize the clerk of such court to close the clerk's office on any day or portion of a day which the Governor declares as a holiday for state employees, or on any day or portion of a day on which the Governor authorizes state offices to be closed; provided that such closing of any clerk's office shall have the same force and effect as a legal holiday as set forth in ~~§ 1-13.3:1~~ subsection B of § 1-210.

Except for closings pursuant to subdivision 3, whenever the authorization of the judge is necessary to close a clerk's office and a court has more than one judge, the authorization of all such judges shall be necessary.

The judge of the circuit court of any county or city may require the clerk's office to be kept open continuously for the transaction of business during convenient hours on all the days on which it is required by this section to be kept open.

B. Nothing in this section shall be construed to prohibit the clerk, with the approval of the chief judge, to open the clerk's office on Saturdays, during such hours as the chief judge may authorize, solely for the purposes of (i) permitting examination and copying of court

records, (ii) accepting applications for and granting licenses pursuant to applicable law, and (iii) recording instruments. For all other purposes, including without limitation the filing of actions at law and suits in equity and all pleadings, pleas and motions therein, such clerk's office shall be closed with the force and effect of a statutory closing as provided in ~~§ 1-13.3:1~~ subsection B of § 1-210.

Drafting Note: Cross-references to a section in Title 1 involving the computation of time are updated.

~~§ 18.2-5. Rules of construction.~~

~~In the construction of this title, and of each section thereof, the rules of construction set forth in Chapter 2 (§ 1-10 et seq.) of Title 1 shall be observed, unless such construction would be inconsistent with the manifest intent of the General Assembly.~~

Drafting Note: This section is repealed because it is duplicative of the general rule of construction established in § 1-13 and retained as § 1-202.

§ 18.2-246.6. Definitions.

For purposes of this article:

"Adult" means a person who is at least the legal minimum purchasing age.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Consumer" means an individual who is not permitted as a wholesaler pursuant to § 58.1-1011 or who is not a retailer.

"Delivery sale" means any sale of cigarettes to a consumer in the Commonwealth regardless of whether the seller is located in the Commonwealth where either (i) the purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the Internet or other online service; or (ii) the cigarettes are delivered by use of the mails or a delivery service. A sale of cigarettes not for personal consumption to a person who is a wholesale dealer or retail dealer, as such terms are defined in § 58.1-1000, shall not be a delivery sale. A delivery of cigarettes, not through the mail or by a common carrier, to a consumer performed by the owner, employee or other individual acting on behalf of a retailer authorized to sell such cigarettes shall not be a delivery sale.

"Delivery service" means any person who is engaged in the commercial delivery of letters, packages, or other containers.

"Legal minimum purchasing age" is the minimum age at which an individual may legally purchase cigarettes in the Commonwealth.

"Mails" or "mailing" means the shipment of cigarettes through the United States Postal Service.

~~"Person" means the same as that term is defined in § 1-13.19.~~

"Shipping container" means a container in which cigarettes are shipped in connection with a delivery sale.

"Shipping documents" means bills of lading, airbills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

Drafting Note: The cross-reference to the definition of person in Title 1 is deleted because it is duplicative and unnecessary.

§ 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose

of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

1. Any person while in his own place of business;
2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;
3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;
4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;
5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;
6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit; and
7. Any State Police officer retired from the Department of State Police, any local law-enforcement officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any game warden retired from the Department of Game and Inland Fisheries, and any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, other than an officer or

agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; or (iii) who has reached 55 years of age, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section.

For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

C. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail;
2. Officers or guards of any state correctional institution;
3. [Repealed.]
4. Conservators of the peace, except that the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in chancery;
5. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and
6. Harbormaster of the City of Hopewell.

D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. The clerk shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received. The court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in the county or city where the applicant resides and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. Where feasible and practical, the local law-enforcement agency may transfer information electronically to the State Police instead of inked fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then promptly notify the person that he has 21 days from the date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court

shall issue the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and send a copy of the certified application to the applicant. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to §§ 18.2-308.1:1, 18.2-308.1:2 or § 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to former § 37.1-134.1 or § 37.1-134.16 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.

7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.

8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana or any controlled substance.

9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance or of public drunkenness within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.

10. An alien other than an alien lawfully admitted for permanent residence in the United States.

11. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions.

12. An individual who is a fugitive from justice.

13. An individual who it is alleged, in a sworn written statement submitted to the court by the sheriff, chief of police or attorney for the Commonwealth in the opinion of such sheriff, chief of police or attorney for the Commonwealth, is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police or the attorney for the Commonwealth shall be based upon personal knowledge or upon the sworn written statement of a competent person having personal knowledge.

14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or § 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.

15. An individual who has been convicted of stalking.

16. An individual whose previous convictions or adjudications of delinquency were based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."

17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.

18. An individual who has received mental health treatment or substance abuse treatment in a residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period immediately preceding the application for the permit, was found guilty of

any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or of a criminal offense of illegal possession or distribution of marijuana or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or distribution of marijuana or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

F. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § 18.2-434.

G. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;
2. Completing any National Rifle Association firearms safety or training course;
3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;
4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

H. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, or of the clerk of court who has been authorized to sign such permits by the issuing judge; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo-identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law-enforcement officer.

I. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in subsection D, a new five-year permit unless there is good cause shown for refusing to reissue a permit. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

J. Any person convicted of an offense that would disqualify that person from obtaining a permit under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction or other event.

J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

J2. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

J3. No person shall carry a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia; however, nothing herein shall prohibit any sworn law-enforcement officer from carrying a concealed handgun on the premises of such restaurant or club or any owner or event sponsor or his employees from carrying a concealed handgun while on duty at such restaurant or club if such person has a concealed handgun permit.

J4. Any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or § 18.2-308.1:3, who holds a concealed handgun permit, may have the permit suspended by the court that issued the permit during the period of incompetency, incapacity or disability.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a law-enforcement officer with the Department of State Police or the Department of Game and Inland Fisheries or with a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service;

or (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes.

L. Any person denied a permit to carry a concealed handgun under the provisions of this section may present a petition for review to the Court of Appeals. The petition for review shall be filed within 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § 17.1-410, the

decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

M. For purposes of this section:

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

"Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101, campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, law-enforcement agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" shall also mean any sworn full-time law-enforcement officer employed by a law-enforcement agency of the United States or any state or political subdivision thereof, whose duties are substantially similar to those set forth in § 9.1-101.

N. As used in this article:

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism.

"Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

O. The granting of a concealed handgun permit shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.

P. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of

age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this section. The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General determine whether states meet the requirements and qualifications of this section, (b) maintain a registry of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in consultation with the Attorney General, may also enter into agreements for reciprocal recognition with any state qualifying for recognition under this subsection.

P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be made under oath before a notary or other person qualified to take oaths on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the

permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsections E and F shall apply, mutatus mutandis, to the provisions of this subsection.

The applicant shall demonstrate competence with a handgun by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries or a similar agency of another state;
2. Completing any National Rifle Association firearms safety or training course;
3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;
4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;
6. Obtaining or previously having held a license to carry a firearm in ~~this~~ the Commonwealth or a locality thereof, unless such license has been revoked for cause;
7. Completing any firearms training or safety course or class conducted by a state-certified or National Rifle Association-certified firearms instructor;
8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or
9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class, an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant, or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program. The Department of State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status are known to law-enforcement personnel accessing the Network for investigative purposes.

The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date. The person to whom the permit is issued shall have such permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and shall display the permit on demand by a law-enforcement officer.

The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the holder of the permit is 21 years of age or older.

R. For the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit under this section shall be deemed a concealed handgun permit.

~~S. The provisions of this statute or the application thereof to any person or circumstances that are held invalid shall not affect the validity of other provisions or applications of this statute that can be given effect without the invalid provisions or applications. This subsection is to reiterate § 1-17.1 and is not meant to add to or subtract from that provision.~~

Drafting Note: Subsection S is deleted as duplicative and unnecessary. It is a reiteration of the general severability provision currently contained in § 1-17.1 and retained as § 1-243.

~~§ 19.2-5. Rules of construction; Meaning of certain terms.~~

~~In the construction of this title and of each section thereof, the rules of construction set forth in Chapter 2 (§ 1-10 et seq.) of Title 1 shall be observed, unless such construction would be inconsistent with the manifest intent of the General Assembly.~~

~~The word As used in this title, unless otherwise clearly indicated by the context in which it appears:~~

~~"Court" as used in this title, unless otherwise clearly indicated by the context in which it appears, shall mean means and include any court vested with appropriate jurisdiction under the Constitution and laws of ~~this the~~ Commonwealth.~~

~~The word "Judge" as used in this title, unless otherwise clearly indicated by the context in which it appears, shall mean means and include any judge, associate judge or substitute judge, or magistrate, of any court.~~

~~The words "Courts Court not of record," and "district court" as used in this title, unless otherwise clearly indicated by the context in which they appear, shall have the respective meanings assigned to them in Chapter 4.1 (§ 16.1-69.1 et seq.) of Title 16.1.~~

Drafting Note: The first paragraph of this section is deleted because it is duplicative of the general rule of construction established in § 1-13 and retained as §

1-202. The other changes are stylistic in nature. For the terms "judge" and "court" the contradiction in the definition that defines the term to "mean" and "include" simultaneously is eliminated. The terms are given specific meanings.

§ 19.2-95. Rights of accused persons; application for writ of habeas corpus.

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a circuit or general district court in ~~this the~~ Commonwealth, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge ~~or trial justice~~ shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof and of the time and place of hearing thereon shall be given to the attorney for the Commonwealth of the county or city in which the arrest is made and in which the accused is in custody, and to the agent of the demanding state.

Drafting Note: The reference to "trial justice" is deleted because the term "judge" is included.

§ 21-119. Sanitary districts are special taxing districts; nature of improvements; jurisdiction of governing bodies, etc., not affected.

A. Each sanitary district created or purported to be created by an order of the circuit court of any county of ~~this the~~ Commonwealth, or a judge thereof, heretofore or hereafter made and entered pursuant to any general law of ~~this the~~ Commonwealth, is hereby determined to be and is hereby made, from and after the date of such creation or purported creation, a special taxing district for the purposes for which created; and any improvements heretofore or hereafter made by or for any such district are hereby determined to be general tax improvements and of general benefit to all of the property within the sanitary district, as distinct from peculiar or special benefits to some or all of the property within the sanitary district.

B. Neither the creation of the sanitary districts as special taxing districts nor any other provision in this chapter shall in any wise affect the authority, power and jurisdiction of the

respective county governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit courts, clerks, ~~trial justices~~ judges, ~~justices of the peace~~ magistrates or any other county, district or state officer over the area embraced in any such district, nor shall the same restrict or affect in any way any county, or the governing body of any county, from imposing on and collecting from abutting landowners, or other landowners receiving special or peculiar benefits, in any such district, taxes or assessments for local public improvements as permitted by the Constitution and by other statutes of the Commonwealth.

C. Notwithstanding subsections A and B of this section, the board of supervisors of any county with a population between 15,400 and 15,950 may impose on, and collect from, landowners abutting a street being improved by the sanitary district a user fee for such service. Such fee may be enforced as provided in § 21-118.4.

Drafting Note: The term "magistrates" is substituted for "justices of the peace" and "judges" is substituted for "trial justices" to cover all current judicial officers.

§ 22.1-208.01. Character education required.

A. Each school board shall establish, within its existing programs, a character education program in its schools. The purpose of the character education program shall be to instill in students civic virtues and personal character traits so as to improve the learning environment, promote student achievement, reduce disciplinary problems, and develop civic-minded students of high character. The components of each program shall be developed in cooperation with the students, their parents, and the community at large. The basic character traits taught may include (i) trustworthiness, including honesty, integrity, reliability, and loyalty; (ii) respect, including the precepts of the Golden Rule, tolerance, and courtesy; (iii) responsibility, including hard work, economic self-reliance, accountability, diligence, perseverance, and self-control; (iv) fairness, including justice, consequences of bad behavior, principles of nondiscrimination, and freedom from prejudice; (v) caring, including kindness, empathy, compassion, consideration, generosity, and charity; and (vi) citizenship, including patriotism, the Pledge of Allegiance, respect for the American flag, concern for the common good, respect for authority and the law, and community-mindedness.

Classroom instruction may be used to supplement a character education program; however, each program shall be interwoven into the school procedures and environment and structured to instruct primarily through example, illustration, and participation, in such a way as to complement the Standards of Learning.

This provision is intended to educate students regarding those core civic values and virtues which are efficacious to civilized society and are common to the diverse social, cultural, and religious groups of the Commonwealth. Consistent with this purpose, Virginia's civic values, which are the principles articulated in the Bill of Rights (Article I) of the Constitution of Virginia and the ideals reflected in the seal of the Commonwealth, as described in § ~~7.1-261~~1-500, may be taught as representative of such civic values. Nothing herein shall be construed as requiring or authorizing the indoctrination in any particular religious or political belief.

B. The Board of Education shall establish criteria for character education programs, consistent with the provisions of this section. To assist school divisions in implementing character education programs and practices that are designed to promote the development of personal qualities as set forth in this section and the Standards of Quality and that will improve family and community involvement in the public schools, the Board of Education shall also establish, within the Department of Education, the Commonwealth Character Initiative. The Board shall provide resources and technical assistance to school divisions regarding successful character education programs and shall (i) identify and analyze effective character education programs and practices and (ii) collect and disseminate among school divisions information regarding such programs and practices and potential funding and support sources. The Board may also provide resources supporting professional development for administrators and teachers in the delivery of any character education programs.

C. The Board of Education shall award, with such funds as are appropriated for this purpose, grants to school boards for the implementation of innovative character education programs.

Drafting Note: A cross-reference to a section in Title 7.1 relating to the seal of the Commonwealth is updated.

§ 22.1-212.1. Obligations of school boards.

Pursuant to § ~~7.1-421~~511, school boards shall have no obligation to teach the standard curriculum, except courses in foreign languages, in a language other than English. School boards shall endeavor to provide instruction in the English language which shall be designed to promote the education of students for whom English is a second language.

Drafting Note: A cross-reference to a section in Title 7.1 relating to English as the official language is updated.

§ 28.2-1205. Permits for the use of state-owned bottomlands.

A. When determining whether to grant or deny any permit for the use of state-owned bottomlands, the Commission shall be guided in its deliberations by the provisions of Article XI, Section I of the Constitution of Virginia. In addition to other factors, the Commission shall also consider the public and private benefits of the proposed project and shall exercise its authority under this section consistent with the public trust doctrine as defined by the common law of the Commonwealth adopted pursuant to § ~~1-101~~200 in order to protect and safeguard the public right to the use and enjoyment of the subaqueous lands of the Commonwealth held in trust by it for the benefit of the people as conferred by the public trust doctrine and the Constitution of Virginia. The Commission shall also consider the project's effect on the following:

1. Other reasonable and permissible uses of state waters and state-owned bottomlands;
2. Marine and fisheries resources of the Commonwealth;
3. Tidal wetlands, except when this has or will be determined under the provisions of Chapter 13 of this title;
4. Adjacent or nearby properties;
5. Water quality; and
6. Submerged aquatic vegetation (SAV).

B. The Commission shall consult with other state agencies, including the Virginia Institute of Marine Science, the State Water Control Board, the Virginia Department of

Transportation, and the State Corporation Commission, whenever the Commission's decision on a permit application relates to or affects the particular concerns or activities of those agencies.

C. No permit for a marina or boatyard for commercial use shall be granted until the owner or other applicant presents to the Commission a plan for sewage treatment or disposal facilities that has been approved by the State Department of Health.

D. A permit is required and shall be issued by the Commission for placement of any private pier measuring 100 or more feet in length from the mean low-water mark, which is used for noncommercial purposes by an owner of the riparian land in the waters opposite the land, and that traverses commercially productive leased oyster or clam grounds, as defined in § 28.2-630, provided that the pier does not extend beyond the navigation line established by the Commission or the United States Army Corps of Engineers. The permit may reasonably prescribe the design and location of the pier for the sole purpose of minimizing the adverse impact on such oyster or clam grounds or the harvesting or propagation of oysters or clams therefrom. The permit shall contain no other conditions or requirements. Unless information or circumstances materially alter the conditions under which the permit would be issued, the Commission shall act within 90 days of receipt of a complete joint permit application to approve or deny the application. If the Commission fails to act within that time, the application shall be deemed approved and the applicant shall be notified of the deemed approval.

E. All permits issued by the Commission for the use of state-owned bottomlands pursuant to § 28.2-1204, or to recover underwater historic property shall be in writing and specify the conditions and terms that the Commission determines are appropriate, and royalties unless prohibited under other provisions of this chapter.

F. Any person aggrieved by a decision of the Commission under this section is entitled to judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). However, any decision made by the Commission hereunder consistent with the public trust doctrine as defined by the common law of the Commonwealth adopted

pursuant to § ~~1-101-200~~ shall not be deemed to have been made pursuant to the police power. No person shall reapply for the same or substantially similar use of the bottomlands within 12 months of the denial of a permit by the Commission. Nothing in this subsection shall be construed to deprive a riparian landowner of such rights as he may have under common law.

Drafting Note: Cross-references to a section in Title 1 relating to the adoption of the common law are updated.

§ 30-13. Other duties of Clerk of House of Delegates; publication of proposed amendments to Constitution.

In addition to such duties as may be prescribed by the rules of the House of Delegates, the Clerk ~~thereof of the House of Delegates~~ shall at the end of the session of the General Assembly ~~cause to be prepared~~ prepare a well-arranged index to the journal of the House and the documents printed during the session by order of the House. He shall ~~cause to be printed~~ have published, with the acts and joint resolutions proposing amendments to the Constitution: joint resolutions providing for studies for legislation of each session of the General Assembly; the unadjusted United States decennial census counts for the Commonwealth's counties, cities, and towns; and a carefully prepared and well-arranged index of the acts and joint resolutions.

The Clerk of the House of Delegates shall ~~cause to be~~ have published all proposed amendments to the Constitution. ~~Such publications shall be done as follows: He shall have printed copies for distribution~~ for distribution from his office and to the clerk of the circuit court of each county and city two copies of ~~such the~~ proposed amendments, one of which shall be posted at the front door of the courthouse and the other shall be made available for public inspection ~~by any citizen who may apply therefor~~. Every ~~such~~ clerk of the circuit court shall complete the posting ~~hereby~~ required not later than three months prior to the next ensuing general election of members of the House of Delegates and shall ~~make return thereof~~ certify such posting to the Clerk of the House of Delegates ~~upon the completion of such posting~~. All costs, the payment of which is not hereinabove provided for, shall be certified by the Clerk of the House of Delegates to the Comptroller for payment. The Clerk of

the House of Delegates shall ~~make report of to~~ the General Assembly at its next regular session ~~the~~ action taken by him under this ~~paragraph to the next succeeding General Assembly section~~, including the costs incurred in the printing and distribution of the amendments. The report shall be published in the Journal of the House of Delegates.

Drafting Note: A provision has been added to require the Clerk of the House of Delegates to publish a table of the official census for localities (counties, cities, and towns) for the purpose of determining population classification as provided in § 1-236. Currently, counties and cities are published in the acts as a matter of convenience. The section also codifies the current procedure involved in the distribution of constitutional amendments. The Clerk of the House of Delegates currently sends a form to the circuit court clerks to certify that they have posted the amendments. The amendments are no longer returned to the Clerk of the House of Delegates. Other changes to the section remove archaic language and add clarifying language.

§ 30-14. Clerk to be Keeper of the Rolls; other duties.

The Clerk of the House of Delegates shall be the Keeper of Rolls of the Commonwealth. ~~As such, he~~ He shall ~~cause enroll~~ all of the acts of the General Assembly and joint resolutions proposing amendments to the Constitution ~~to be enrolled on substantial paper, of uniform size, either by the use of pen and ink, typewriter, printing or lithographing, or by such other~~ permanent and substantial method or methods as he may deem proper; and shall have the enrolled acts bound for publication after they ~~shall~~ have been signed by the ~~President of the Senate and Speaker of the House of Delegates, he shall cause the same to be bound in durable style~~ and the President of the Senate.

~~He~~ The Clerk of the House of Delegates shall have the custody of the acts and joint resolutions of the General Assembly, and the records ~~and papers~~ of the House of Delegates; and, when required, shall furnish a copy of any or any part of any of them, or of any section or sections of the Code in the form published pursuant to § 30-148; which copy, being certified by him shall be evidence for any purpose for which the original would be received, and with as much effect. If an act or part of an act of the General Assembly has been codified and assigned a section number as a part of the Code of Virginia, by the Virginia Code Commission pursuant to § 30-148, he may also certify that fact.

He shall, as soon as practicable after every act is passed, prepare the ~~same acts~~ for publication, ~~and with a notation of the day upon which every act was approved by the Governor or became law without his approval.~~ He shall furnish to the Director of the Division of Legislative Automated Systems the manuscript of all acts of the General Assembly and joint resolutions proposing amendments to the Constitution and joint resolutions providing for studies for legislation, or a copy thereof, properly arranged ~~for being printed.~~ And he shall, ~~for publication.~~ As soon as practicable after the adjournment of the General Assembly, he shall furnish the index and the tables required by law ~~and the date of adjournment of the session,~~ and shall superintend the publication of such acts, ~~joint resolutions, resolutions, date of adjournment,~~ tables and index, in connection with the Director of the Division of Legislative Automated Systems.

Drafting Note: No substantive change. Certain provisions of subsection E of §1-12 that deal with the duties of the Clerk of the House of Delegates as the Keeper of the Rolls are relocated to § 30-14. Most of the other changes to § 30-14 are technical and remove unnecessary wordiness. The term "papers" is deleted because it is encompassed in the term "records."

§ ~~7.1-41~~30-15.1:1. Use of Senate armorial bearings; penalty.

The ~~utilization of any~~ armorial bearings adopted by the Senate of Virginia as their official armorial bearings shall carry the following protections on their use:

1. Only current and former members of the Senate of Virginia and the Clerk of the Senate shall have the authority to utilize such armorial bearings or any facsimile or representations ~~thereof~~ of the armorial bearings.

2. Representations of such armorial bearings used by former members of the Senate shall be colored blue.

3. Such use shall not be for any commercial purpose.

4. Any person violating the provisions of subdivision 1 ~~herein~~ shall be ~~punished as~~ for ~~guilty of~~ a Class 3 misdemeanor. Any person violating the provisions of subdivisions 2 and 3 ~~herein~~ shall be ~~punished as~~ for ~~guilty of~~ a Class 4 misdemeanor.

Drafting Note: No change in substance. This section is relocated from Title 1 to Title 30 (General Assembly) as a new section with stylistic changes.

§ 30-28.18. Requests for drafting bills or resolutions; bills to conform to request; public access.

A. All requests for the drafting of bills or resolutions by the Division shall be submitted in person, in writing, ~~as defined in § 1-13.32~~, or by voice transmission. Each request shall contain a general statement respecting the policies and purposes that the requester desires incorporated in and accomplished by the bill. All written requests shall be signed by the person submitting them. Neither the Director nor any employee of the Division shall reveal to any person outside of the Division, except to the Division of Legislative Automated Systems in fulfilling its duties as provided in § 30-34.14, the contents or nature of any request or statements except with the consent of the person signing such request. Exceptions to this general rule are as follows:

1. When the Director or an employee receives a request that is substantially the same as one previously received, he may, unless specifically directed not to do so by the person first submitting such request, so inform the person submitting the similar request;

2. Unless specifically directed otherwise, the Director or employee may reveal the nature of a request when seeking information from anyone to assist in drafting the bill; and

3. Copies of all floor substitute bills, conference committee reports, and substitute bills accompanying a conference committee report shall be placed in a secure electronic file immediately following the final drafting of the legislation and may be accessed by either the Clerk of the House of Delegates or the Clerk of the Senate or their employee designees after such legislation is offered for introduction in either house.

Bills drafted by the Division shall conform to the statements submitted with the request or any supplementary instructions submitted by the person who originally made the request.

B. All legislative drafting requests and accompanying documents shall be maintained by the Division as permanent records. Each of these separate files shall be considered the property of the requester and no one other than members of the Division staff shall have access to any such file without the specific approval of the requester. However, on the

effective date of legislation drafted for the 1989 Session or thereafter, the file for a bill that was enacted, including any amendments in the nature of a substitute or conference reports that were offered for consideration shall become public property.

C. All legislative drafting requests from the Governor, a Governor's Secretary, the Lieutenant Governor, the Attorney General, or the head of any judicial, legislative, or independent agency shall be submitted to the Division on or before the same deadline applicable to members of the General Assembly for submitting legislative drafting requests for legislation to be prefiled to the Division, as established by the procedural resolution adopted by the General Assembly, or in default thereof, as adopted by the Joint Rules Committee. Requests from the Governor may also be submitted in accordance with the procedures established by the Rules Committees of the House of Delegates and the Senate for the conduct of business during a legislative session.

Drafting Note: A cross-reference to the definition of "in writing" in Title 1 is deleted. The cross-reference is duplicative and not necessary.

§ 32.1-229.01. Companies listed as proficient to perform radon screening, testing or mitigation; compliance.

A. No person shall conduct or offer to conduct any radon screening, testing or mitigation in the Commonwealth unless he has been listed as proficient by the United States Environmental Protection Agency, the National Radon Measurement Proficiency Program of the National Environmental Health Association or the National Radon Safety Board Certified Radon Professional Program or any other proficiency program acceptable to the Board of Health to offer such screening, testing or mitigation.

For the purposes of this article, "person" shall be defined as provided in § ~~1-13.191-~~
[230](#).

B. Radon professionals listed as proficient pursuant to subsection A shall comply with the radon mitigation and testing standards outlined in the Environmental Protection Agency's publication, EPA 402-R-93-078, as revised, or the American Society for Testing and Materials (ASTM International) Standard, E-2121-02, or any other radon testing and mitigation standards accepted by the Environmental Protection Agency and the Board.

Drafting Note: A cross-reference to the definition of person in Title 1 is updated. The cross-reference is needed in this section because Title 32.1 has a different title-wide definition of person.

§ 32.1-325.1:1. Definitions; recovery of overpayment for medical assistance services.

A. For the purposes of this section, the following definitions shall apply:

"Agreement" means any contract executed for the delivery of services to recipients of medical assistance pursuant to subdivision D 2 of § 32.1-325.

"Successor in interest" means any person as defined in § ~~1-13.191-230~~ having stockholders, directors, officers, or partners in common with a health care provider for which an agreement has been terminated.

"Termination" means (i) the cessation of operations by a provider, (ii) the sale or transfer of the provider, (iii) the reorganization or restructuring of the health care provider, or (iv) the termination of an agreement by either party.

B. The Director of Medical Assistance Services shall collect by any means available to him at law any amount owed to the Commonwealth because of overpayment for medical assistance services. Upon making an initial determination that an overpayment has been made to the provider pursuant to § 32.1-325.1, the Director shall notify the provider of the amount of the overpayment. Such initial determination shall be made within the earlier of (i) four years, or (ii) ~~fifteen~~ 15 months after filing of the final cost report by the provider subsequent to sale of the facility or termination of the provider. The provider shall make arrangements satisfactory to the Director to repay the amount due. If the provider fails or refuses to make arrangements satisfactory to the Director for such repayment or fails or refuses to repay the Commonwealth for the amount due for overpayment in a timely manner, the Director may devise a schedule for reducing the Medicaid reimbursement due to any successor in interest.

C. In any case in which the Director is unable to recover the amount due for overpayment pursuant to subsection B, he shall not enter into another agreement with the responsible provider or any person who is the transferee, assignee, or successor in interest to such provider unless (i) he receives satisfactory assurances of repayment of all amounts

due or (ii) the agreement with the provider is necessary in order to ensure that Medicaid recipients have access to the covered services rendered by the provider.

Further, to the extent consistent with federal and state law, the Director shall not enter into any agreement with a provider having any stockholder possessing a material financial interest, partner, director, officer, or owner in common with a provider which has terminated a previous agreement for participation in the medical assistance services program without making satisfactory arrangements to repay all outstanding Medicaid overpayment.

D. The provisions of this section shall not apply to successors in interest with respect to transfer of a medical care facility pursuant to contracts entered into before February 1, 1990.

Drafting Note: A cross-reference to the definition of person in Title 1 is updated. The cross-reference is needed in this section because Title 32.1 has a different title-wide definition of person.

§ 33.1-12. General powers and duties of Board, etc.; definitions.

The Commonwealth Transportation Board shall be vested with the following powers and shall have the following duties:

(1) Location of routes. - To locate and establish the routes to be followed by the roads comprising systems of state highways between the points designated in the establishment of such systems.

(2) Construction and maintenance contracts and activities related to passenger and freight rail and public transportation.

(a) To let all contracts for the construction, maintenance, and improvement of the roads comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$2 million. The Commonwealth Transportation Commissioner shall have authority to let all contracts for highway construction, maintenance, and improvements up to \$2 million in value. The Director of the Department of Rail and Public Transportation shall have the authority to let contracts for passenger and freight rail and public transportation improvements up to \$2 million in value.

The Commonwealth Transportation Commissioner is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts up to \$2 million in value for highway construction, maintenance, and improvements within their jurisdictions. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts up to \$2 million in value for passenger and freight rail and public transportation activities within their jurisdictions. The Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.

(b) The Commonwealth Transportation Board may award contracts for the construction of transportation projects on a design-build basis. The Board may annually award five design-build contracts valued no more than \$20 million. The Board may also award design-build contracts valued more than \$20 million, provided that no more than five of these latter contracts are in force at the same time. These contracts may be awarded after a written determination is made by the Commonwealth Transportation Commissioner or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria will include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or Director's determination that awarding a design-build

contract will best serve the public interest. The provisions of this section shall supersede contrary provisions of subdivision 2 of subsection C of § 11-41 and § 11-41.2.

(c) For transportation construction projects valued in excess of \$100 million, the Commonwealth Transportation Board shall require that a financial plan be prepared. This plan shall include, but not be limited to, the following: (i) a complete cost estimate for all major project elements; (ii) an implementation plan with the project schedule and cost-to-complete information presented for each year; (iii) identified revenues by funding source available each year to meet project costs; and (iv) a detailed cash-flow analysis for each year of the proposed project.

(3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the laws of ~~this~~ the Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.

(4) Naming highways. - To give suitable names to state highways and change the names of any highways forming a part of the systems of state highways, except such roads as have been or may hereafter be named by the General Assembly.

(5) Compliance with federal acts. - To comply fully with the provisions of the present or future federal aid acts. The Board may enter into all contracts or agreements with the United States government and may do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

(6) Information and statistics. - To gather and tabulate information and statistics relating to transportation and disseminate the same throughout the Commonwealth. In addition, the Commissioner shall provide a report to the Governor, the General Assembly, the Commonwealth Transportation Board, and the public concerning the current status of all highway construction projects in the Commonwealth. This report shall be posted at least four times each fiscal year, but may be updated more often as circumstances allow. The report shall contain, at a minimum, the following information for every project in the Six-Year Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to

date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on, or behind schedule; and (vi) the name of the prime contractor. Use of one or more Internet websites may be used to satisfy this requirement. Project specific information posted on the Internet shall be updated daily as information is available.

(7) Policies and operation of Departments. - To review and approve policies and transportation objectives of the Department of Transportation and the Department of Rail and Public Transportation, to assist in establishing such policies and objectives, to oversee the execution thereof, and to report thereon to the Commonwealth Transportation Commissioner and the Director of the Department of Rail and Public Transportation, respectively.

(8) Cooperation with other agencies and local governments.

(a) To cooperate with the federal government, the American Association of State Highway and Transportation Officials and any other organization in the numbering, signing and marking of highways, in the taking of measures for the promotion of highway safety, in research activities, in the preparation of standard specifications, in the testing of highway materials and otherwise with respect to transportation projects.

(b) To offer technical assistance and coordinate state resources to work with local governments, upon their request, in developing sound transportation components for their local comprehensive plans.

(9) Transportation.

(a) To monitor and, where necessary, approve actions taken by the Department of Rail and Public Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) of this title in order to ensure the efficient and economical development of public transportation, the enhancement of rail transportation, and the coordination of such rail and public transportation plans with highway programs.

(b) To coordinate the planning for financing of transportation needs, including needs for highways, railways, seaports, airports, and public transportation and to set aside funds as provided in § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1

and 58.1-638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and programs by July 1 of each year. This program shall be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and the Department of the Treasury.

(c) To recommend to the General Assembly for their consideration at the next session of the General Assembly, objective criteria to be used by the Board in selecting those transportation projects to be advanced from the feasibility to the construction stage. If such criteria are enacted into law, such objectives shall apply to the interstate, primary, and urban systems of highways.

(d) To enter into contracts with local districts, commissions, agencies, or other entities created for transportation purposes.

(10) Contracts with other states. - To enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement and operation of transportation systems, including the systems of state highways with the highways of such other states and, where necessary, to seek the approval of such contracts by the Congress of the United States.

(11) Use of funds. - To administer, distribute, and allocate funds in the Transportation Trust Fund as provided by law.

(12) Financial and investment advisors. - With the advice of the Secretary of Finance and the State Treasurer, to engage a financial advisor and investment advisor who may be anyone within or without the government of the Commonwealth, to assist in planning and making decisions concerning the investment of funds and the use of bonds for transportation purposes. The work of these advisors shall be coordinated with the Secretary of Finance and the State Treasurer.

(13) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1 are in no way diminished by the provisions of this title.

(14) To enter into payment agreements with the Treasury Board related to payments on bonds issued by the Commonwealth Transportation Board.

(15) Outdoor theaters. - By regulation:

(a) To prevent the erection of moving picture screens of outdoor theaters in such a manner as to be ordinarily visible from any highway;

(b) To require that a sufficient space is left between any highway and the entrance to any outdoor theater to prevent congestion on the highway; and

(c) To require that outdoor theater entrances and exits are adequately lighted and marked.

~~Throughout this title the term "systems of state highways" shall have the meaning ascribed thereto by § 1-13.40.~~

The term "public transportation" or "mass transit" as used in this title means passenger transportation by rubber-tired, rail, or other surface conveyance which provides shared ride services open to the general public on a regular and continuing basis. The term does not include school buses; charter or sight-seeing service; vehicular ferry service which serves as a link in the highway network; or human service agency or other client-restricted transportation.

Drafting Note: A cross-reference to the definition of "systems of state highways" in Title 1 is deleted. The cross-reference is duplicative and unnecessary.

§ 33.1-320.2. Preamble; Woodrow Wilson Bridge and Tunnel Compact.

Whereas, traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated \$1,000 per year; and

Whereas, the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020; and

Whereas, the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion; and

Whereas, the Bridge serves as a vital link in the Interstate Highway System and in the Northeast corridor; and

Whereas, identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area; and

Whereas, the Bridge is the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System; and

Whereas, the Bridge is the only segment of the Capital Beltway with only six lanes; and

Whereas, the Bridge is the only segment of the Capital Beltway with a remaining expected life of less than 10 years; and

Whereas, the Bridge is the only part of the Interstate Highway System owned by the federal government; and

Whereas, the Bridge was constructed by the federal government; and

Whereas, prior to the date of the enactment of this Act, the federal government will have contributed 100 percent of the cost of building and rehabilitating the Bridge; and

Whereas, the federal government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and construction of the Bridge; and

Whereas, the Woodrow Wilson Memorial Bridge Coordination Committee is undertaking planning studies pertaining to the Bridge, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.) and other applicable federal laws; and

Whereas, the transfer of ownership of the Bridge to a regional authority under the terms and conditions described in this Act would foster regional transportation planning efforts to identify solutions to the growing problem of traffic congestion on and around the Bridge; and

Whereas, the Authority shall maximize the use of existing public or private sector entities to provide necessary project services, including management, construction, legal, accounting, and operating services and not create a new bureaucracy or organizational structure; and

Whereas, any material change to the Bridge must take into account the interests of nearby communities, the commuting public, federal, state, and local government organizations, and other affected groups; and

Whereas, a commission of congressional, state, and local officials and transportation representatives has recommended to the Secretary of the United States Department of Transportation that the Bridge be transferred to an independent authority to be established by the State of Maryland, the District of Columbia and the Commonwealth of Virginia; now, therefore,

The State of Maryland, the District of Columbia and the Commonwealth of Virginia, hereinafter referred to as the signatories, do hereby covenant and agree as follows:

WOODROW WILSON BRIDGE AND TUNNEL COMPACT.

CHAPTER I.

GENERAL COMPACT PROVISIONS.

Article I.

Authority Created.

There is hereby created the Woodrow Wilson Bridge and Tunnel Authority, hereinafter referred to as the "Authority."

Article II.

Powers and Duties.

The Authority shall be an instrumentality and common agency of the Commonwealth of Virginia, the District of Columbia and the State of Maryland, and shall have the powers and duties set forth in this compact and such additional powers and duties as may be conferred upon it by subsequent action of the signatories.

Article III.

Board; Terms of Office; Officers.

1. The Authority shall be governed by a board of nine voting and two nonvoting members appointed as follows:

- a. Three members shall be appointed by the Governor of the Commonwealth of Virginia;
- b. Three members shall be appointed by the Governor of the State of Maryland;
- c. Two members shall be appointed by concurrence of the Mayor of the District of Columbia and the Governors of Maryland and Virginia;
- d. One member shall be appointed by the U.S. Secretary of Transportation; and
- e. Two additional members, who shall be nonvoting members, shall be appointed by the Mayor of the District of Columbia.

2. Members, other than members who are elected officials, shall have backgrounds in finance, construction lending, and infrastructure policy disciplines. At least one member of the Board from Maryland and one member of the Board from Virginia shall be elected officials each of whom represents a political subdivision that has jurisdiction over the area at an end of the project bridge, bridges or tunnels.

3. No person in the employment of or holding any official relationship to any person or company doing business with the Authority, or having any interest of any nature in any such person or company or affiliate or associate thereof, shall be eligible for appointment as a member or to serve as an employee of the Authority or to have any power or duty or receive any compensation in relation thereto.

4. The Chairperson of the Authority shall be elected from among the voting members on a biennial basis.

5. The members may also elect a secretary and a treasurer, or a secretary-treasurer, who may be members of the Authority, and prescribe their duties and powers.

6. Each member shall serve a six-year term, except that each signatory shall make its initial appointments as follows:

- a. One member appointed by the Governor of Maryland and one member appointed by the Governor of Virginia shall each be appointed for a six-year term;
- b. One member appointed by the Governor of Maryland and one member appointed by the Governor of Virginia shall each be appointed for a four-year term;

c. One member appointed by the Governor of Maryland and one member appointed by the Governor of Virginia shall each be appointed for a two-year term;

d. One member appointed by concurrence of the Governors of Maryland and Virginia and the Mayor of the District of Columbia shall be appointed for a six-year term;

e. One member appointed by concurrence of the Governors of Maryland and Virginia and the Mayor of the District of Columbia shall be appointed for a four-year term; and

f. The member appointed by the U.S. Secretary of Transportation shall be appointed for a two-year term.

g. The initial terms of the nonvoting members appointed by the Mayor of the District of Columbia shall be as follows:

(1) One member shall be appointed for a six-year term; and

(2) One member shall be appointed for a four-year term.

7. The failure of a signatory or the Secretary of Transportation to appoint one or more members shall not impair the Authority's creation or operations when the signatories and Authority are in compliance with the other terms of this compact.

8. Any person appointed to fill a vacancy shall serve for the unexpired term. A member of the Authority may not serve for more than two full terms.

9. The members of the Authority, including nonvoting members, shall not be personally liable for any act done or action taken in their capacities as members of the Authority, nor shall they be personally liable for any bond, note, or other evidence of indebtedness issued by the Authority.

10. Six members shall constitute a quorum, with the following exceptions:

a. Seven affirmative votes shall be required to approve bond issues and the annual budget of the Authority.

b. A motion may not be approved if all three members appointed solely by one Governor cast negative votes.

11. Any sole source procurement of goods, services, or construction in excess of \$250,000 shall require the prior approval of a majority of all of the voting members of the Authority.

12. Members shall serve without compensation and shall reside within the Washington, D.C., metropolitan area. Members shall be entitled to reimbursement for their expenses incurred in attending the meetings of the Authority and while otherwise engaged in the discharge of their duties as members of the Authority.

13. The Authority may employ such engineering, technical, legal, clerical, and other personnel on a regular, part-time, or consulting basis as in its judgment may be necessary for the discharge of its duties. The Authority shall not be bound by any statute or regulation of any signatory in the employment or discharge of any officer or employee of the Authority, except that Article 3 (§ 40.1-58 et seq.) of Chapter 4 of Title 40.1 of the Code of Virginia shall be applicable to employees whose situs of employment is in the Commonwealth of Virginia.

14. a. The Authority shall establish its office for the conduct of its affairs at a location to be determined by the Authority and shall publish rules and regulations governing the conduct of its operations.

b. (1) The Authority may adopt rules and regulations which shall include, but shall not be limited to, an ethics code, public access to information, administrative procedures, and open meetings and shall be consistent with similar practices currently adopted in Maryland, Virginia, or the District of Columbia.

(2) The Authority may adopt regulations after publication of notice of intention to adopt such regulations published in a newspaper of general circulation in the metropolitan Washington, D.C., area and after an opportunity for public comment.

(3) The Authority shall also publish a notice to adopt such regulations in the Maryland Register and in the Virginia Register.

Article IV.

Signatories; Taxing Powers.

Nothing herein shall be construed to amend, alter, or in any way affect the power of the signatories and their political subdivisions to levy and collect taxes on property or income or upon the sale of any material, equipment, or supplies or to levy, assess, and collect franchise or other similar taxes or fees for the licensing of vehicles and the operation thereof.

Article V. Adoption of Compact by Signatories; Withdrawal; Cooperation.

1. This compact shall be adopted by the signatories in the manner provided by law. This compact shall become effective after the State of Maryland and the District of Columbia have passed acts similar in substance to this Act.

2. Any signatory may withdraw from the compact upon one year's written notice to that effect to the other signatories. In the event of a withdrawal of one of the signatories from the compact, the compact shall be terminated; provided, however, that no revenue bonds, notes, or other evidence of obligation issued pursuant to Article VII of Chapter II, or any other financial obligations of the Authority remain outstanding and that the withdrawing signatory has made a full accounting of its financial obligations, if any, to the other signatories.

3. Upon the termination of this compact, the jurisdiction over the matters and persons covered by this compact shall revert to the signatories and the federal government, as their interests may appear.

4. Each of the signatories pledges to each of the other signatory parties faithful cooperation in the development and implementation of the project.

Article VI.

Terms of Agreement Between Signatories.

The Authority shall not undertake the ownership of the existing Woodrow Wilson Bridge, or any duties or responsibilities associated therewith, nor undertake any of the responsibilities and powers provided in this Act until the Governors of the State of Maryland

and the Commonwealth of Virginia and the Mayor of the District of Columbia have entered into an agreement with the U.S. Secretary of Transportation including provisions governing the transfer of the existing Bridge from the federal government to the Authority, and which shall provide for a contractual commitment by the federal government to provide federal funding for the project, including, at a minimum, a 100 percent federal share for the following:

(1) The cost of continuing rehabilitation of the Bridge until such time as the project is operational;

(2) An amount, as determined by the Woodrow Wilson Memorial Bridge Coordination Committee, equivalent to the cost of replacing the Bridge with a comparable modern bridge designed according to current engineering standards;

(3) The cost of planning, preliminary engineering and design, right-of-way acquisition, environmental studies and documentation, and final engineering for the project; and

(4) A substantial contribution towards remaining project costs.

Such federal funds shall be in addition to and shall not diminish the federal transportation funding allocated or apportioned to the Commonwealth of Virginia and the State of Maryland and the District of Columbia. Upon all parties' approval of this agreement, this compact shall become effective and the Authority shall have responsibility for duties concerning ownership, construction, operation, and maintenance of the project. At least thirty_30 days before the Governor of Virginia enters into the agreement described under this article, the Governor shall submit the agreement to the Commonwealth Transportation Board for its review and comment.

Article VII.

Management Plan.

Within a reasonable period after this compact becomes effective under Article VI of this chapter, the Authority shall prepare and submit to the Governors of the Commonwealth of Virginia and the State of Maryland and the Mayor of the District of Columbia, a management plan that includes:

- A. An organizational structure;
- B. A staffing plan that includes job descriptions; and
- C. A proposed salary schedule consistent with existing salary schedules for similar positions in the State of Maryland, the Commonwealth of Virginia, or the District of Columbia.

The Authority shall not implement the provisions of this Act until the Governors of the Commonwealth of Virginia and the State of Maryland and the Mayor of the District of Columbia have approved the management plan.

Subsequent to the approval of the management plan, the Authority may increase the number of its employees and their salary levels, provided that such increases do not result in a ~~twenty~~ 20 percent increase above the level in the approved management plan. Increases in excess of ~~twenty~~ 20 percent shall require an amendment to the approved management plan. A proposed amendment shall be submitted to and approved by the Governors of the Commonwealth of Virginia and the State of Maryland and the Mayor of the District of Columbia prior to becoming effective.

In the conduct of its responsibilities and duties, the Authority shall maximize the use of existing public and private sector entities to provide necessary services, including management, construction, legal, accounting, and other services, as the Authority may deem necessary.

Article VIII.

Jurisdiction of Courts; Liability for Contracts and Torts.

1. Except as provided herein, the Authority shall be liable for its contracts and for its torts and those of its directors, officers, employees, and agents. For tort actions arising out of conduct occurring in Maryland, Maryland tort and sovereign immunity law shall apply. The exclusive remedy for such breach of contracts and torts for which the Authority shall be liable, as herein provided, shall be by suit against the Authority. Nothing contained in this Act shall be construed as a waiver by Maryland, the District of Columbia, or Virginia of any immunity from suit.

2. The United States district courts shall have original jurisdiction, concurrent with the courts of Virginia, the District of Columbia, and Maryland, of all actions brought by or against the Authority. Any such action initiated in a state court or the superior court of the District of Columbia shall be removable to the appropriate United States district court in the manner provided by act of June 25, 1948, as amended (28 U.S.C. § 1446).

3. If any part or provision of this compact or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact or the application thereof to other persons or circumstances, and the signatories hereby declare that they would have entered into this compact or the remainder thereof had the invalidity of such provision or application thereof been apparent.

4. This compact shall be liberally construed to effectuate the purposes for which it is created.

CHAPTER II.

ADDITIONAL POWERS; FINANCING; PROPERTY ACQUISITION; PROCUREMENT.

Article I.

Definitions.

As used in this Act the following words shall have the following meanings:

"Bonds" or "revenue bonds" means bonds and notes or refunding bonds and notes or bond anticipation notes or other obligations of the Authority issued under the provisions of this Act.

"Cost," as applied to the project, means the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of lease payments; the cost of construction; the cost of demolition of the current structure; the cost of demolishing, removing or relocating any buildings or structures on lands acquired,

including the cost of acquiring any lands to or on which such buildings or structures may be moved, relocated, or reconstructed; the cost to relocate residents or businesses from properties acquired for the project; the cost of any extensions, enlargements, additions and improvements; the cost of all labor, materials, machinery and equipment; all financing charges, and interest on all bonds prior to and during construction; and, if deemed advisable by the Authority of such construction, the cost of engineering, financial and legal services; plans, specifications, studies, and surveys; estimates of cost and of revenues and other expenses necessary or incident to determining the feasibility or practicability of constructing the project; administrative expenses; provisions for working capital; reserves for interest and for extensions, enlargements, additions and improvements; the cost of bond insurance and other devices designed to enhance the creditworthiness of the bonds; and such other expenses as may be necessary or incidental to the construction of the project, the financing of such construction and the planning of the project in operation.

"Owner" includes all persons ~~as defined in § 1-13.19 of the Code of Virginia~~ having any interest or title in and to property, rights, franchises, easements and interests authorized to be acquired by this Act.

"Project" means the upgrading of the Interstate Route 95 Potomac River crossing in accord with the selected alternative developed by the Woodrow Wilson Memorial Bridge Coordination Committee. "Project" includes ongoing short-term rehabilitation and repair of the Bridge and may include one or more of the following:

1. Construction of a new bridge or bridges in the vicinity of the Bridge;
2. Construction of a tunnel in the vicinity of the Bridge;
3. Long-term rehabilitation or reconstruction of the Bridge;
4. Upon the bridges or within the tunnel described in subparagraphs 1, 2, and 3 of this paragraph, or in conjunction with work on Interstate Route 95 and other approach roadways as described in subparagraph 5 of this paragraph:

a. Work necessary to provide rights-of-way for a rail transit facility or bus or high occupancy vehicle lanes, including the construction or modifications of footings, piers, bridge decks, roadways, other structural support systems and related improvements; or

b. The construction of travel lanes for high occupancy vehicles or buses;

5. Work on Interstate Route 95 and other approach roadways if necessitated by, or necessary to accomplish, an activity described in subparagraph 1, 2, or 3 of this paragraph; or

6. Construction or acquisition of any building, improvement, addition, replacement, appurtenance, land, interest in land, easement, water right, air right, machinery, equipment, furnishing, landscaping, utility, roadway, or other facility that is necessitated by or necessary to accomplish an activity described in this paragraph.

Article II.

Additional Powers of the Authority.

Without in any manner limiting or restricting the powers heretofore given to the Authority, and contingent upon the execution of the agreement referred to in Chapter I, Article VI, the Authority is hereby authorized and empowered:

1. To establish, finance, construct, maintain, repair and operate the project;

2. To assume full rights of ownership of the existing Woodrow Wilson Bridge;

3. Subject to the approval of the Governor of Maryland, the Mayor of the District of Columbia, and the Virginia Commonwealth Transportation Board of the portions of the project in their respective jurisdictions, and in accordance with the recommendations of the Woodrow Wilson Memorial Bridge Coordination Committee, to determine the location, character, size and capacity of the project; to establish, limit and control such points of ingress to and egress from the project as may be necessary or desirable in the judgment of the Authority to ensure the proper operation and maintenance of the project; and to prohibit entrance to such project from any point or points not so designated;

4. To secure all necessary federal, state, and local authorizations, permits and approvals for the construction, maintenance, repair and operation of the project;

5. To adopt and amend bylaws for the regulation of its affairs and the conduct of its business;

6. To adopt and amend rules and regulations to carry out the powers granted by this section;

7. To acquire, by purchase or condemnation, in the name of the Authority, and to hold and dispose of real and personal property for the corporate purposes of the Authority;

8. To employ consulting engineers, a superintendent or manager of the project, and such other engineering, architectural, construction, accounting experts, inspectors, attorneys, and other employees as may be necessary; and, within the limitations prescribed in this Act, to prescribe their powers and duties, and fix their compensation;

9. To pay, from any available moneys, the cost of plans, specifications, surveys, estimates of cost and revenues, legal fees and other expenses necessary or incident to determining the feasibility or practicability of financing, constructing, maintaining, repairing and operating the project;

10. To issue revenue bonds of the Authority, for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this Act;

11. To fix and revise from time to time and to charge and collect tolls and other charges for the use of the project;

12. To make and enter into all contracts or agreements, as the Authority may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this Act. The Authority may contract with any governmental agency or instrumentality for services within the power of the agency or authority related to the financing, construction or operation of the facilities and services to be provided;

13. To accept loans and grants of money, or materials or property at any time from the United States of America, the Commonwealth of Virginia, the State of Maryland, the District of Columbia or any agency or instrumentality thereof;

14. To adopt an official seal and alter the same at its pleasure;

15. Subject to Chapter I, Article VIII, to sue and be sued, plead and be impleaded, all in the name of the Authority;

16. To exercise any power usually possessed by private corporations performing similar functions including the right to expend, solely from funds provided under the authority of this Act, such funds as may be considered by the Authority to be advisable or necessary in advertising its facilities and services to the traveling public;

17. To enter into contracts with existing governmental entities in the Commonwealth of Virginia, the State of Maryland, or the District of Columbia, or with private entities, the purpose of which contracts or agreements would be to allow such parties to undertake all or portions of the project, including but not limited to design, engineering, financing, construction, and operation of the project, as the Authority may deem necessary;

18. To establish and maintain a police force, or to enter into a contract with an existing governmental entity in the State of Maryland, the Commonwealth of Virginia, or the District of Columbia to provide police services, as the Authority may deem necessary;

19. To enter into partnerships or grant concessions between the public and private sectors for the purpose of:

a. Financing, constructing, maintaining, improving or operating the project; or

b. Fostering development of new transportation-related technologies to be used in the construction or operation of the project, utilizing for such purposes the law of any signatory, as the Authority may in its sole discretion determine;

20. To carry out or contract with other entities to carry out such maintenance of traffic activities during the construction of the project as is considered necessary by the Authority to manage traffic and minimize congestion such as public information campaigns, improvements designed to encourage appropriate use of alternative routes, use of high occupancy vehicles and transit services, and deployment and operation of intelligent transportation technologies; and

21. To do all acts and things necessary or incidental to the performance of its duties and the execution of its powers under this Act.

Article III.

Incidental Powers.

The Authority shall have power to construct grade separations at intersections of the project with public highways and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such highways shall be ascertained and paid by the Authority as a part of the cost of the project.

If the Authority shall find it necessary to change the location of any portion of any public highway, it shall cause the same to be reconstructed at such location as the Authority shall deem most favorable and be of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a part of the cost of the project.

Any public highway affected by the construction of the project may be vacated or relocated by the Authority in the manner now provided by law for the vacation or relocation of public roads, and any damages awarded on account thereof shall be paid by the Authority as a part of the cost of the project.

The Authority shall also have power to make regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over or under the project. Whenever the Authority shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be, located in, on, along, over or under the project should be relocated in the project, or should be removed from the project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of

the Authority, provided that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the Authority as a part of the cost of the project. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

Article IV.

Acquisition of Property.

The Authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, solely from funds provided under the authority of this Act, such lands, structures, rights-of-way, property, rights, franchises, easements and other interest in lands, including lands lying under water and riparian rights, which are located within the Washington, D.C., metropolitan area, as it may deem necessary or convenient for the construction and operation of the project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof; and to take title thereto in the name of the Authority.

All counties, cities, towns and other political subdivisions and all public agencies and authorities of the signatories, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at the Authority's request, upon such terms and conditions as the governing bodies of such counties, cities, towns, political subdivisions, agencies or authorities may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the Authority, including public roads and other real property already devoted to public use.

Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated or is absent, unknown or unable to convey valid title, the Authority is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements and other property deemed necessary or convenient for the construction or the efficient operation of the project or necessary in the restoration of public or private property damaged or destroyed.

Whenever the Authority acquires property under this article, it shall comply with the applicable federal law relating to relocation and relocation assistance. If there is no applicable federal law, the Authority shall comply with the provisions of the state law of the signatory in which the property is located governing relocation and relocation assistance.

In advance of undertaking any acquisition of property or easements in Maryland or the condemnation of such property, the Authority must obtain from the Maryland Board of Public Works approval of a plan identifying the properties or easements to be obtained for the project. In advance of undertaking any acquisition of property or easements in Virginia or the condemnation of such property, the Authority must obtain from the Virginia Commonwealth Transportation Board approval of a plan identifying the properties to be obtained for the project. Condemnation proceedings shall be in accordance with the provisions of state law of the signatory in which the property is located governing condemnation by the highway agency of such state. Nothing in this act shall be construed to authorize the authority to condemn the property of the Commonwealth of Virginia, the District of Columbia, or the State of Maryland.

Article V.

Procurement.

1. Except as provided in subdivisions 2, 3, and 6 of this article, and except in the case of procurement procedures otherwise expressly authorized by law, the Authority in conducting a procurement of goods, services, or construction shall obtain full and open competition through the use of competitive procedures in accordance with the requirements

of this section and use the competitive procedure or combination of procedures that is most suitable under the circumstances of the procurement.

The Authority shall solicit sealed bids if (i) time permits the solicitation, submission, and evaluation of sealed bids; (ii) the award will be made on the basis of price and other price-related factors; (iii) it is not necessary to conduct discussions with the responding sources about their bids; and (iv) there is a reasonable expectation of receiving more than one sealed bid. If the Authority does not solicit sealed bids, it shall request competitive proposals.

2. The Authority may use procedures other than competitive procedures if:

a. the goods, services, or construction needed by the Authority are available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority;

b. the Authority's need for the property, services, or construction is of such unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals; or

c. the goods or services needed can be obtained through federal or other governmental sources at reasonable prices.

3. For the purpose of applying subdivision 2 a of this article:

a. in the case of a contract for goods, services, or construction to be awarded on the basis of acceptance of an unsolicited proposal, the goods, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

(1) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

(2) the substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement.

b. in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued provision of highly

specialized services, the goods, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that award to a source other than the original source would result in:

(1) substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

(2) unacceptable delays in fulfilling the Authority's needs.

4. If the Authority uses procedures other than competitive procedures to procure property, services, or construction under subdivision 2 b of this article, the Authority shall request offers from as many potential sources as is practicable under the circumstances.

5. a. To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services and construction.

b. For the purposes of this section, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the federal government.

c. A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under subdivision a of this section.

d. In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

6. The Authority shall adopt policies and procedures to implement this article. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

7. The Authority in its sole discretion may reject any and all bids or proposals received in response to a solicitation.

8. In structuring all procurements under this article, the Authority shall comply with federal laws and regulations, and other federal requirements set forth in grant agreements

or elsewhere, as they may be amended from time to time, governing minority business enterprise participation.

Article VI.

Revenues.

The Authority is hereby authorized to fix, revise, charge and collect tolls for the use of the project, and to contract with any person, partnership, association or corporation desiring the use of the project, and to fix the terms, conditions, rents and rates of charges for such use.

Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the project as to provide a fund sufficient in combination with other revenues, if any, to pay (i) the cost of maintaining, repairing and operating such project and (ii) the principal of and the interest on the bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall be not subject to supervision or regulation by any other authority, board, bureau, or agency of the Commonwealth of Virginia or the State of Maryland or the District of Columbia. The tolls and all other revenues derived from the project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and, upon the approval of the Governors of the Commonwealth of Virginia and the State of Maryland, and the Mayor of the District of Columbia, the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be

valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the Authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such resolution or such trust indenture, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

Tolls shall not be set at rates such that toll revenues generated by the project exceed those necessary to meet requirements under any applicable trust indenture for the project.

Article VII.

Revenue Bonds.

The Authority is hereby authorized to provide for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of the project or of any portion or portions thereof. The principal of and the interest of such bonds shall be payable solely from the funds provided in this compact for such payment. Any bonds of the Authority issued pursuant to this article shall not constitute a debt of the Commonwealth, or any political subdivision thereof other than the Authority, and shall so state on their face. Neither the members of the Authority nor any person executing such bonds shall be liable personally thereon by reason of the issuance thereof. The bonds of each issue shall be dated, shall bear interest at a rate or rates or in a manner, shall mature at such time or times not exceeding ~~forty~~ 40 years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case

any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The bonds may be issued in such form as the Authority may determine. The Authority may sell such bonds in such manner, either at public or private sale, and for such price as it may determine will best effect the purposes of this compact.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this compact without obtaining the consent of any department, division, commission, board, bureau or agency of the compact signatories, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this article.

Article VIII.

Bonds Not to Constitute a Debt or Pledge of Taxing Power.

Revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt or a pledge of the faith and credit of the Authority or of any signatory government or political subdivision thereof, but such bonds shall be payable solely from the funds provided from tolls and other revenues. The issuance of revenue bonds under the provisions of this Act shall not directly or indirectly or contingently obligate the Authority, or any signatory government or political subdivision thereof, to levy or to pledge any form of taxation whatever. All such revenue bonds shall contain a statement on their face substantially to the foregoing effect.

Article IX.

Bonds Eligible for Investment.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

Article X.

Trust Funds.

All moneys received pursuant to this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Act. The resolution authorizing the bonds of any issue or the trust indenture securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold

and apply the same for the purposes thereof, subject to such regulations as this Act and such resolution or trust indenture may provide.

Article XI.

Trust Indenture.

In the discretion of the Authority, any bonds issued under the provisions of this Act may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage the project or any part thereof.

Article XII.

Remedies.

Any holder of bonds issued under the provisions of this Act or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent the rights herein given may be restricted by such trust indenture or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth of Virginia, the State of Maryland, or the District of Columbia or granted hereunder or under such trust indenture or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this Act or by such trust indenture or resolution to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of tolls.

Article XIII.

Tax Exemption.

The exercise of the powers granted by this Act will be in all respects for the benefit of the people of the Commonwealth and for the increase of their commerce and prosperity, and as the operation and maintenance of the project will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or

assessments upon the project or any property acquired or used by the Authority under the provisions of this Act or upon the income therefrom, and the bonds issued under the provisions of this Act, and the income therefrom, shall at all times be free from taxation within the Commonwealth.

Article XIV.

Miscellaneous.

Any action taken by the Authority under the provisions of this Act may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted, except as otherwise specifically provided in this Act.

The project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the Authority. The project shall also be policed and operated by such force of police, toll-takers and other operating employees as the Authority may in its discretion employ. The Authority may enter into a contractual agreement with an existing governmental entity in Maryland or Virginia to provide these services. An Authority police officer shall have all the powers granted to a peace officer and a police officer of the State of Maryland. However, an Authority police officer may exercise these powers only on property owned, leased, operated by, or under the control of the Authority, and may not exercise these powers on any other property unless:

1. Engaged in fresh pursuit of a suspected offender;
2. Specially requested or permitted to do so in a political subdivision by its chief executive officer or its chief police officer; or
3. Ordered to do so by the Governor of Virginia or Maryland, or the Mayor of the District of Columbia, as the circumstances may require.

All other police officers of the signatory parties and of each county, city, town or other political subdivision of the Commonwealth of Virginia through which any project, or portion thereof, extends shall have the same powers and jurisdiction within the limits of such

projects as they have beyond such limits and shall have access to the project at any time for the purpose of exercising such powers and jurisdiction.

On or before August 31 in each year, the Authority shall make an annual report of its activities for the preceding fiscal year to the Governors of Maryland and Virginia and the Mayor of the District of Columbia. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation of the project. The records, books and accounts of the Authority shall be subject to examination and inspection by duly authorized representatives of the governing bodies of Maryland, the District of Columbia and Virginia, and by any bondholder or bondholders at any reasonable time, provided the business of the Authority is not unduly interrupted or interfered with thereby.

Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority shall be guilty of a misdemeanor, and, upon conviction, may be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

Any person who uses the project and fails or refuses to pay the toll provided therefor shall be guilty of a misdemeanor, and, upon conviction, may be punished by a fine of not more than \$100 or by imprisonment for not more than ~~thirty~~ 30 days, or both.

Drafting Note: The cross-reference to the definition of person in Title 1 is deleted because it is duplicative and unnecessary.

§ 34-32. Illegal to garnish such exempt wages out of Commonwealth, etc.

No person shall institute or permit to be instituted proceedings in his own name or in the name of any other person or shall assign or transfer, either for or without value, any claim for debt or liability of any kind held by him against a resident of ~~this the~~ Commonwealth who is a laboring person and a householder for the purpose of having payment of the same or any part thereof enforced out of the wages exempted by § 34-29 by

proceedings in attachment or garnishment in courts or before ~~justices of the peace or other trial justices~~ magistrates in any other state than ~~this~~ the Commonwealth, or to send out of this the Commonwealth by assignment, transfer or in any other manner whatsoever, either for or without value, any claim or debt against any resident thereof for the purpose or with the intent of depriving such person of the right to have his wages exempt from distress, levy or garnishment according to the provisions of § 34-29. And the person instituting such suit or permitting such suit to be instituted or sending, assigning, or transferring any such claim or debt for the purpose or with the intent aforesaid shall, upon conviction thereof, be fined not less than \$10 nor more than \$100 and shall, in addition thereto, be civilly liable to the person from whom payment of the same, or any part thereof, shall have been enforced by attachment or garnishment or otherwise, elsewhere than in ~~this~~ the Commonwealth, for the full amount, payment whereof shall have been so enforced, together with interest thereon and the costs of the attachment or garnishee proceedings, as well as the costs of such action.

The amount recovered in such action shall stand on the same footing with the wages of the plaintiff under § 34-29 and shall be exempt and free from any and all liability of the plaintiff to the defendant in the way of setoff or otherwise.

The fact that the payment of a claim or debt against any person entitled to the exemption provided for in § 34-29 has been enforced by legal proceedings in some state other than ~~this~~ the Commonwealth in such manner as to deprive such person to any extent of the benefit of such exemption shall be prima facie evidence that any resident of ~~this~~ the Commonwealth who may at any time have been owner or holder of the claim or debt has violated this section.

Drafting Note: The term "magistrate" is substituted for "justice of the peace." For a full explanation for the change see § 3.1-383.

§ 43-35. How and when validity of lien, or claim of other person to property, is tried.

Any person may file his petition, at any time before the property is sold or the proceeds of sale are paid to the plaintiff under the judgment of the ~~trial justice or court~~, disputing the validity of the plaintiff's lien thereon, or stating a claim thereto, or an interest in

or lien on the same, and its nature; and the ~~trial justice or the court, as the case may be,~~ shall inquire into such claim, and if it be found that the petitioner has title to, or a lien on, or any interest in, such property or proceeds of sale, the ~~trial justice or court~~ shall make such order as is necessary to protect his rights.

Drafting Note: The term "trial justice" is deleted because the reference to "court" covers all the judicial officers.

§ 43-36. Appeals, how taken and tried.

Any party may appeal from the judgment of the ~~trial justice~~general district court, as in case of warrants for small claims under Chapter 6 (§ 16.1-76 et seq.) of Title 16.1, and such appeal shall be heard and determined in like manner, as appeals under such chapter.

Drafting Note: The term "general district court" is substituted for "trial justice." For a full explanation for the change see § 3.1-383.

§ 46.2-728.3. Special license plates displaying the official insect of the Commonwealth; fees.

On receipt of an application, the Commissioner shall issue license plates displaying the official insect of the Commonwealth as designated by § ~~7.1-40.51~~51-510.

Drafting Note: A cross-reference to a Title 7.1 section relating to the official insect of the Commonwealth is updated.

§ 52-10. Fees and rewards.

No ~~trial justice or court,~~ in ~~this~~ the Commonwealth, shall in any case, in which a fine is assessed for the violation of any law of ~~this~~ the Commonwealth, or any subdivision thereof, assess, as a part of the cost of the case any fee for arrest, or as a witness, for the benefit of any police officer of the Department of State Police; nor shall any such police officer receive any such fee. Any such police officer who accepts or receives any such fee shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100, and in addition the Superintendent may remove him therefor. But such officers are not prohibited from accepting or receiving rewards.

Drafting Note: The term "trial justice" is deleted because "court" covers the judicial officers involved.

§ 54.1-3401. Definitions.

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids, that promotes muscle growth.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of

any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed prescribing patterns; (ii) by or for a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.1 or Title 4.1.

"DEA" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts and accessories, intended for use in the diagnosis, cure, mitigation,

treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (54.1-2729.1 et seq.) of this title and who, under the supervision of a licensed physician, nurse practitioner, physician assistant or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; or (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii) or (iii). "Drug" does not include devices or their components, parts or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy.

"Facsimile (FAX) prescription" means a written prescription or order, which is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the United States Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if any, of the retail package of such article, or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion or processing of any item regulated by this chapter, either directly or indirectly by extraction

from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures.

"Marijuana" means any part of a plant of the genus Cannabis whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, oil or cake made from the seeds of such plant, unless such stalks, fiber, oil or cake is combined with other parts of plants of the genus Cannabis.

"Medical equipment supplier" means any person, as defined in § ~~1-13.191-230~~, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties which are used for the operation and cleaning of medical equipment and solutions for peritoneal dialysis.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances,

but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means: (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use; or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the United States Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such

addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.) of this chapter, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to, a controlled substance in the course of professional practice or research in ~~this~~ the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian or other practitioner, authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503 (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353 (b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug which is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug which may be dispensed only upon prescription or the label of which bears substantially the statement "Warning - may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the United States Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exceptions set forth in § 54.1-3401.1.

"Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs including, but not limited to, manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses conducting wholesale distributions, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies conducting wholesale distributions. No person shall be subject to any state or local tax as a wholesale merchant by reason of this definition.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) of this title and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy" and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 of this title unless the context requires a different meaning.

Drafting Note: A cross-reference to the definition of person in Title 1 is updated. The cross-reference is needed because person is defined twice in this section.

§ 55-161. How and when made.

Whenever any ~~trial justice or~~ judge is of the opinion that any debtor desires honestly to pay his just debts and can do so with the cooperation of his creditors, and such debtor is willing to assign his salary, wages or income to a trustee for the benefit of his creditors, subject to the supervision and orders of the court, the ~~trial justice or~~ judge may, on the written assignment, under oath, of the salary, wages or income of such debtor, setting forth the names of his creditors and the amount due each one, and upon the filing of the same with the court, together with the written consent of a majority of his creditors in number and in amount, appoint some responsible person, ~~firm or corporation~~ willing to accept such appointment as trustee to receive the salary, wages or income of such debtor and pay off the obligations due by him as hereinafter provided. When the debtor is employed on a salary or for wages the written consent of his employer shall be necessary.

Drafting Note: The term "trial justice" is deleted because "court" covers the judicial officers involved. The references to "firm" and "corporation" are deleted after person because these entities are included in the definition of person in § 1-230.

§ 55-531. Definitions.

As used in this chapter, the following words shall have the following meanings:

"Disposition of assets" means any action undertaken by a nonprofit entity to dispose of control of all or substantially all of its assets pursuant to an agreement of sale, transfer, lease, exchange, option, joint venture, or partnership, or to convert to a for-profit entity or to otherwise restructure the nonprofit entity or its assets resulting in a change in control or governance of the entity or assets.

"Nonprofit entity" means (a) a foreign or domestic nonstock corporation licensed and subject to regulation under Chapter 42 (§ 38.2-4200 et seq.) of Title 38.2 or (b) a person, ~~as~~

~~defined in § 1-13.19,~~ that is exempt from taxation under 26 U.S.C. § 501 (c) (3) or (4) and is, or owns, one of the following: (i) a hospital licensed under Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Chapter 8 (§ 37.1-179 et seq.) of Title 37.1; (ii) a health maintenance organization licensed under Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2; (iii) a nursing home, including a facility known by varying nomenclature or designation such as convalescent home, skilled nursing facility or skilled care facility, intermediate care facility, extended care facility, a certified nursing facility or nursing care facility, licensed under the provisions of Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1; or (iv) a facility for the provision of continuing care registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2.

Drafting Note: A cross-reference to the definition of person in Title 1 is deleted. The cross-reference is duplicative and not necessary.

§ 56-123. Adjustment of claims against carriers.

Every claim against a common carrier doing business in ~~this~~ the Commonwealth for loss or damage to property while in its possession, and every claim for storage, demurrage and car service against such carrier under the rules and regulations prescribed by the State Corporation Commission, shall be adjusted and paid within ~~sixty~~ 60 days in case of shipments wholly within ~~this~~ the Commonwealth, and within ~~ninety~~ 90 days in case of interstate shipment, and within ~~sixty~~ 60 days in case of claims for demurrage or car service after the filing of such claim with the agent of such carrier at the point of destination of such shipment or with the claims department of such common carrier. No such claims shall be filed until after the arrival of shipment or some part thereof at the point of destination or until after the lapse of a reasonable time for the arrival thereof, when such claim is for loss or damage to freight. In every case such carrier shall be liable for the amount of such loss or damage to freight, or such penalty as is prescribed for failure to comply with the rules and regulations of the Commission, relating to storage, demurrage, and car service, together with interest thereon from the date of the filing of the claim therefor, until the payment thereof. Failure to adjust and pay such claim within the periods herein respectively prescribed shall subject such common carrier so failing to a penalty of ~~twenty-five~~ dollars

\$25 for each and every such failure, to be recovered by such claimant so aggrieved in the same action or proceedings in any court ~~or before any trial justice~~ having jurisdiction in ~~this~~ the Commonwealth; provided, that unless such claimant recover in such action the full amount claimed by him no penalty shall be recovered, but only the actual amount of the loss or damage to freight, or amount due for storage, demurrage or car service, with interest as aforesaid; and, provided further, that if in such action or proceedings such claim shall be found to be fraudulent the claimant shall pay to the carrier a penalty of ~~twenty-five dollars~~ \$25, to be recovered along with the costs. If after such periods above prescribed, the carrier shall voluntarily pay the full amount so claimed, then such penalty alone may be recovered as aforesaid by the claimant.

Drafting Note: The term "trial justice" is deleted because "court" covers the judicial officers involved.

§ 56-124. Procedure in action on such claims.

In any action which may be instituted pursuant to § 56-123 before a ~~trial justice~~general district court for an amount not exceeding \$300, either party at or before the return day of the warrant may, in lieu of or in addition to giving evidence at the hearing, file an affidavit relating to the subject matter and in such case the other party to such action shall have a right to a continuance for a reasonable time; provided, that any party to such action may give reasonable notice to the party filing such affidavit and take the deposition of the affiant, at such time and place as the court may prescribe, the taking of such deposition to be governed by the rules of law in force regarding the cross-examination of witnesses. Such affidavits and depositions shall be read with the same force and effect as if taken in the form of a deposition after due notice to the other party. In the event of appeal of any such action such affidavits and depositions shall be read in the appellate court with the same force and effect as before the ~~trial justice~~general district court.

Drafting Note: The term "general district court" is substituted for "trial justice." For a full explanation for the change see § 3.1-383.

§ 56-265.10. Definitions.

(a) "Water system" as used herein means any privately owned connected system of mains, pipes, conduits, pumping stations, reservoirs and related facilities furnishing water to

fifty_50 or more subscribers for compensation when the person who furnishes the service is not subject to regulation by the Commission as a public utility under Chapter 10 (§ 56-232 et seq.) of Title 56.

(b) "Sewerage system" means any privately owned system of pipelines or conduits, pumping stations, force mains, sewage treatment plants, and all other constructions, devices, and appliances appurtenant thereto, used for conducting or treating sewage as that term is defined in Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1, which furnishes service for compensation to fifty_50 or more subscribers, which is not subject to regulation by the Commission as a public utility, and for which a certificate has not been issued or applied for in accordance with the provisions of Chapter 3.1 of Title 62.1.

(c) "Commission" means the State Corporation Commission.

(d) "Person" means person as that term is defined in § ~~1-13.191-230~~.

Drafting Note: A cross-reference to the definition of person in Title 1 is updated. The cross-reference is needed in this section because Title 56 has a different title-wide definition of person.

§ 56-435. Appeal from ~~trial justice~~general district court to circuit court in cattle-guard cases.

In all suits brought before ~~a trial justice~~the general district court against railroad companies to recover penalties for failure to construct cattle guards as required by law, either party shall have the right of appeal to the circuit court of the county where such suit is brought, from the judgment of the ~~trial justice~~general district court, without regard to the amount in controversy.

Drafting Note: The term "general district court" is substituted for "trial justice." For a full explanation for the change see § 3.1-383.

§ 58.1-3732.4. Limitation on gross receipts; staffing firms.

A. Gross receipts for license tax purposes under this chapter shall not include employee benefits paid by a staffing firm to, or for the benefit of, any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of a PEO services contract or temporary help services contract. The taxable gross receipts of a staffing firm shall include any administrative fees

received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company.

B. For the purpose of this section:

"Client company" means a person, ~~as defined in § 1-13.19,~~ that enters into a contract with a staffing firm by which the staffing firm, for a fee, provides PEO services or temporary help services.

"Contract employee" means an employee performing services under a PEO services contract or temporary help services contract.

"Employee benefits" means wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, benefits, and similar expenses.

"PEO services" or "professional employer organization services" means an arrangement whereby a staffing firm assumes employer responsibility for payroll, benefits, and other human resources functions with respect to employees of a client company with no restrictions or limitations on the duration of employment.

"PEO services contract" means a contract pursuant to which a staffing firm provides PEO services for a client company.

"Staffing firm" means a person, ~~as defined in § 1-13.19,~~ that provides PEO services or temporary help services.

"Temporary help services" means an arrangement whereby a staffing firm temporarily assigns employees to support or supplement a client company's workforce.

"Temporary help services contract" means a contract pursuant to which a staffing firm provides temporary help services for a client company.

Drafting Note: Two cross-references to the definition of person in Title 1 are deleted. These cross-references are duplicative and not necessary.

§ 59.1-21.10. Definitions.

As used in this chapter, the following terms shall have the following meanings unless the context requires otherwise:

"Dealer" means any person who purchases motor fuel for sale to the general public for ultimate consumption. "Dealer" shall not mean any person, including any affiliate of such

person, who (i) purchases motor fuel for sale, consignment, or distribution to another; (ii) receives motor fuel on consignment for consignment or distribution to his own motor fuel accounts or to accounts of his supplier; or (iii) who is an employee of, or merely serves as a common carrier providing transportation service, for such person.

"Designated family member" means the adult spouse, adult child or stepchild, or adult brother or sister of the dealer who is designated in the franchise agreement as the successor to the dealer's interest under the agreement and who shall become the dealer upon the completion of the succession.

"Franchise" or "franchise agreement" means any agreement, express or implied, between a refiner and a dealer under which a refiner authorizes or permits a dealer to use, in connection with the sale, consignment, or distribution of motor fuel, a trademark which is owned or controlled by such refiner. "Franchise" or "franchise agreement" shall also mean any agreement, express or implied, under which a dealer is granted the right to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by such refiner.

"Franchise fee" means any fee or charge that a dealer is required to pay or agrees to pay for the right to enter into a franchise agreement or to become a dealer at the premises to which the franchise agreement relates. The term "franchise fee" shall not include reasonable actual costs and expenses incurred by the refiner in effecting the assignment, transfer, or sale.

"Franchisor" means a refiner who authorizes or permits, under a franchise, a dealer to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

"Newly remodeled facility" means a retail outlet, marketing premises, or leased marketing premises which, within an 18-month period, has been rebuilt, renovated, or reconstructed at a cost of (i) for facilities remodeled before January 1, 2004, a minimum of \$560,000; or (ii) for facilities remodeled on or after January 1, 2004, a minimum of \$560,000 plus an amount reflecting the annual rate of inflation, such amount to be calculated on

January 1 of each year by the Commissioner of the Department of Agriculture and Consumer Services by referring to the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics.

"Operation of a retail outlet" means the ownership or option to buy a properly zoned parcel of property for which a permit to build a retail outlet has been granted.

~~"Person" means person as defined in § 1-13.19.~~

"Petroleum products" or "motor fuel" means gasoline and diesel fuel of a type distributed for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

"Profit" means the net gain, for income tax purposes, realized by the dealer upon the assignment, transfer, or sale of the franchise agreement.

"Refiner" means any person engaged in the refining of crude oil to produce motor fuel and includes any affiliate of such person.

"Retail" means the sale of petroleum products for purposes other than resale.

"Retail outlet," "marketing premises," or "leased marketing premises" means the premises at which petroleum products are sold to the general public.

"Trial franchise" means the same as provided in the Petroleum Marketing Practices Act (15 U.S.C. § 2803 et seq.).

Drafting Note: A cross-reference to the definition of person in Title 1 is deleted. The cross-reference is duplicative and unnecessary.

§ 59.1-443.1. Recording date of birth as condition of accepting checks prohibited.

A. As used in this section:

~~1. "Check" shall have the same meaning as defined in § 8.3A-104.~~

~~2. "Person" shall have the same meaning as defined in § 1-13.19.~~

B. Except as provided in subsection C, no person who accepts checks for the transaction of business shall, as a condition of accepting the check, record, or request or require a person to record, his or her date of birth upon the check or otherwise.

C. This section does not require a person to accept checks for the transaction of business. Nothing in this section shall apply to (i) the collection or use of a date of birth that

is unrelated to accepting payment by check or (ii) a requirement that the person paying by check provide the year of his birth.

Drafting Note: A cross-reference to the definition of person in Title 1 is deleted. The cross-reference is duplicative and unnecessary.

§ 62.1-44.114. Use of Potomac River; riparian rights.

The Commonwealth and its citizens shall have the right to such use of the Potomac River as may be necessary to the full enjoyment of their riparian ownership as provided at common law and in ~~§ 7.1-7~~ of the Compact of 1785 with Maryland, and confirmed by the Black-Jenkins Determination of 1877 and Article VII, § 1 of § 28.1-203, cited as the Potomac River Compact of 1958.

Drafting Note: The Compact of 1785 with Maryland has been superseded by the Potomac River Compact of 1958. The 1785 Compact will no longer be set out at length in § 7.1-7, but will remain in the Compacts volume of the Code as a historical reference.