

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 19.2-389, as it is currently effective and as it shall become effective,
3 and 59.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Title 6.2 a
4 chapter numbered 26, consisting of sections numbered 6.2-2600 through 6.2-2622, relating to student
5 loans; licensing of qualified education loan servicers; civil penalties.

6 [S 77]
7 Approved

8 Be it enacted by the General Assembly of Virginia:

9 1. That §§ 19.2-389, as it is currently effective and as it shall become effective, and 59.1-200 of the
10 Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding
11 in Title 6.2 a chapter numbered 26, consisting of sections numbered 6.2-2600 through 6.2-2622, as
12 follows:

13 CHAPTER 26.
14 QUALIFIED EDUCATION LOAN SERVICERS.

15 § 6.2-2600. Definitions.

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

17 "Licensee" means a person to whom a license has been issued under this chapter.

18 "Nationwide Multistate Licensing System and Registry" or "Registry" means the nationwide multistate
19 licensing system and registry created by the Conference of State Bank Supervisors and the American
20 Association of Residential Mortgage Regulators.

21 "Principal" means any person who, directly or indirectly, owns or controls (i) 10 percent or more of
22 the outstanding stock of a stock corporation or (ii) a 10 percent or greater interest in any other type of
23 entity.

24 "Qualified education loan" means any loan primarily used to finance a postsecondary education and
25 costs of attendance at a postsecondary public or private educational institution, including tuition, fees,
26 books and supplies, room and board, transportation, and miscellaneous personal expenses. "Qualified
27 education loan" includes a loan made to refinance a qualified education loan. "Qualified education
28 loan" does not include an extension of credit under an open-end credit plan, a reverse mortgage
29 transaction, a residential mortgage transaction, or any other loan that is secured by real property or a
30 dwelling.

31 "Qualified education loan borrower" or "borrower" means (i) any current resident of the
32 Commonwealth who has received or agreed to pay a qualified education loan or (ii) any person who is
33 contractually obligated with such resident for repaying the qualified education loan.

34 "Qualified education loan servicer" or "loan servicer" means any person, wherever located, that:

35 1. (i) Receives any scheduled periodic payments from a qualified education loan borrower or
36 notification of such payments or (ii) applies payments to the qualified education loan borrower's account
37 pursuant to the terms of the qualified education loan or the contract governing the servicing;

38 2. During a period when no payment is required on a qualified education loan, (i) maintains account
39 records for the qualified education loan and (ii) communicates with the qualified education loan
40 borrower regarding the qualified education loan, on behalf of the qualified education loan's holder; or

41 3. Interacts with a qualified education loan borrower, which includes conducting activities to help
42 prevent default on obligations arising from qualified education loans or to facilitate any activity
43 described in clause (i) or (ii) of subdivision 1.

44 "Servicing" means:

45 1. (i) Receiving any scheduled periodic payments from a qualified education loan borrower or
46 notification of such payments or (ii) applying the payments of principal and interest and such other
47 payments, with respect to the amounts received from a qualified education loan borrower, as may be
48 required pursuant to the terms of a qualified education loan;

49 2. During a period when no payment is required on a qualified education loan, (i) maintaining
50 account records for the loan and (ii) communicating with the qualified education loan borrower
51 regarding the qualified education loan, on behalf of the qualified education loan's holder; or

52 3. Interacting with a qualified education loan borrower, including conducting activities to help
53 prevent default on obligations arising from qualified education loans or to facilitate any activity
54 described in clause (i) or (ii) of subdivision 1.

55 § 6.2-2601. License requirement; exceptions.

56 A. No person shall act as a qualified education loan servicer, directly or indirectly, whether or not

57 the person has an office or any other physical presence in the Commonwealth, except in accordance
 58 with the provisions of this chapter and without having first obtained a license under this chapter from
 59 the Commission.

60 B. Every qualified education loan servicer required to be licensed under this chapter shall register
 61 with the Registry and be subject to such registration and renewal requirements as may be established by
 62 the Registry, in addition to any requirements of this chapter. In adopting regulations pursuant to
 63 § 6.2-2622, the Commission shall include any terms, conditions, or requirements applicable to such
 64 registration and renewal. Any fees required by the Registry shall be separate and apart from any fees
 65 imposed by this chapter. The Commission, at its discretion, may collect any registration and renewal
 66 fees on behalf of the Registry and remit such fees to the Registry or permit the Registry to collect any
 67 fees imposed by this chapter and remit such fees to the Commission.

68 C. In connection with its implementation and administration of this chapter, the Commission may
 69 establish agreements or contracts with the Registry or other entities designated by the Registry to
 70 collect, distribute, and maintain information and records, and process fees, related to qualified
 71 education loan servicers required to be licensed under this chapter. In establishing such agreements or
 72 contracts, the Commission shall not be subject to the Virginia Public Procurement Act (§ 2.2-4300 et
 73 seq.).

74 D. The provisions of this chapter shall not apply to:

75 1. Any bank, savings institution, credit union, or financial institution subject to regulation under 12
 76 U.S.C. § 2002;

77 2. Any wholly owned subsidiary of any bank, savings institution, or credit union, provided that such
 78 wholly owned subsidiary is subject to the general supervision or regulation of, or subject to audit or
 79 examination by, a regulatory body or agency of the United States or any state; or

80 3. Any public or private nonprofit institution of higher education.

81 **§ 6.2-2602. Licensure of qualified education loan servicers; automatic issuance of license for**
 82 **federal student loan servicing contractors.**

83 A. A person seeking to act as a qualified education loan servicer is exempt from the application
 84 procedures described in subsections A and B of § 6.2-2603 upon determination by the Commissioner
 85 that the person (i) has an agreement with the U.S. Secretary of Education under 20 U.S.C. § 1078(b),
 86 solely to the extent of the person's actions as a guarantor that engages in averting defaults, or (ii) is a
 87 party to a contract awarded by the U.S. Secretary of Education under 20 U.S.C. § 1087f. The
 88 Commissioner shall prescribe the procedure to document eligibility for this exemption.

89 B. With regard to a person exempted from the application procedures described in subsections A and
 90 B of § 6.2-2603 pursuant to subsection A, the Commissioner shall:

91 1. Automatically issue a license upon payment of the fee required by subsection C of § 6.2-2603 and
 92 the providing of the bond required by § 6.2-2604;

93 2. Automatically renew a license upon payment of the fees required by subsection E of § 6.2-2607;
 94 and

95 3. Deem the person to have met all the requirements set forth in subsections A and B of § 6.2-2603.

96 C. A person issued a license pursuant to subdivision B 1:

97 1. Is exempt from subsections A and B of § 6.2-2603; and

98 2. Shall comply with the record requirements in § 6.2-2608 except to the extent that the requirements
 99 are inconsistent with federal law.

100 D. A person issued a license pursuant to subdivision B 1 shall, within seven days after receiving
 101 notification of the expiration, revocation, or termination of (i) an agreement with the U.S. Secretary of
 102 Education under 20 U.S.C. § 1078(b) or (ii) any contract awarded by the U.S. Secretary of Education
 103 under 20 U.S.C. § 1087f, provide the Commissioner with written notice of such expiration, revocation,
 104 or termination. Notwithstanding any other provision of this chapter, such person's license shall
 105 automatically expire 30 days after the expiration, revocation, or termination of such person's contract. A
 106 person seeking to act as a qualified education loan servicer following the expiration of its license may
 107 apply for a new license by filing an application that meets the requirements of §§ 6.2-2603 and
 108 6.2-2604 and subsection B of § 6.2-2605.

109 E. With respect to qualified education loan servicing not conducted pursuant to (i) an agreement
 110 with the U.S. Secretary of Education under 20 U.S.C. § 1078(b) or (ii) a contract awarded by the U.S.
 111 Secretary of Education under 20 U.S.C. § 1087f, nothing in this section prevents the Commission from
 112 issuing an order to temporarily or permanently prohibit or bar any person from acting as a qualified
 113 education loan servicer or violating applicable law.

114 F. In the case of qualified education loan servicing conducted pursuant to (i) an agreement with the
 115 U.S. Secretary of Education under 20 U.S.C. § 1078(b) or (ii) a contract awarded by the U.S. Secretary
 116 of Education under 20 U.S.C. § 1087f, nothing in this section shall prevent the Commission from issuing
 117 a cease and desist order or injunction against any qualified education loan servicer to cease activities

118 in violation of this act.

119 **§ 6.2-2603. Application for license; form; content; fee.**

120 A. An application for a license under this chapter shall be made in writing and on a form provided
121 by the Commission.

122 B. The application shall set forth:

123 1. The name and address of the applicant, the name and address of each senior officer, and (i) if the
124 applicant is a partnership, firm, or association, the name and address of each partner or member; (ii) if
125 the applicant is a corporation or limited liability company, the name and address of each director,
126 member, registered agent, and principal; or (iii) if the applicant is a business trust, the name and
127 address of each trustee;

128 2. The address of the principal place of business to be licensed;

129 3. Such other information concerning the financial responsibility, background, experience, and
130 general fitness of the applicant and its members, senior officers, directors, trustees, and principals as
131 the Commissioner may require; and

132 4. Any other pertinent information that the Commissioner may require.

133 C. The application shall be accompanied by payment of a nonrefundable application fee as
134 prescribed by the Commission. The fee shall not be abated by surrender, suspension, or revocation of
135 the license.

136 D. If the Commissioner requests information to complete a deficient application and the information
137 is not received within 60 days of the Commissioner's request, the application shall be deemed
138 abandoned unless a request for an extension of time is received and approved by the Commissioner
139 prior to the expiration of the 60-day period. However, this subsection shall not be construed to prohibit
140 the Commission from denying a license application that does not meet the requirements of this chapter.

141 **§ 6.2-2604. Bond required.**

142 The application for a license shall be accompanied by a bond filed with the Commissioner with
143 corporate surety authorized to execute such bond, in the principal amount as determined by the
144 Commissioner. The amount of the bond shall be not less than \$50,000 nor more than \$500,000. The
145 form of such bond shall be approved by the Commissioner. Such bond shall be continuously maintained
146 thereafter in full force. Such bond shall be conditioned upon the applicant or licensee performing all
147 written agreements pertaining to qualified education loans, correctly and accurately accounting for all
148 funds received by the applicant or licensee in connection with qualified education loans, and conducting
149 its business in conformity with this chapter and all applicable laws. The aggregate liability under the
150 bond shall not exceed the penal sum of the bond.

151 **§ 6.2-2605. Investigation of applications.**

152 A. The Commissioner may make such investigations as he deems necessary to determine if the
153 applicant has complied with all applicable provisions of law and regulations.

154 B. For the purpose of investigating individuals who are members, senior officers, directors, trustees,
155 and principals of an applicant, such persons shall consent to a criminal history records check and
156 submit to fingerprinting. Each member, senior officer, director, trustee, and principal shall pay for the
157 cost of such fingerprinting and criminal history records check. Such persons shall cause their
158 fingerprints, personal descriptive information, and records check fees to be submitted to either of the
159 following, as prescribed by the Commissioner:

160 1. The Bureau, which shall forward these items to the Central Criminal Records Exchange. The
161 Central Criminal Records Exchange shall (i) conduct a search of its own criminal history records and
162 forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of
163 Investigation for the purpose of obtaining national criminal history record information regarding such
164 individuals and (ii) forward the results of the state and national records searches to the Commissioner
165 or his designee, who shall be an employee of the Commission; or

166 2. The Registry, provided that it is capable of processing criminal history records checks.

167 C. If any member, senior officer, director, trustee, or principal of an applicant fails to cause his
168 fingerprints, personal descriptive information, or records check fees to be submitted in accordance with
169 subsection B, the application for a qualified education loan servicer license shall be denied.

170 **§ 6.2-2606. Qualifications.**

171 A. Upon the filing and investigation of an application for a license, compliance by the applicant with
172 the provisions of §§ 6.2-2603 and 6.2-2604, and compliance by the persons identified in subsection B of
173 § 6.2-2605 with the provisions contained therein, the Commission shall issue and deliver to the
174 applicant the license applied for to engage in business under this chapter at the location specified in the
175 application if it finds that:

176 1. The financial responsibility, character, experience, and general fitness of the applicant and its
177 members, senior officers, directors, trustees, and principals are such as to warrant belief that the
178 business will be operated efficiently and fairly, in the public interest, and in accordance with the law;

179 2. The application does not contain any false statement of a material fact; and
 180 3. The application does not omit any statement of a material fact that is required by § 6.2-2603.

181 B. If the Commission fails to make such findings, no license shall be issued and the Commissioner
 182 shall notify the applicant of the denial and the reasons for such denial.

183 **§ 6.2-2607. Licenses; place of business; changes; renewal.**

184 A. Each license shall state the address at which the principal place of business is to be conducted
 185 and shall state fully the legal name of the licensee as well as any fictitious names by which the licensee
 186 is conducting business under this chapter. Licenses shall not be transferable or assignable, by operation
 187 of law or otherwise. No licensee shall use any names other than the legal name or fictitious names set
 188 forth on the license issued by the Commission.

189 B. Every licensee shall notify the Commissioner, in writing, at least 30 days prior to relocating its
 190 principal place of business and confirm the change in writing within five days after such relocation.

191 C. Every licensee shall within 10 days notify the Commissioner, in writing, of (i) any change to its
 192 legal name; (ii) any change to or additional fictitious name by which the licensee is conducting business
 193 under this chapter; and (iii) the name, address, and position of each new member, senior officer,
 194 director, trustee, and principal. At the direction of the Commissioner, any such individual shall be
 195 treated as a member, senior officer, director, trustee, or principal of an applicant for the purpose of
 196 being investigated pursuant to subsection B of § 6.2-2605. The licensee shall provide such other
 197 information with respect to the changes and persons identified in this subsection as the Commissioner
 198 may reasonably require.

199 D. Every license shall remain in force until it expires or has been surrendered, revoked, or
 200 suspended. The expiration, surrender, revocation, or suspension of a license shall not affect any
 201 preexisting legal right or obligation of such licensee.

202 E. Notwithstanding any other provision of this chapter, a qualified education loan servicer license
 203 shall expire at the end of each calendar year unless it is renewed by a licensee prior to the expiration
 204 date. A licensee may renew its license by (i) requesting renewal through the Registry and (ii) complying
 205 with any requirements associated with such renewal request that are imposed by the Registry. If a
 206 qualified education loan servicer license has expired, the Commission may by regulation permit the
 207 former licensee to seek license reinstatement after the license expiration date by renewing its license in
 208 accordance with this subsection and paying a reinstatement fee as prescribed by the Commission.

209 **§ 6.2-2608. Retention of records; responding to the Bureau.**

210 A. Each licensee shall maintain in its principal place of business such books, accounts, and records
 211 as the Commissioner may reasonably require in order to determine whether such person is complying
 212 with the provisions of this chapter and other laws applicable to the conduct of its business. Such books,
 213 accounts, and records shall be maintained apart and separate from any other business in which the
 214 qualified education loan servicer is involved. Each licensee shall maintain adequate records of each
 215 qualified education loan transaction for at least three years after final payment is made on such loan or
 216 the assignment of such qualified education loan, whichever occurs first.

217 B. To safeguard the privacy of qualified education loan borrowers, records containing personal
 218 financial information shall be shredded, incinerated, or otherwise disposed of by a licensee in a secure
 219 manner. Licensees may arrange for the shredding, incineration, or other disposal of the records from a
 220 business record destruction vendor.

221 C. When the Bureau requests a written response, books, records, documentation, or other
 222 information from a licensee in connection with the Bureau's investigation, enforcement, or examination
 223 of compliance with applicable laws, the licensee shall deliver a written response as well as any
 224 requested books, records, documentation, or information within the time period specified in the Bureau's
 225 request. If no time period is specified, a written response as well as any requested books, records,
 226 documentation, or information shall be delivered by the licensee to the Bureau not later than 30 days
 227 from the date of such request. In determining the specified time period for responding to the Bureau and
 228 when considering a request for an extension of time to respond, the Bureau shall take into consideration
 229 the volume and complexity of the requested written response, books, records, documentation, or
 230 information and such other factors as the Bureau determines to be relevant under the circumstances.

231 **§ 6.2-2609. Acquisition of control; application.**

232 A. Except as provided in this section, no person shall acquire, directly or indirectly, 25 percent or
 233 more of the voting shares of a corporation or 25 percent or more of the ownership of any other person
 234 licensed to conduct business under this chapter unless such person first:

235 1. Files an application with the Commission in such form as the Commissioner may prescribe from
 236 time to time;

237 2. Delivers such other information to the Commissioner as the Commissioner may require concerning
 238 the financial responsibility, background, experience, and general fitness of the applicant and of any
 239 proposed new directors, senior officers, principals, trustees, or members of the licensee;

240 3. Submits and furnishes to the Commissioner information concerning the identity of the applicant
 241 and of any proposed new directors, senior officers, principals, trustees, or members of the licensee. Such
 242 individuals shall (i) consent to a criminal history records check, submit to fingerprinting, and pay for
 243 the cost of such fingerprinting and criminal records check and (ii) cause their fingerprints, personal
 244 descriptive information, and records check fees to be submitted to either of the following, as prescribed
 245 by the Commissioner:

246 a. The Bureau, who shall forward these items to the Central Criminal Records Exchange. The
 247 Central Criminal Records Exchange shall (i) conduct searches of its own criminal history records and
 248 forward such individuals' fingerprints and personal descriptive information to the Federal Bureau of
 249 Investigation for the purpose of obtaining national criminal history record information regarding such
 250 individuals and (ii) forward the results of the state and national records search to the Commissioner or
 251 his designee, who shall be an employee of the Commission; or

252 b. The Registry, provided that it is capable of processing criminal history records checks; and
 253 4. Pays such application fee as the Commission may prescribe.

254 B. Upon the filing and investigation of an application, the Commission shall permit the applicant to
 255 acquire the interest in the licensee if it finds that the applicant and any proposed new directors,
 256 members, senior officers, trustees, and principals of the licensee have the financial responsibility,
 257 character, experience, and general fitness to warrant belief that the business will be operated efficiently
 258 and fairly, in the public interest, and in accordance with law. The Commission shall grant or deny the
 259 application within 60 days from the date a completed application accompanied by the required fee is
 260 filed unless the period is extended by order of the Commissioner giving the reasons for the extension. If
 261 the application is denied, the Commission shall notify the applicant of the denial and the reasons for the
 262 denial.

263 C. The provisions of this section shall not apply to the acquisition of an interest in a licensee (i)
 264 directly or indirectly, including an acquisition by merger or consolidation, by or with a person licensed
 265 or exempt from licensing under this chapter; (ii) directly or indirectly, by merger or consolidation by or
 266 with a person affiliated through common ownership with the licensee; or (iii) by bequest, descent,
 267 survivorship, or operation of law. This section shall also not apply to the acquisition of an interest in a
 268 licensee that (i) an agreement with the U.S. Secretary of Education under 20 U.S.C. § 1078(b) or (ii) is
 269 a party to a contract awarded by the U.S. Secretary of Education under 20 U.S.C. § 1087f. The person
 270 acquiring an interest in a licensee in a transaction that is exempt from filing an application by this
 271 subsection shall send written notice of such acquisition to the Commissioner within 30 days of its
 272 closing.

273 **§ 6.2-2610. Prohibited activities; compliance with federal laws and regulations.**

274 A. No qualified education loan servicer shall:

275 1. Directly or indirectly employ any scheme, device, or artifice to defraud or mislead qualified
 276 education loan borrowers;

277 2. Engage in any unfair or deceptive act or practice toward any person or misrepresent or omit any
 278 material information in connection with the servicing of a qualified education loan, including
 279 misrepresenting (i) the amount, nature, or terms of any fee or payment due or claimed to be due on a
 280 qualified education loan; (ii) the terms and conditions of the loan agreement; or (iii) the borrower's
 281 obligations under the loan;

282 3. Obtain property by fraud or misrepresentation;

283 4. Misapply qualified education loan payments to the outstanding balance of a qualified education
 284 loan;

285 5. Provide inaccurate information to a nationally recognized consumer credit bureau;

286 6. Fail to report both the favorable and unfavorable payment history of the borrower to a nationally
 287 recognized consumer credit bureau at least annually if the loan servicer regularly reports information to
 288 such a credit bureau;

289 7. Fail to communicate with an authorized representative of the borrower who provides a written
 290 authorization signed by the borrower, provided that the loan servicer may adopt procedures reasonably
 291 related to verifying that the representative is in fact authorized to act on behalf of the borrower;

292 8. Make any false statement of a material fact or omit any material fact in connection with any
 293 information provided to the Commission or another governmental authority; or

294 9. Engage in any other prohibited activities identified in regulations adopted by the Commission
 295 pursuant to this chapter.

296 B. A qualified education loan servicer shall comply with all federal laws and regulations applicable
 297 to the conduct of its licensed business. In addition to any other remedies provided by law, a violation of
 298 any such federal law or regulation shall be deemed a violation of this chapter and a basis upon which
 299 the Commission may take enforcement action pursuant to § 6.2-2615, 6.2-2617, or 6.2-2618.

300 C. A qualified education loan servicer shall not engage in abusive acts or practices when servicing a

301 *qualified education loan. An act or practice is abusive in connection with the servicing of a qualified*
 302 *education loan if the act or practice does either of the following:*

303 1. *Materially interferes with the ability of a borrower to understand a term or condition of a*
 304 *qualified education loan; or*

305 2. *Takes unreasonable advantage of:*

306 a. *A lack of understanding on the part of a qualified education loan borrower of the material risks,*
 307 *costs, or conditions of the qualified education loan;*

308 b. *The reasonable reliance by the borrower on a person engaged in the servicing of a qualified*
 309 *education loan to act in the interests of the borrower; or*

310 c. *The inability of a borrower to protect the interests of the borrower when selecting (i) a qualified*
 311 *education loan or (ii) a feature, term, or condition of a qualified education loan.*

312 **§ 6.2-2611. Affirmative acts required of qualified education loan servicers.**

313 *Except to the extent that this section is inconsistent with any provision of federal law or regulation,*
 314 *and then only to the extent of the inconsistency, a person engaged in qualified education loan servicing*
 315 *shall:*

316 1. *Evaluate a qualified education loan borrower for eligibility for an income-driven repayment*
 317 *program prior to placing the borrower in forbearance or default, if an income-driven repayment*
 318 *program is available to the borrower;*

319 2. *Respond to a written inquiry from a qualified education loan borrower or the representative of a*
 320 *qualified education loan borrower within 10 business days after receipt of the request and, within 30*
 321 *business days after receipt of the request, provide information relating to the request and, if applicable,*
 322 *to the action the qualified education loan servicer will take to correct the account or an explanation for*
 323 *the qualified education loan servicer's position that the borrower's account is correct. Such 30-day*
 324 *period may be extended for not more than 15 days if, before the end of the 30-day period, the qualified*
 325 *education loan servicer notifies the borrower, or the borrower's representative, as applicable, of the*
 326 *extension and the reasons for the delay in responding;*

327 3. *Not furnish to a consumer reporting agency, during 60 days following receipt of a written request*
 328 *related to a dispute on a borrower's payment on a qualified education loan, information regarding a*
 329 *payment that is the subject of the written request;*

330 4. *Except as provided in federal law or required by a qualified education loan agreement, inquire of*
 331 *a borrower how to apply an overpayment to a qualified education loan. A borrower's direction on how*
 332 *to apply an overpayment to a qualified education loan shall remain in effect for any future*
 333 *overpayments during the term of a qualified education loan or until the borrower provides different*
 334 *directions. As used in this subdivision, "overpayment" means a payment on a qualified education loan*
 335 *that exceeds the monthly amount due from a borrower on the qualified education loan, which payment*
 336 *may be referred to as a prepayment;*

337 5. *Apply partial payments in a manner that minimizes late fees and negative credit reporting. If*
 338 *loans on a borrower's qualified education loan account have an equal level of delinquency, a qualified*
 339 *education loan servicer shall apply partial payments to satisfy as many individual loan payments as*
 340 *possible on a borrower's account. As used in this subdivision, "partial payment" means a payment on a*
 341 *qualified education loan account that contains multiple individual loans in an amount less than the*
 342 *amount necessary to satisfy the outstanding payment due on all loans in the qualified education loan*
 343 *account, which payment may be referred to as an underpayment;*

344 6. *Require, as a condition of a sale, an assignment, or any other transfer of the servicing of a*
 345 *qualified education loan, that the new loan servicer honor all benefits originally represented as*
 346 *available to a qualified education loan borrower during the repayment of the qualified education loan*
 347 *and preserve the availability of the benefits, including any benefits for which the qualified education*
 348 *loan borrower has not yet qualified. If a qualified education loan servicer is not also the loan holder or*
 349 *is not acting on behalf of the loan holder, the loan servicer satisfies the requirement of this subsection*
 350 *by providing the new loan servicer with information necessary for the new loan servicer to honor all*
 351 *benefits originally represented as available to a qualified education loan borrower during the repayment*
 352 *of the qualified education loan and preserve the availability of the benefits, including any benefits for*
 353 *which the loan borrower has not yet qualified; and*

354 7. *In the event of a sale, assignment, or other transfer of the servicing of a qualified education loan*
 355 *that results in a change in the identity of the person to whom a qualified education loan borrower is*
 356 *required to send payments or direct any communication concerning the qualified education loan:*

357 a. *Transfer to the new loan servicer all records regarding the qualified education loan borrower, the*
 358 *account of the loan borrower, and the qualified education loan of the loan borrower. Such records*
 359 *include the repayment status of the qualified education loan borrower and any benefits associated with*
 360 *the qualified education loan of the loan borrower. The transfer of records shall be completed within 45*
 361 *days after the sale, assignment, or other transfer of the servicing of a qualified education loan;*

362 *b. Notify affected qualified education loan borrowers of the sale, assignment, or other transfer of the*
 363 *servicing of a qualified education loan at least seven days before the next payment on the loan is due.*
 364 *The notice shall include (i) the identity of the new qualified education loan servicer; (ii) the effective*
 365 *date of the transfer of the borrower's qualified education loan to the new loan servicer; (iii) the date on*
 366 *which the existing loan servicer will no longer accept payments; and (iv) the contact information for the*
 367 *new loan servicer; and*

368 *c. Adopt policies and procedures to verify that the new qualified education loan servicer has received*
 369 *all records regarding the qualified education loan borrower, the account of the qualified education loan*
 370 *borrower, and the qualified education loan of the borrower, including the repayment status of the*
 371 *qualified education loan borrower and any benefits associated with the qualified education loan of the*
 372 *borrower.*

373 **§ 6.2-2612. Reporting requirements.**

374 *A. Within 15 days following the occurrence of any of the following events, a licensee shall file a*
 375 *written report with the Commission describing such event and its expected impact upon the business of*
 376 *the licensee:*

377 *1. The filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee;*

378 *2. The institution of administrative or regulatory proceedings against the licensee by any*
 379 *governmental authority;*

380 *3. Any felony indictment of the licensee or any of its members, directors, senior officers, trustees, or*
 381 *principals;*

382 *4. Any felony conviction of the licensee or any of its members, directors, senior officers, trustees, or*
 383 *principals; and*

384 *5. Such other events as the Commission may prescribe by regulation.*

385 *B. Each licensee shall file periodic written reports with the Commissioner or the Registry containing*
 386 *such information as the Commissioner may require concerning the licensee's business and operations.*
 387 *Reports shall be in the form and be submitted with such frequency and by such dates as may be*
 388 *prescribed by the Commissioner.*

389 **§ 6.2-2613. Investigations; examinations.**

390 *A. The Commission may, as often as it deems necessary, investigate and examine the affairs,*
 391 *business, premises, and records of any person licensed or required to be licensed under this chapter*
 392 *insofar as they pertain to any business for which a license is required by this chapter. Examinations of*
 393 *licensees shall be conducted at least once in each three-year period. In the course of such investigations*
 394 *and examinations, the owners, members, officers, directors, partners, trustees, and employees of the*
 395 *person being investigated or examined shall, upon demand of the person making such investigation or*
 396 *examination, afford full access to all premises, books, records, and information that the person making*
 397 *such investigation or examination deems necessary.*

398 *B. Examinations under this section may be conducted in conjunction with examinations to be*
 399 *performed by representatives of agencies of the federal government or another state. In lieu of*
 400 *conducting an examination, the Commission may accept the examination report of the federal*
 401 *government or another state.*

402 **§ 6.2-2614. Annual fees.**

403 *A. In order to defray the costs of their examination, supervision, and regulation, every licensee under*
 404 *this chapter shall pay an annual fee calculated in accordance with a schedule set by the Commission.*
 405 *All such fees shall be assessed on or before April 1 for every calendar year. All such fees shall be paid*
 406 *by the licensee to the State Treasurer on or before May 1 following each assessment.*

407 *B. In addition to the annual fee prescribed in subsection A, when it becomes necessary to examine or*
 408 *investigate the books and records of a licensee under this chapter at a location outside the*
 409 *Commonwealth, the licensee shall be liable for and shall pay to the Commission within 30 days of the*
 410 *presentation of an itemized statement the actual travel and reasonable living expenses incurred on*
 411 *account of its examination, supervision, and regulation or shall pay a reasonable per diem rate*
 412 *approved by the Commission.*

413 **§ 6.2-2615. Suspension or revocation of license.**

414 *A. The Commission may suspend or revoke any license issued under this chapter upon any of the*
 415 *following grounds:*

416 *1. Any ground for denial of a license under this chapter;*

417 *2. Any violation of the provisions of this chapter or regulations adopted by the Commission pursuant*
 418 *thereto, or a violation of any other law or regulation applicable to the conduct of the licensee's*
 419 *business;*

420 *3. A course of conduct consisting of the failure to perform written agreements with qualified*
 421 *education loan borrowers;*

422 *4. Failure to account for funds received or disbursed to the satisfaction of the person supplying or*

423 receiving qualified education loan funds;

424 5. Conviction of any felony or of a misdemeanor involving fraud, misrepresentation, or deceit;

425 6. Entry of a judgment against the licensee involving fraud, misrepresentation, or deceit;

426 7. Entry of a federal or state administrative order against the licensee for violation of any law or
427 regulation applicable to the conduct of the licensee's business;

428 8. Refusal to permit an investigation or examination by the Commission;

429 9. Failure to pay any fee or assessment imposed by this chapter; or

430 10. Failure to comply with any order of the Commission.

431 B. For the purposes of this section, acts of any senior officer, director, member, partner, trustee, or
432 principal shall be deemed acts of the licensee.

433 **§ 6.2-2616. Notice of proposed suspension or revocation.**

434 The Commission shall not revoke or suspend the license of any licensee upon any of the grounds set
435 forth in § 6.2-2615 until it has given the licensee (i) 21 days' notice in writing of the reasons for the
436 proposed revocation or suspension and (ii) an opportunity to introduce evidence and be heard. The
437 notice shall be sent by certified mail to the principal place of business of such licensee and shall state
438 with particularity the grounds for the contemplated action. Within 14 days of mailing the notice, the
439 licensee named therein may file with the Clerk of the Commission a written request for a hearing. If a
440 hearing is requested, the Commission shall not suspend or revoke the license except based upon findings
441 made at such hearing. The hearing shall be conducted in accordance with the Commission's Rules.

442 **§ 6.2-2617. Cease and desist orders.**

443 A. If the Commission determines that any person has violated any provision of this chapter or any
444 regulation adopted by the Commission pursuant thereto, or violated any other law or regulation
445 applicable to the conduct of a licensee's business, the Commission may, upon 21 days' notice in writing,
446 order such person to cease and desist from such practices and to comply with the provisions of this
447 chapter and other applicable laws and regulations. The notice shall be sent by certified mail to the
448 principal place of business of such person or other address authorized under § 12.1-19.1 and shall state
449 the grounds for the contemplated action.

450 B. Within 14 days of mailing the notice, the person named therein may file with the clerk of the
451 Commission a written request for a hearing. If a hearing is requested, the Commission shall not issue a
452 cease and desist order except on the basis of findings made at the hearing. The hearing shall be
453 conducted in accordance with the Commission's Rules. The Commission may enforce compliance with
454 any order issued under this section by imposition and collection of such fines and penalties as may be
455 prescribed by law.

456 **§ 6.2-2618. Civil penalties.**

457 The Commission may impose a civil penalty not exceeding \$2,500 upon any person who it
458 determines, in proceedings commenced in accordance with the Commission's Rules, has violated any of
459 the provisions of this chapter or regulations adopted by the Commission pursuant thereto or violated
460 any other law or regulation applicable to conduct of the person's business. For the purposes of this
461 section, each separate violation shall be subject to the civil penalty prescribed in this section, and each
462 day that an unlicensed person engages in the business of a qualified education loan servicer shall
463 constitute a separate violation.

464 **§ 6.2-2619. Private cause of action.**

465 A. A qualified education loan servicer shall:

466 1. Comply with this chapter.

467 2. Comply with all applicable federal laws related to qualified education loan servicing, as from time
468 to time amended, and the regulations promulgated thereunder.

469 B. Any person who suffers damage as a result of the failure of a qualified education loan servicer to
470 comply with the requirements of subdivisions A 1 and 2 may bring an action against that qualified
471 education loan servicer to recover or obtain any of the following:

472 1. Actual damages, but in no case shall the total award of damages be less than \$500 per violation;

473 2. An order enjoining the methods, acts, or practices;

474 3. Restitution of property;

475 4. Punitive damages;

476 5. Attorney fees; and

477 6. Any other relief the court deems proper.

478 C. In addition to any other remedies provided by this section or otherwise provided by law,
479 whenever it is proven by a preponderance of the evidence that a qualified education loan servicer has
480 engaged in conduct that substantially interferes with a borrower's right to (i) an alternative payment
481 arrangement; (ii) loan forgiveness, cancellation, or discharge; or (iii) any other financial benefit as
482 established under the terms of a borrower's promissory note or under the Higher Education Act of 1965,
483 20 U.S.C. § 1070a et seq., as amended from time to time, and regulations promulgated thereunder, the

484 court shall award treble actual damages to the plaintiff, but in no case shall the award of damages be
485 less than \$1,500 per violation.

486 D. The remedies provided in this section are not intended to be the exclusive remedies available to
487 the qualified education loan borrower, and a qualified education loan borrower shall not be required to
488 exhaust any administrative remedies established pursuant to this chapter or any other applicable law
489 prior to proceeding under this section.

490 **§ 6.2-2620. Investigating and restraining prohibited acts.**

491 A. Notwithstanding the provisions of § 59.1-199, whenever the Attorney General has reasonable
492 cause to believe that any person has engaged in, or is engaging in, or is about to engage in any
493 violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The
494 provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to
495 this section.

496 B. Notwithstanding any other provisions of law to the contrary, the Attorney General may cause an
497 action to be brought in the appropriate circuit court in the name of the Commonwealth to enjoin any
498 violation of this chapter. The circuit court having jurisdiction may enjoin such violations
499 notwithstanding the existence of an adequate remedy at law. In any action under this section, it shall
500 not be necessary that damages be proved.

501 C. The circuit courts are authorized to issue temporary or permanent injunctions to restrain and
502 prevent violations of this chapter.

503 **§ 6.2-2621. Violation of the Virginia Consumer Protection Act.**

504 Notwithstanding the provisions of § 59.1-199, any violation of the provisions of this chapter shall
505 constitute a prohibited practice in accordance with § 59.1-200 and shall be subject to any and all of the
506 enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

507 **§ 6.2-2622. Regulations.**

508 The Commission shall adopt such regulations as it deems appropriate to effect the purposes of this
509 chapter. Before adopting any such regulation, the Commission shall give reasonable notice of its content
510 and shall afford interested parties an opportunity to be heard, in accordance with the Commission's
511 Rules.

512 **§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record**
513 **information.**

514 A. Criminal history record information shall be disseminated, whether directly or through an
515 intermediary, only to:

516 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
517 purposes of the administration of criminal justice and the screening of an employment application or
518 review of employment by a criminal justice agency with respect to its own employees or applicants, and
519 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
520 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
521 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
522 purposes of this subdivision, criminal history record information includes information sent to the Central
523 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
524 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
525 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
526 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
527 Commonwealth for the purposes of the administration of criminal justice;

528 2. Such other individuals and agencies that require criminal history record information to implement
529 a state or federal statute or executive order of the President of the United States or Governor that
530 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
531 conduct, except that information concerning the arrest of an individual may not be disseminated to a
532 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
533 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
534 pending;

535 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
536 services required for the administration of criminal justice pursuant to that agreement which shall
537 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
538 security and confidentiality of the data;

539 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
540 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
541 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
542 security of the data;

543 5. Agencies of state or federal government that are authorized by state or federal statute or executive
544 order of the President of the United States or Governor to conduct investigations determining

545 employment suitability or eligibility for security clearances allowing access to classified information;

546 6. Individuals and agencies where authorized by court order or court rule;

547 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
548 owned, operated or controlled by any political subdivision, and any public service corporation that
549 operates a public transit system owned by a local government for the conduct of investigations of
550 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
551 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
552 conviction record would be compatible with the nature of the employment, permit, or license under
553 consideration;

554 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
555 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
556 position of employment whenever, in the interest of public welfare or safety and as authorized in the
557 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
558 with a conviction record would be compatible with the nature of the employment under consideration;

559 8. Public or private agencies when authorized or required by federal or state law or interstate
560 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
561 adult members of that individual's household, with whom the agency is considering placing a child or
562 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
563 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
564 the data shall not be further disseminated to any party other than a federal or state authority or court as
565 may be required to comply with an express requirement of law;

566 9. To the extent permitted by federal law or regulation, public service companies as defined in
567 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
568 personal contact with the public or when past criminal conduct of an applicant would be incompatible
569 with the nature of the employment under consideration;

570 10. The appropriate authority for purposes of granting citizenship and for purposes of international
571 travel, including, but not limited to, issuing visas and passports;

572 11. A person requesting a copy of his own criminal history record information as defined in
573 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
574 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
575 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
576 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
577 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
578 Solvers or Crime Line program as defined in § 15.2-1713.1;

579 12. Administrators and board presidents of and applicants for licensure or registration as a child
580 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
581 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
582 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
583 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
584 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
585 that the data shall not be further disseminated by the facility or agency to any party other than the data
586 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
587 may be required to comply with an express requirement of law for such further dissemination;

588 13. The school boards of the Commonwealth for the purpose of screening individuals who are
589 offered or who accept public school employment and those current school board employees for whom a
590 report of arrest has been made pursuant to § 19.2-83.1;

591 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
592 (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of
593 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

594 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
595 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
596 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
597 the limitations set out in subsection E;

598 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
599 investigations of applicants for compensated employment in licensed assisted living facilities and
600 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

601 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
602 in § 4.1-103.1;

603 18. The State Board of Elections and authorized officers and employees thereof and general registrars
604 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
605 voter registration, limited to any record of felony convictions;

606 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
607 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
608 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

609 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
610 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
611 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

612 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
613 Department of Education, or the Department of Behavioral Health and Developmental Services for the
614 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
615 services;

616 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
617 Department for the purpose of determining an individual's fitness for employment pursuant to
618 departmental instructions;

619 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
620 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
621 records information on behalf of such governing boards or administrators pursuant to a written
622 agreement with the Department of State Police;

623 24. Public institutions of higher education and nonprofit private institutions of higher education for
624 the purpose of screening individuals who are offered or accept employment;

625 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
626 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
627 higher education, for the purpose of assessing or intervening with an individual whose behavior may
628 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
629 history record information obtained pursuant to this section or otherwise use any record of an individual
630 beyond the purpose that such disclosure was made to the threat assessment team;

631 26. Executive directors of community services boards or the personnel director serving the
632 community services board for the purpose of determining an individual's fitness for employment,
633 approval as a sponsored residential service provider, or permission to enter into a shared living
634 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
635 §§ 37.2-506 and 37.2-607;

636 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
637 determining an individual's fitness for employment, approval as a sponsored residential service provider,
638 or permission to enter into a shared living arrangement with a person receiving medical assistance
639 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

640 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
641 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
642 name, address, demographics and social security number of the data subject shall be released;

643 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
644 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
645 purpose of determining if any applicant who accepts employment in any direct care position or requests
646 approval as a sponsored residential service provider or permission to enter into a shared living
647 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
648 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
649 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
650 37.2-607;

651 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
652 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
653 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

654 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
655 for the purpose of determining if any person being considered for election to any judgeship has been
656 convicted of a crime;

657 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
658 determining an individual's fitness for employment in positions designated as sensitive under Department
659 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

660 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
661 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
662 Violent Predators Act (§ 37.2-900 et seq.);

663 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
664 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
665 companies, for the conduct of investigations of applications for employment or for access to facilities,
666 by contractors, leased laborers, and other visitors;

667 35. Any employer of individuals whose employment requires that they enter the homes of others, for
 668 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

669 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
 670 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
 671 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
 672 subject to the restriction that the data shall not be further disseminated by the agency to any party other
 673 than a federal or state authority or court as may be required to comply with an express requirement of
 674 law for such further dissemination, subject to limitations set out in subsection G;

675 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
 676 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
 677 or have accepted a position related to the provision of transportation services to enrollees in the
 678 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
 679 program administered by the Department of Medical Assistance Services;

680 38. The State Corporation Commission for the purpose of investigating individuals who are current
 681 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 682 Chapter 16 (§ 6.2-1600 et seq.) or, Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.)
 683 of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
 684 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or,
 685 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
 686 information to the applicant or its designee;

687 39. The Department of Professional and Occupational Regulation for the purpose of investigating
 688 individuals for initial licensure pursuant to § 54.1-2106.1;

689 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
 690 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
 691 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
 692 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

693 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

694 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
 695 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

696 43. The Department of Social Services and directors of local departments of social services for the
 697 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
 698 or a local department of social services for the provision of child care services for which child care
 699 subsidy payments may be provided;

700 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
 701 a juvenile's household when completing a predispositional or postdispositional report required by
 702 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

703 45. Other entities as otherwise provided by law.

704 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
 705 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
 706 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
 707 designated in the order on whom a report has been made under the provisions of this chapter.

708 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
 709 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
 710 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
 711 copy of conviction data covering the person named in the request to the person making the request;
 712 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
 713 making of such request. A person receiving a copy of his own conviction data may utilize or further
 714 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
 715 subject, the person making the request shall be furnished at his cost a certification to that effect.

716 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
 717 section shall be limited to the purposes for which it was given and may not be disseminated further.

718 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
 719 history record information for employment or licensing inquiries except as provided by law.

720 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
 721 Exchange prior to dissemination of any criminal history record information on offenses required to be
 722 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
 723 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
 724 where time is of the essence and the normal response time of the Exchange would exceed the necessary
 725 time period. A criminal justice agency to whom a request has been made for the dissemination of
 726 criminal history record information that is required to be reported to the Central Criminal Records
 727 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.

728 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
729 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

730 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
731 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
732 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

733 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
734 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
735 for any offense specified in § 63.2-1720.

736 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
737 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
738 definition of barrier crime in § 19.2-392.02.

739 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
740 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
741 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
742 the request to the employer or prospective employer making the request, provided that the person on
743 whom the data is being obtained has consented in writing to the making of such request and has
744 presented a photo-identification to the employer or prospective employer. In the event no conviction data
745 is maintained on the person named in the request, the requesting employer or prospective employer shall
746 be furnished at his cost a certification to that effect. The criminal history record search shall be
747 conducted on forms provided by the Exchange.

748 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
749 information pursuant to the rules of court for obtaining discovery or for review by the court.

750 **§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.**

751 A. Criminal history record information shall be disseminated, whether directly or through an
752 intermediary, only to:

753 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
754 purposes of the administration of criminal justice and the screening of an employment application or
755 review of employment by a criminal justice agency with respect to its own employees or applicants, and
756 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
757 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
758 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
759 purposes of this subdivision, criminal history record information includes information sent to the Central
760 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
761 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
762 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
763 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
764 Commonwealth for the purposes of the administration of criminal justice;

765 2. Such other individuals and agencies that require criminal history record information to implement
766 a state or federal statute or executive order of the President of the United States or Governor that
767 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
768 conduct, except that information concerning the arrest of an individual may not be disseminated to a
769 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
770 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
771 pending;

772 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
773 services required for the administration of criminal justice pursuant to that agreement which shall
774 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
775 security and confidentiality of the data;

776 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
777 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
778 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
779 security of the data;

780 5. Agencies of state or federal government that are authorized by state or federal statute or executive
781 order of the President of the United States or Governor to conduct investigations determining
782 employment suitability or eligibility for security clearances allowing access to classified information;

783 6. Individuals and agencies where authorized by court order or court rule;

784 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
785 owned, operated or controlled by any political subdivision, and any public service corporation that
786 operates a public transit system owned by a local government for the conduct of investigations of
787 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
788 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a

789 conviction record would be compatible with the nature of the employment, permit, or license under
790 consideration;

791 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
792 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
793 position of employment whenever, in the interest of public welfare or safety and as authorized in the
794 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
795 with a conviction record would be compatible with the nature of the employment under consideration;

796 8. Public or private agencies when authorized or required by federal or state law or interstate
797 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
798 adult members of that individual's household, with whom the agency is considering placing a child or
799 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
800 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
801 the data shall not be further disseminated to any party other than a federal or state authority or court as
802 may be required to comply with an express requirement of law;

803 9. To the extent permitted by federal law or regulation, public service companies as defined in
804 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
805 personal contact with the public or when past criminal conduct of an applicant would be incompatible
806 with the nature of the employment under consideration;

807 10. The appropriate authority for purposes of granting citizenship and for purposes of international
808 travel, including, but not limited to, issuing visas and passports;

809 11. A person requesting a copy of his own criminal history record information as defined in
810 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
811 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
812 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
813 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
814 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
815 Solvers or Crime Line program as defined in § 15.2-1713.1;

816 12. Administrators and board presidents of and applicants for licensure or registration as a child
817 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
818 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
819 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
820 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
821 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
822 that the data shall not be further disseminated by the facility or agency to any party other than the data
823 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
824 may be required to comply with an express requirement of law for such further dissemination;

825 13. The school boards of the Commonwealth for the purpose of screening individuals who are
826 offered or who accept public school employment and those current school board employees for whom a
827 report of arrest has been made pursuant to § 19.2-83.1;

828 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
829 (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of
830 investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

831 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
832 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
833 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
834 the limitations set out in subsection E;

835 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
836 investigations of applicants for compensated employment in licensed assisted living facilities and
837 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

838 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
839 in § 4.1-103.1;

840 18. The State Board of Elections and authorized officers and employees thereof and general registrars
841 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
842 voter registration, limited to any record of felony convictions;

843 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
844 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
845 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

846 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
847 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
848 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

849 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the

850 Department of Education, or the Department of Behavioral Health and Developmental Services for the
851 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
852 services;

853 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
854 Department for the purpose of determining an individual's fitness for employment pursuant to
855 departmental instructions;

856 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
857 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
858 records information on behalf of such governing boards or administrators pursuant to a written
859 agreement with the Department of State Police;

860 24. Public institutions of higher education and nonprofit private institutions of higher education for
861 the purpose of screening individuals who are offered or accept employment;

862 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
863 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
864 higher education, for the purpose of assessing or intervening with an individual whose behavior may
865 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
866 history record information obtained pursuant to this section or otherwise use any record of an individual
867 beyond the purpose that such disclosure was made to the threat assessment team;

868 26. Executive directors of community services boards or the personnel director serving the
869 community services board for the purpose of determining an individual's fitness for employment,
870 approval as a sponsored residential service provider, or permission to enter into a shared living
871 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
872 §§ 37.2-506 and 37.2-607;

873 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
874 determining an individual's fitness for employment, approval as a sponsored residential service provider,
875 or permission to enter into a shared living arrangement with a person receiving medical assistance
876 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

877 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
878 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
879 name, address, demographics and social security number of the data subject shall be released;

880 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
881 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
882 purpose of determining if any applicant who accepts employment in any direct care position or requests
883 approval as a sponsored residential service provider or permission to enter into a shared living
884 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
885 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
886 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
887 37.2-607;

888 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
889 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
890 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

891 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
892 for the purpose of determining if any person being considered for election to any judgeship has been
893 convicted of a crime;

894 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
895 determining an individual's fitness for employment in positions designated as sensitive under Department
896 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

897 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
898 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
899 Violent Predators Act (§ 37.2-900 et seq.);

900 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
901 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
902 companies, for the conduct of investigations of applications for employment or for access to facilities,
903 by contractors, leased laborers, and other visitors;

904 35. Any employer of individuals whose employment requires that they enter the homes of others, for
905 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

906 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
907 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
908 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
909 subject to the restriction that the data shall not be further disseminated by the agency to any party other
910 than a federal or state authority or court as may be required to comply with an express requirement of

911 law for such further dissemination, subject to limitations set out in subsection G;

912 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
 913 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
 914 or have accepted a position related to the provision of transportation services to enrollees in the
 915 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
 916 program administered by the Department of Medical Assistance Services;

917 38. The State Corporation Commission for the purpose of investigating individuals who are current
 918 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 919 Chapter 16 (§ 6.2-1600 et seq.) ~~or~~, Chapter 19 (§ 6.2-1900 et seq.), *or Chapter 26 (§ 6.2-2600 et seq.)*
 920 of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
 921 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 ~~or~~,
 922 19, *or 26* of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such
 923 information to the applicant or its designee;

924 39. The Department of Professional and Occupational Regulation for the purpose of investigating
 925 individuals for initial licensure pursuant to § 54.1-2106.1;

926 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
 927 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
 928 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
 929 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

930 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

931 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
 932 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

933 43. The Department of Social Services and directors of local departments of social services for the
 934 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
 935 or a local department of social services for the provision of child care services for which child care
 936 subsidy payments may be provided;

937 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
 938 a juvenile's household when completing a predispositional or postdispositional report required by
 939 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

940 45. The State Corporation Commission, for the purpose of screening applicants for insurance
 941 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

942 46. Other entities as otherwise provided by law.

943 Upon an *ex parte* motion of a defendant in a felony case and upon the showing that the records
 944 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
 945 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
 946 designated in the order on whom a report has been made under the provisions of this chapter.

947 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
 948 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
 949 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
 950 copy of conviction data covering the person named in the request to the person making the request;
 951 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
 952 making of such request. A person receiving a copy of his own conviction data may utilize or further
 953 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
 954 subject, the person making the request shall be furnished at his cost a certification to that effect.

955 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
 956 section shall be limited to the purposes for which it was given and may not be disseminated further.

957 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
 958 history record information for employment or licensing inquiries except as provided by law.

959 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
 960 Exchange prior to dissemination of any criminal history record information on offenses required to be
 961 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
 962 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
 963 where time is of the essence and the normal response time of the Exchange would exceed the necessary
 964 time period. A criminal justice agency to whom a request has been made for the dissemination of
 965 criminal history record information that is required to be reported to the Central Criminal Records
 966 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
 967 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
 968 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

969 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
 970 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
 971 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

972 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
973 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
974 for any offense specified in § 63.2-1720.

975 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
976 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
977 definition of barrier crime in § 19.2-392.02.

978 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
979 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
980 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
981 the request to the employer or prospective employer making the request, provided that the person on
982 whom the data is being obtained has consented in writing to the making of such request and has
983 presented a photo-identification to the employer or prospective employer. In the event no conviction data
984 is maintained on the person named in the request, the requesting employer or prospective employer shall
985 be furnished at his cost a certification to that effect. The criminal history record search shall be
986 conducted on forms provided by the Exchange.

987 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
988 information pursuant to the rules of court for obtaining discovery or for review by the court.

989 **§ 59.1-200. Prohibited practices.**

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

- 992 1. Misrepresenting goods or services as those of another;
- 993 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 994 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
995 services, with another;

- 996 4. Misrepresenting geographic origin in connection with goods or services;
- 997 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
998 benefits;

- 999 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 1000 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
1001 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first
1002 class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods
1003 are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds,"
1004 irregulars, imperfects or "not first class";

- 1005 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
1006 at the price or upon the terms advertised.

1007 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or
1008 servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
1009 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph
1010 shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such
1011 goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or
1012 amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement
1013 or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

- 1014 9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts
1015 of price reductions;

- 1016 10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts
1017 installed;

- 1018 11. Misrepresenting by the use of any written or documentary material that appears to be an invoice
1019 or bill for merchandise or services previously ordered;

- 1020 12. Notwithstanding any other provision of law, using in any manner the words "wholesale,"
1021 "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the
1022 supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in
1023 manufacturing the goods or services advertised or offered for sale;

- 1024 13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of
1025 defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages,
1026 or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth,
1027 or under federal statutes or regulations;

- 1028 13a. Failing to provide to a consumer, or failing to use or include in any written document or
1029 material provided to or executed by a consumer, in connection with a consumer transaction any
1030 statement, disclosure, notice, or other information however characterized when the supplier is required
1031 by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other
1032 information in connection with the consumer transaction;

- 1033 14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection
1034 with a consumer transaction;
- 1035 15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain
1036 animals by pet dealers which is described in such sections, is a violation of this chapter;
- 1037 16. Failing to disclose all conditions, charges, or fees relating to:
- 1038 a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign
1039 attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be
1040 readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does
1041 not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of
1042 this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not
1043 less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account
1044 for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase.
1045 In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any
1046 refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision
1047 does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise
1048 reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser
1049 has requested the supplier to order merchandise of a specific or unusual size, color, or brand not
1050 ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a
1051 transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in
1052 § 46.2-100;
- 1053 b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time
1054 of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the
1055 premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill
1056 of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches
1057 the agreement;
- 1058 16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess
1059 of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment
1060 on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of
1061 receiving overpayments. If the credit balance information is incorporated into statements of account
1062 furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;
- 1063 17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in
1064 connection with a consumer transaction, failing to adhere to the terms and conditions of such an
1065 agreement;
- 1066 18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);
- 1067 19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et
1068 seq.);
- 1069 20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et
1070 seq.);
- 1071 21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4
1072 (§ 59.1-207.17 et seq.);
- 1073 22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
- 1074 23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32
1075 (§ 59.1-424 et seq.);
- 1076 24. Violating any provision of § 54.1-1505;
- 1077 25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter
1078 17.6 (§ 59.1-207.34 et seq.);
- 1079 26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
- 1080 27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
- 1081 28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
- 1082 29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et
1083 seq.);
- 1084 30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et
1085 seq.);
- 1086 31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
- 1087 32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
- 1088 33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
- 1089 34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
- 1090 35. Using the consumer's social security number as the consumer's account number with the supplier,
1091 if the consumer has requested in writing that the supplier use an alternate number not associated with
1092 the consumer's social security number;
- 1093 36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

- 1094 37. Violating any provision of § 8.01-40.2;
- 1095 38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
- 1096 39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
- 1097 40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
- 1098 41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46
- 1099 (§ 59.1-525 et seq.);
- 1100 42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
- 1101 43. Violating any provision of § 59.1-443.2;
- 1102 44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
- 1103 45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
- 1104 46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
- 1105 47. Violating any provision of § 18.2-239;
- 1106 48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
- 1107 49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has
- 1108 reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable
- 1109 presumption that a supplier has reason to know a children's product was recalled if notice of the recall
- 1110 has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale
- 1111 on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to
- 1112 children's products that are used, secondhand or "seconds";
- 1113 50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
- 1114 51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
- 1115 52. Violating any provision of § 8.2-317.1;
- 1116 53. Violating subsection A of § 9.1-149.1;
- 1117 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential
- 1118 dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective
- 1119 drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in
- 1120 which defective drywall has been permanently installed or affixed;
- 1121 55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while
- 1122 engaged in a transaction that was initiated (i) during a declared state of emergency as defined in
- 1123 § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of
- 1124 emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant
- 1125 to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
- 1126 56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
- 1127 57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
- 1128 58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
- 1129 59. Violating any provision of subsection E of § 32.1-126; ~~and~~
- 1130 60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed
- 1131 under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1; *and*
- 1132 *61. Violating any provision of Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2.*
- 1133 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
- 1134 lease solely by reason of the failure of such contract or lease to comply with any other law of the
- 1135 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
- 1136 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable
- 1137 such contract or lease.
- 1138 **2. That the provisions of the first enactment of this act shall become effective on July 1, 2021.**
- 1139 **3. That on or before March 1, 2021, the State Corporation Commission shall begin accepting**
- 1140 **applications for licenses to be issued pursuant to Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2 of the**
- 1141 **Code of Virginia, as created by this act, when such chapter becomes effective. Applications filed**
- 1142 **with the Commission may be investigated prior to July 1, 2021, in accordance with § 6.2-2605 of**
- 1143 **the Code of Virginia, as created by this act.**
- 1144 **4. That the State Corporation Commission (the Commission) shall provide a report to members of**
- 1145 **the House Committee on Labor and Commerce, the Senate Committee on Commerce and Labor,**
- 1146 **the House Committee on Education, and the Senate Committee on Education and Health on or**
- 1147 **before November 1, 2022, that contains the following: (i) the number of licenses issued under**
- 1148 **Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2 of the Code of Virginia, as created by this act (the**
- 1149 **Chapter); (ii) the number of applications for a license under the Chapter that have been denied**
- 1150 **and the reasons for such denials; (iii) the number of licensees under the Chapter that filed a**
- 1151 **written report with the Commission pursuant to subsection A of § 6.2-2612, as created by this act,**
- 1152 **and for which of the events enumerated in subdivisions A 1 through 5 of § 6.2-2612, as created by**
- 1153 **this act, the written report was filed; (iv) the number and nature of complaints received under the**
- 1154 **Chapter; and (v) the number of investigations and examinations resulting from such complaints**

1155 and the disposition of such investigations and examinations.