LEGAL UPDATE 2021

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LEGAL UPDATE 2021

- General Assembly 2020 Special Session I
- General Assembly 2021 Session
- General Assembly 2021 Special Session I

EMERGENCY RELIEF PAYMENTS - GARNISHMENT

- **H.B. 5068 Emergency relief payments; automatic exemption from creditor process.**
- Effective October 28, 2020

EMERGENCY RELIEF PAYMENTS - GARNISHMENT

§ **8.01-512.4**. Notice of exemptions from garnishment and lien.

No summons in garnishment shall be issued or served, nor shall any notice of lien be served on a financial institution pursuant to § 8.01-502.1, unless a notice of exemptions and claim for exemption form are attached. The notice shall contain the following statement:

NOTICE TO JUDGMENT DEBTOR

HOW TO CLAIM EXEMPTIONS FROM GARNISHMENT AND LIEN …

I claim that the exemption(s) from garnishment or lien that are checked below apply in this case:

MAJOR EXEMPTIONS UNDER FEDERAL AND STATE LAW

23. Emergency relief payments (§ **34-28.3**, Code of Virginia).

§ **34-28.3**. Emergency relief payments exempt.

A. For the purposes of this section, "emergency relief payment" means a 2020 recovery rebate for individuals and qualifying children provided pursuant to § 2201 of the federal Coronavirus Aid, Relief, and Economic Security Act (P.L. **116-136**) or any future federal payments or rebates provided directly to individuals for economic relief or stimulus due to the COVID-19 pandemic, not to exceed $1,200 per individual per payment or rebate, and not to exceed $500 for each qualifying child paid to the individual per payment or rebate.

EMERGENCY RELIEF PAYMENTS - GARNISHMENT

§ **34-28.3 B**. All emergency relief payments paid to individuals shall be automatically exempt from the creditor process. Any financial institution, as defined by § **6.2-100**, receiving such payments directly from the federal government shall exempt such payments from the creditor process if (i) the payment is marked by the federal government as an "emergency relief payment" or includes some other unique identifier that is reasonably sufficient to allow the financial institution to identify the funds as an emergency relief payment or (ii) the federal government or accountholder receiving the emergency relief payment gives notice to the financial institution of such payment. In exempting emergency relief payments on deposit from the creditor process, a financial institution shall look back two months preceding the date of receipt of service of the creditor process. The financial institution shall perform a one-time account review separately for each account in the name of an account holder who is subject to the creditor process without consideration for any other attributes of the account or the creditor process, including (a) the presence of other funds, from whatever source, that may be commingled in the account with funds from an emergency relief payment; (b) the existence of a co-owner on the account; and (c) the balance in the account, provided the balance is above zero dollars on the date of account review. After conducting the account review, a financial institution shall exempt from the creditor process the lesser of the sum of all posted emergency relief payments to an account between the close of business on the beginning date of the lookback period and the open of business on the ending date of the lookback period or the balance in an account when the account review is performed.

EMERGENCY RELIEF PAYMENTS - GARNISHMENT

§ **34-28.3 B, Cont. -** If the creditor process involves a court return date, such as a garnishment, and requires a continued hold on the account, including any deposits made up to the return date, then if an emergency relief payment is deposited into an account after the completion of the account review but before the creditor process or garnishment return date and the account holder notifies the financial institution that the deposit of an emergency relief payment has been made, the financial institution must review the account. If the financial institution verifies that the deposited funds are exempt under this section, then such deposited funds shall be treated as exempt from the creditor process or garnishment. This second account review shall begin within two business days of receiving the notice from the account holder and shall cover the period from the start of business on the date of the completion of the previous account review to the end of business on the date of the notification from the account holder. For any creditor process that requires a continued hold, such as a garnishment where the account hold must continue until the garnishment return date, the account holder may access exempt funds by withdrawal as permitted by the financial institution.

EMERGENCY RELIEF PAYMENTS - GARNISHMENT

- In its answer to the creditor process, the financial institution shall state the amount of account funds that are being held pursuant to the creditor process and the amount of account funds that were treated as exempt under this section.
- A financial institution that makes a good faith effort to comply with the requirements set forth herein shall not be subject to liability or regulatory action under any state law, regulation, court or other order, or regulatory interpretation for actions concerning any emergency relief payments.
- Emergency relief payments shall be exempt from the creditor process even if deposited into an account with a financial institution or other organization accepting deposits and thereby commingled with other funds.
- For the purposes of this section, no such exemption shall extend to child support, spousal support, or criminal restitution orders.

EMERGENCY RELIEF PAYMENTS - GARNISHMENT

§ **34-28.3** C. If a financial institution does not set aside an emergency relief payment as exempt from the creditor process, then the accountholder receiving such payment must claim the exemption within the time limits prescribed by subsection B of § **34-17** and in the manner prescribed under § **8.01-512.4**.

2. That an emergency exists and this act is in force from its passage.

3. The exemption created by this act shall not extend to a garnishment process or other creditor process that concluded before the enactment of this act.

EMERGENCY RELIEF PAYMENTS - GARNISHMENT

- In the Budget Bill, the Governor exempted the full amount of economic relief payments.
- This amendment removes the limits on federal COVID-19 economic relief payments exempt from the creditor process. Current law defines "emergency relief payment" and exempts up to $1,200 of economic relief payments from the creditor process in the legislation passed at the 2020 special session. This amendment removes that limit to reflect the additional payments received under the American Rescue Plan Act (ARPA).

IOLTA ACCOUNTS

- **H.B. 1853 - Lawyers; client accounts.**
- Repeals the provision prohibiting the Supreme Court of Virginia from adopting a disciplinary rule requiring that lawyers deposit client funds in an interest-bearing account.
- Provides that any rule promulgated by the Supreme Court of Virginia requiring attorney participation in the Interest on Lawyers Trust Accounts (IOLTA) program clearly state that an attorney or law firm has no responsibility to remit interest earned to the IOLTA program.

IOLTA ACCOUNTS

§ **54.1-3916**. Legal aid societies.

A. The Virginia State Bar through its governing body is authorized to promulgate rules and regulations governing the function and operation of legal aid societies to further the objective of providing legal assistance to persons requiring such assistance but unable to pay for it. To the extent that interest is paid by a financial institution on client funds deposited by attorneys or law firms in pooled interest-bearing accounts, any interest earned on such accounts shall be paid by the financial institution periodically, but at least quarterly, to the Legal Services Corporation of Virginia.

HOUSING PROTECTIONS - FORECLOSURE

- **H.B. 2175 / S.B. 1327 - Homeowners and tenants of manufactured home parks; housing protections, foreclosures, etc.**
- Amends the requirements for foreclosure
- Addition of affidavit requirement
- Increased time for notice
- Increased content requirements for notice

HOUSING PROTECTIONS - FORECLOSURE

§ **8.01-463**. Enforcement of lien when judgment does not exceed $25,000.

If the amount of the judgment does not exceed $25,000, exclusive of interest and costs, no bill to enforce the lien, pursuant to § **8.01-462**, thereof shall be entertained if the real estate is the judgment debtor's primary residence.

HOUSING PROTECTIONS - FORECLOSURE

§ **55.1-320**. How deed of trust construed; duties, rights, etc., of parties.

Every deed of trust to secure debts or indemnify sureties is in the nature of a contract and shall be construed according to its terms to the extent not in conflict with the requirements of law. Unless the deed of trust provides otherwise, it shall be construed to impose and confer upon the parties and beneficiaries the following duties, rights, and obligations in like manner as if the same were expressly provided for by such deed of trust:

10. In the case of a deed of trust conveying owner-occupied residential real estate, the trustee of such deed of trust shall not sell the property secured by the deed of trust without receiving an affidavit signed by the party that provided the notice required by § **55.1-321** confirming the notice was sent to the owner, with a copy of such notice attached to the affidavit. Prior to commencing a foreclosure sale with respect to such real estate, the trustee shall provide copies of such affidavit and notice, with any personal financial information redacted, to each potential bidder.

HOUSING PROTECTIONS – FORECLOSURE

§ 55.1-321. Notices required before sale by trustee to owners, lienors, etc.; if note lost.

A. In addition to the advertisement required by § **55.1-322**, the trustee or the party secured shall give written notice of the time, date, and place of any proposed sale in execution of a deed of trust, and such notice shall include either (i) the instrument number or deed book and page numbers of the instrument of appointment filed pursuant to § **55.1-320**, or (ii) a copy of the executed and notarized appointment of substitute trustee by personal delivery or by mail to (a) the present owner of the property to be sold at his last known address as such owner and address appear in the records of the party secured; (b) any subordinate lienholder who holds a note against the property secured by a deed of trust recorded at least 75 days, in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust, prior to the proposed sale and whose address is recorded with the deed of trust; (c) any assignee of such a note secured by a deed of trust, provided that the assignment and address of assignee are likewise recorded at least 75 days, in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust, prior to the proposed sale; (d) any condominium unit owners' association that has filed a lien pursuant to § **55.1-1966**; (e) any property owners' association that has filed a lien pursuant to § **55.1-1833**; and (f) any proprietary lessees' association that has filed a lien pursuant to § **55.1-2148**. Written notice shall be given pursuant to clauses (d), (e), and (f) only if the lien is recorded at least 75 days, in the case of a deed of trust conveying owner-occupied residential real estate, or 30 days, in the case of all other deeds of trust, prior to the proposed sale.

HOUSING PROTECTIONS - FORECLOSURE

§ 55.1-321, Cont.:

... Mailing of a copy of the advertisement or a notice containing the same information to the owner by certified or registered mail no less than 60 days prior to such sale, in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days prior to such sale, in the case of all other deeds of trust, and to lienholders, the property owners' association or proprietary lessees' association, their assigns, and the condominium unit owners' association, at the address noted in the memorandum of lien, by ordinary mail no less than 60 days prior to such sale, in the case of a deed of trust conveying owner-occupied residential real estate, or 14 days prior to such sale, in the case of all other deeds of trust, shall be a sufficient compliance with the requirement of notice. The written notice of proposed sale when given as provided in this subsection shall be deemed an effective exercise of any right of acceleration contained in such deed of trust or otherwise possessed by the party secured relative to the indebtedness secured. The inadvertent failure to give notice as required by this subsection shall not impose liability on either the trustee or the secured party. The foreclosure sale cannot go forward unless the trustee has proof that the notice has been sent.

HOUSING PROTECTIONS - FORECLOSURE

§ **55.1-321**. Notices required before sale by trustee to owners, lienors, etc.; if note lost.

E. In the case of a deed of trust conveying owner-occupied residential real estate, the notice to the owner in subdivisions A and B shall include the website address of the U.S. Housing and Urban Development's (HUD) Office of Housing Counseling with a listing of HUD-certified housing counseling agencies, the website address and telephone number of the statewide legal aid center, and the following language, or language that is substantially similar, in at least 12-point type: "This is NOT a notice to vacate the premises. You should consider contacting an attorney or your local legal aid or housing counseling agency."

F. In the case of a deed of trust conveying owner-occupied residential real estate, the notice to the owner in subsections A and B shall include the date of the last payment received and the amount received; the total amount of principal, interest, costs, and fees due in arrears; and the remaining total principal balance due on the instrument.

DEEDS OF TRUST

- **H.B. 1882 - Deeds of trust; amendment to loan document; statement of interest rate of a refinance mortgage.**
- A deed of trust that has been recorded and that states that it secures indebtedness or other obligations under a loan document and that it also secures indebtedness or other obligations under such loan document as it may be amended, modified, supplemented, or restated shall secure such loan document as amended, modified, supplemented, or restated from time to time, without the necessity of recording an amendment to such deed of trust.
- Requires that the interest rate of a prior mortgage be stated on the first page of a refinance mortgage.

DEEDS OF TRUST

§ **55.1-318.1**. Effect of amendment to loan document on deed of trust.

A deed of trust that has been recorded and that states that it secures indebtedness or other obligations under a loan document and that it also secures indebtedness or other obligations under such loan document as it may be amended, modified, supplemented, or restated shall secure such loan document as amended, modified, supplemented, or restated from time to time, without the necessity of recording an amendment to such deed of trust and without regard to whether any such amendment, modification, supplement, or restatement may otherwise constitute a novation of the indebtedness or other obligations under the loan document, and shall have the same priority as the priority of the original deed of trust recorded.

DEEDS OF TRUST

§ **55.1-318.1**

The foregoing provision shall not apply to any amendment, modification, supplement, or restatement of such loan document if (i) the deed of trust securing such loan document conveys an interest in residential real estate containing not more than one dwelling unit or (ii) such amendment, modification, supplement, or restatement of such loan document (a) increases the aggregate amount of the principal of the indebtedness secured by the original deed of trust, (b) changes or substitutes the noteholder, lender, or agent of any lender named in the original loan document, or (c) extends the maturity date of the indebtedness or obligation secured if such maturity date was set forth in the original deed of trust, and the effect of any such amendment, modification, supplement, or restatement shall be governed by the law that would otherwise apply without regard to this section. For the purposes of this section, "loan document" includes a note, loan agreement, credit agreement, or other document evidencing a loan or other indebtedness.

DEEDS OF TRUST

§ **55.1-319**. Priority of residential refinance mortgage over subordinate mortgage.

A. As used in this section:

"Prior mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an interest in residential real estate containing not more than one dwelling unit to secure a financing.

"Refinance mortgage" means a mortgage, deed of trust, or other instrument encumbering or conveying an interest in residential real estate containing not more than one dwelling unit to secure a refinancing.

"Refinancing" means the replacement of a loan secured by a prior mortgage with a new loan secured by a refinance mortgage and the payment in full of the debt owed under the original loan secured by the prior mortgage.

"Subordinate mortgage" means a mortgage or deed of trust securing an original principal amount not exceeding $150,000, encumbering or conveying an interest in residential real estate containing not more than one dwelling unit that is subordinate in priority (i) under subdivision A 1 of § **55.1-407** or (ii) as a result of a previous refinancing.

B. Upon the refinancing of a prior mortgage, a subordinate mortgage shall retain the same subordinate position with respect to a refinance mortgage as the subordinate mortgage had with the prior mortgage, provided that:

1. Such refinance mortgage states on the first page thereof in bold or capitalized letters: "THIS IS A REFINANCE OF A (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) RECORDED IN THE CLERK'S OFFICE, CIRCUIT COURT OF (NAME OF COUNTY OR CITY), VIRGINIA, IN DEED BOOK _____, PAGE _____, IN THE ORIGINAL PRINCIPAL AMOUNT OF _____, AND WITH THE OUTSTANDING PRINCIPAL BALANCE WHICH IS _____ WHICH HAD AN INTEREST RATE OF ___% PER ANNUM.";

2. The principal amount secured by such refinance mortgage does not exceed the outstanding principal balance secured by the prior mortgage plus $5,000; and

3. The interest rate of the refinance mortgage at the time it is recorded ~~and~~ does not exceed the interest rate of the prior mortgage. The interest rate of the prior mortgage shall be stated on the first page of the refinance mortgage.

DEEDS OF TRUST

§ **55.1-319 , Cont.**

C. The priorities among two or more subordinate mortgages shall be governed by subdivision A 1 of § **55.1-407**.

D. The provisions of subsection B shall not apply to a subordinate mortgage securing a promissory note payable to any locality or any agency, authority, or political subdivision of the Commonwealth if such subordinate mortgage is financed pursuant to an affordable dwelling unit ordinance adopted pursuant to § **15.2-2304** or **15.2-2305**, or pursuant to any program authorized by federal or state law or local ordinance or resolution, for (i) low-income and moderate-income persons or households or (ii) improvements to residential potable water supplies and sanitary sewage disposal systems made to address an existing or potential public health hazard, and which mortgage, if recorded on or after July 1, 2003, states on the first page thereof in bold or capitalized letters: "THIS (DEED OF TRUST, MORTGAGE OR OTHER SECURITY INTEREST) SHALL NOT, WITHOUT THE CONSENT OF THE SECURED PARTY HEREUNDER, BE SUBORDINATED UPON THE REFINANCING OF ANY PRIOR MORTGAGE."

R & D TAX CREDIT

- **H.B. 1916 / S.B. 1112 - Research and development expenses; tax credit available against the bank franchise tax.**
- Provides that the research and development expenses tax credit and the major research and development expenses tax credit shall be available against the bank franchise tax for taxable years beginning on and after January 1, 2021. Under current law, the credits are available only against the individual and corporate income tax.

R & D TAX CREDIT

§ **58.1-439.12:08** B.2. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, a taxpayer shall be allowed a credit against the tax levied pursuant to § **58.1-320**, **58.1-400**, or **58.1-1202** in an amount equal to (i) 15 percent of the first $300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year or (ii) 20 percent of the first $300,000 in Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year if the Virginia qualified research was conducted in conjunction with a public or private institution of higher education in the Commonwealth, to the extent the expenses exceed the Virginia base amount for the taxpayer.

R & D TAX CREDIT

§ **58.1-439.12:11** B. 1. For taxable years beginning on or after January 1, 2016, but before January 1, 2021, a taxpayer with Virginia qualified research and development expenses for the taxable year in excess of $5 million shall be allowed a credit against the tax levied pursuant to § **58.1-320** or **58.1-400** in an amount equal to 10 percent of the difference between (i) the Virginia qualified research and development expenses paid or incurred by the taxpayer during the taxable year and (ii) 50 percent of the average Virginia qualified research and development expenses paid or incurred by the taxpayer for the three taxable years immediately preceding the taxable year for which the credit is being determined. If the taxpayer did not pay or incur Virginia qualified research and development expenses in any one of the three taxable years immediately preceding the taxable year for which the credit is being determined, the tax credit shall equal five percent of the Virginia qualified research and development expenses paid or incurred by the taxpayer during the relevant taxable year.

GREEN BANK

- **H.B. 1919 - Local green banks.**
- Authorizes a locality, by ordinance, to establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies.
- Establishes certain powers and functions of a green bank, including developing rules and procedures, financing and providing loans for clean energy projects, and stimulating demand for renewable energy.
- Requires the green bank to be a public entity, quasi-public entity, depository bank, or nonprofit entity and requires the locality to hold a hearing and publish notice of the hearing in a newspaper of general circulation prior to establishing the green bank.

GREEN BANK

§ **15.2-958.3:1. Local green banks.**

A. As used in this section, "clean energy technologies" means energy resources and emerging technologies that have significant potential for commercialization and do not involve (i) the combustion of coal, petroleum or petroleum products, or municipal solid waste or (ii) nuclear fission. "Clean energy technologies" includes renewable energy sources, projects, and infrastructure; energy efficiency projects; alternative fuels used for electricity generation; alternative fuel vehicles and related infrastructure such as electric vehicle charging station infrastructure; and smart grid.

GREEN BANK

§ **15.2-958.3:1 B**. Any locality may, by ordinance, establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies. Such ordinance may include the following functions for a green bank:

1. Finance investment or financial support of investment in clean energy technologies to foster the growth and development of renewable energy sources;
2. Stimulate the demand for renewable energy and the deployment of clean energy technologies that serve end-use customers;
3. Before making any loan, loan guarantee, or other form of financing support for clean energy technologies, develop rules, policies, and procedures to specify borrower eligibility and any other term or condition of financial support;
4. Provide financing or financial support for clean energy technologies;
5. Develop consumer protection standards for investments to ensure that the green bank and its partners are lending in a transparent and responsible manner that is in the financial interests of the borrowers; and
6. Undertake any other activity as needed to support the mission of the green bank.

GREEN BANK

§ **15.2-958.3:1**

C. In establishing a green bank, the locality shall determine whether the green bank will be a public entity, quasi-public entity, depository bank, or nonprofit entity.

D. The locality shall offer private lending institutions the opportunity to participate in the green bank established pursuant to this section.

E. Prior to the adoption of any ordinance pursuant to this section, the locality shall conduct a public hearing at which interested persons may object to or inquire about the proposed green bank or any of its particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper of general circulation in the locality.

ADULT FINANCIAL EXPLOITATION

- **H.B. 2018 / S.B. 1297 - Emergency order for adult protective services; acts of violence, force, or threat or financial exploitation; penalty.** Allows the circuit court, upon a finding that an incapacitated adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, to include in an emergency order for adult protective services one or more of the following conditions to be imposed on the alleged perpetrator: (i) a prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) a prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any
- Any person who violates any such condition is guilty of a Class 1 misdemeanor.

ADULT FINANCIAL EXPLOITATION

- § **63.2-1603**. Protection of adults; definitions.
- "Financial exploitation" means the illegal, unauthorized, improper, or fraudulent use of the funds, property, benefits, resources, or other assets of an adult for another's profit, benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Financial exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services.
- "Financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.

ADULT FINANCIAL EXPLOITATION

§ **63.2-1609 B. 8.** Upon a finding that the adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, the court may include in its order one or more of the following conditions to be imposed on the alleged perpetrator: (i) prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. Any person who violates a condition imposed pursuant to this subdivision is guilty of a Class 1 misdemeanor.

ADULT FINANCIAL EXPLOITATION

§ **63.2-1609 I.** If the court finds the adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation and enters an order containing any of the conditions permitted pursuant to subdivision B 8, the clerk of the circuit court shall forthwith forward an attested copy of the order containing the perpetrator's identifying information and the name, date of birth, sex, and race of each protected person provided to the court to the primary law-enforcement agency providing service and entry of protective orders and, upon receipt of the order, the primary law-enforcement agency shall enter the name of the person subject to the order and other appropriate information required by the Department of State Police into the Virginia Criminal Information Network established and maintained by the Department of State Police pursuant to Chapter 2 (§ **52-12** et seq.) of Title 52 and the order shall be served forthwith on the perpetrator in person as provided in § **16.1-264**.

JUDGMENTS

- **H.B. 2099 - Limitations on enforcement of judgments; judgment liens; settlement agents.**
- Amends §§ **8.01-251**, **8.01-458**, and **55.1-339** of the Code of Virginia
- Reduces from 20 years to 10 years from the date of a judgment the period of time within which an execution may be issued or action may be taken on such judgment.
- The limitation of the enforcement of a judgment may be extended up to two times by a recordation of a certificate prior to the expiration period in the clerk's office in which a judgment lien is recorded. Such recordation shall extend the limitations period for 10 years per recordation from the date of such recordation. Under current law, such limitation period may be extended on motion of the judgment creditor or his assignee.
- Allows a settlement agent or title insurance company to release a judgment lien, in addition to a deed of trust as provided under current law, provided that the obligation secured by such judgment lien has been satisfied by payment made by the settlement agent and whether or not the settlement agent or title insurance company is named as a trustee under such lien or received authority to release such lien.
- Delayed effective date of January 1, 2022, for all provisions except those related to the recordation of a certificate for the extension of a judgment, which are effective in due course.

JUDGMENTS

§ **8.01-251**. Limitations on enforcement of judgments.

A. No execution shall be issued and no action brought on a judgment dated prior to July 1, 2021, including a judgment in favor of the Commonwealth and a judgment rendered in another state or country, after 20 years from the date of such judgment or domestication of such judgment, unless the period is extended as provided in this section. No execution shall be issued and no action brought on a judgment dated on or after July 1, 2021, including a judgment in favor of the Commonwealth and a judgment rendered in another state or country, after 10 years from the date of such judgment or domestication of such judgment, unless the period is extended as provided in this section, except that no execution shall be issued and no action brought on a judgment dated on or after July 1, 2021, that was created by nonpayment of child support after 20 years from the date of such judgment or domestication of such judgment.

JUDGMENTS

§ **8.01-251** B. The limitation prescribed in subsection A may be extended by the recordation of a certificate in the form provided in subsection G prior to the expiration of the limitation period prescribed herein in the clerk's office in which such judgment lien is recorded and executed by either the judgment lien creditor or by his duly authorized attorney-in-fact or agent. Recordation of the certificate shall extend the limitations of the right to enforce such judgment lien for 10 years from the date of the recordation of the certificate. A judgment creditor may record one additional extension by recording another certificate in the form provided in subsection G prior to the expiration of the original 10-year extension of the limitation period, which shall extend the limitations of the right to enforce such judgment lien for 10 years from the date of recordation of the second certificate. The clerk of the court shall index the certificate in both names in the index of the judgment lien book and give reference to the book and page in which the original lien is recorded. This extension procedure is subject to the exception that if the action is against a personal representative of a decedent, the motion shall be within two years from the date of his qualification, the extension may be for only two years from the time of the recordation of the certificate, and there may be only one such extension.

JUDGMENTS

G. Any extension of the limitations of the right to enforce a judgment shall conform substantially with the following form:

CERTIFICATE OF EXTENSION OF

LIMITATION OF RIGHT TO ENFORCE JUDGMENT LIEN

Place of Record _____

Date Judgment Docketed _____

Judgment Lien Book _____ Book Page _____

Name of Creditor(s) _____

Address of Creditor(s) _____

Phone number of Creditors(s) (if available) _____

Name of Debtor(s) _____

I/we, the judgment lien creditor(s), do hereby certify that the aforementioned judgment lien be extended 10 years from the date of my/our endorsement upon this certificate.

Judgment Creditor/Attorney-in-Fact/Agent: _____

Commonwealth of Virginia

County/City of _____

Subscribed, sworn to and acknowledged before me by

_____ this _____ day of _____, 20 _____

My Commission expires: _____

Notary Public: _____

JUDGMENTS

§ **8.01-251 E**. Release of lien by settlement agent or title insurance company.

A settlement agent or title insurance company may release a deed of trust or judgment lien in accordance with the provisions of this subsection (i) if the obligation secured by the deed of trust or judgment lien has been satisfied by payment made by the settlement agent and (ii) whether or not the settlement agent or title insurance company is named as a trustee under the deed of trust or otherwise has received the authority to release the lien.

1. Notice to lienholder.

a. After or accompanying payment in full of the obligation secured by a deed of trust or judgment lien, a settlement agent or title insurance company intending to release a deed of trust or judgment lien pursuant to this subsection shall deliver to the lien creditor by certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt obtained, a notice of intent to release the deed of trust or judgment lien with a copy of the payoff letter and a copy of the release to be recorded as provided in this subsection.

b. The notice of intent to release shall contain (i) the name of the lien creditor, the name of the servicer if loan payments on the deed of trust or judgment lien are collected by a servicer, or both names; (ii) the name of the settlement agent; (iii) the name of the title insurance company if the title insurance company intends to release the lien; and (iv) the date of the notice. The notice of intent to release shall conform substantially to the following form:

STATE-RUN RETIREMENT PLAN

- **H.B. 2174 State-Facilitated IRA Savings Program; established, membership, report**.
- Directs the governing board of the Virginia College Savings Plan (the Virginia 529 Board) to establish a state-facilitated individual retirement account (IRA) savings program (the Program).
- Mandates participation by employers.

STATE-RUN RETIREMENT PLAN

- Eligible employers shall enroll their eligible employees in the Program. Eligible employers are defined in the bill as any nongovernmental employer that employs 25 or more eligible employees and does not offer a qualified retirement plan to their employees. Eligible employees are limited to individuals who are employed at least 30 hours per week. Each eligible employee shall be enrolled in the Program unless the employee elects not to participate in the Program.
- Any employer that is not an eligible employer may facilitate the participation of its eligible employees in the program.
- The Program shall be established, and enrollment shall begin, on July 1, 2023, or as soon thereafter as practicable.

STATE-RUN RETIREMENT PLAN

§ **2.2-2751**. Program enrollment; participating employer liability and status under the Program.

A. 1. Any employer that is not an eligible employer may facilitate the participation of its eligible employees in the Program. However, such employer shall take all steps necessary to ensure that such facilitation does not constitute an employee benefit plan regulated under Title I of the Employee Retirement Income Security Act (ERISA).

2. Any eligible employee whose employer does not facilitate his participation in the Program pursuant to subdivision 1 or any self-employed individual may participate in the Program under terms and conditions prescribed by the Board.

3. No eligible employee or self-employed individual shall be permitted to participate in the Program unless such individual has Virginia taxable income, as defined in Article 2 (§ **58.1-320** et seq.) of Chapter 3 of Title 58.1.

B. The Program shall be established and enrollment of eligible employers shall begin on July 1, 2023, or as soon thereafter as practicable. The Board shall establish an implementation timeline under which eligible employers shall enroll their eligible employees in the Program.

C. The Board shall develop a Program rollout timeline, including deadlines for the enrollment of eligible employers. The Board may alter the rollout timeline in its discretion, though in all instances any alterations of established rollout dates shall include reasonable notice to affected eligible employers.

STATE-RUN RETIREMENT PLAN

§ **2.2-2751, Cont.**

D. Participation in the Program shall be mandatory for eligible employers. Eligible employers shall enroll in the Program in accordance with the timeline established by the Plan. Eligible employers shall facilitate a payroll deposit retirement savings agreement pursuant to this chapter for their eligible employees.

E. Each eligible employee of an eligible employer shall be enrolled in the Program unless the employee elects not to participate in the Program in a manner prescribed by the Board.

F. A participating employee may also terminate his participation in the Program at any time in a manner prescribed by the Board.

G. Participating employers shall not have any liability for a participating employee's decision to participate in or opt out of the Program or for the investment decisions of participating employees whose assets are deposited in the Program.

H. Participating employers shall not be a fiduciary, or considered to be a fiduciary, over the Program. The Program is a state-administered program, not an employer-sponsored program. If the Program is subsequently found to be preempted by any federal law or regulation, participating employers shall not be liable as Program sponsors. A participating employer shall not bear responsibility for the administration, investment, or investment performance of the Program. A participating employer shall not be liable with regard to investment returns, Program design, and benefits paid to Program participants.

I. A participating employer shall not have civil liability, and no cause of action shall arise against a participating employer, for acting pursuant to this chapter.

CRIMINAL RECORDS SEALED

- **H.B. 2113 /S.B. 1339 - Criminal records; sealing of records, Sealing Fee Fund created, penalties, report.**
- Establishes a process for the automatic sealing of police and court records for certain convictions, deferred dispositions, and acquittals and for offenses that have been *nolle prossed* or otherwise dismissed.
- Allows a person to petition for the sealing of police and court records relating to certain convictions. Staggered delayed effective dates in order to develop systems for implementing the provisions of the law. Recommendation of the Virginia State Crime Commission.

CRIMINAL RECORDS SEALED

- § **9.1-128**. Dissemination of criminal history record information; Board to adopt regulations and procedures.
- A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § **19.2-389**.
- B. The Board shall adopt regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall ensure that the limitations on dissemination of criminal history record information set forth in § **19.2-389** are accepted by recipients and will remain operative in the event of further dissemination.
- C. The Board shall adopt regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.
- D. The Board shall adopt regulations and procedures for the dissemination of sealed criminal history record information, including any records relating to an arrest, charge, or conviction, by which the criminal justice agencies of the Commonwealth and other persons, agencies, and employers can access such sealed records and shall ensure that access to and dissemination of such sealed records are made in accordance with the limitations on dissemination and use set forth in §§ **19.2-389**, **19.2-389.3**, and **19.2-392.13**.
- § **9.1-134**. Sealing of criminal history record information.
- The Board shall adopt procedures reasonably designed to (i) ensure the prompt sealing of criminal history record information and the sealing or purging of criminal history record information, including any records relating to an arrest, charge, or conviction, when required by state or federal law, regulation, or court order~~,~~ and (ii) permit opening of sealed information under conditions authorized by law.

CRIMINAL RECORDS SEALED

- § **19.2-389.3**. Marijuana possession; limits on dissemination of criminal history record information; prohibited practices by employers, educational institutions, and state and local governments; penalty.
- B. Except as provided in subsection C, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or information concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A.
- C. The provisions of subsection B shall not apply if:
- 1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;
- 2. This Code requires the employer to make such an inquiry;
- 3. Federal law requires the employer to make such an inquiry;

CRIMINAL RECORDS SEALED

§ **19.2-392.5**. Sealing defined; effect of sealing.

- D. Except as otherwise provided in this section, upon entry of an order for sealing, the person who was arrested, charged, or convicted of the offense that was ordered to be sealed may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, charge, or conviction occurred. Except as otherwise provided in this section, no person as to whom an order for sealing has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that person's denial or failure to disclose any information concerning an arrest, charge, or conviction that has been sealed.
- E. A person who is the subject of the order of sealing entered pursuant to § **19.2-392.7**, **19.2-392.8**, **19.2-392.9**, **19.2-392.11**, or **19.2-392.12** may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if:
- 1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;
- 2. This Code requires the employer to make such an inquiry;
- 3. Federal law requires the employer to make such an inquiry;

CRIMINAL RECORDS SEALED

§ **19.2-392.15**. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments; penalty.

A. Except as provided in subsection B, agencies, officials, and employees of state and local governments, private employers that are not subject to federal laws or regulations in the hiring process, and educational institutions shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed.

B. 3. - The provisions of subsection A shall not apply if: Federal law requires the employer to make such an inquiry;

F. If any entity or person listed under subsections A, C, D, or E includes a question about a prior arrest, charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that information concerning an arrest, charge, or conviction that has been sealed does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection B.

G. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

CONSUMER DATA PROTECTION ACT

- **H.B. 2307 / S.B. 1392 Consumer Data Protection Act; personal data rights of consumers**

- Establishes a framework for controlling and processing personal data in the Commonwealth.
- Does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law.
- Grants consumer rights to access, correct, delete, and obtain a copy of personal data and to opt out of the processing of personal data for purposes of targeted advertising, the sale of personal data, or profiling of the consumer.
- Delayed effective date of January 1, 2023.

CONSUMER DATA PROTECTION ACT

- Adding a new chapter 52 to the Code of Virginia in Title 59.1, consisting of sections numbered **59.1-571** through **59.1-581**
- § **59.1-571**. Definitions.
- ""Consumer" means a natural person who is a resident of the Commonwealth acting only in an individual or household context. It does not include a natural person acting in a commercial or employment context.
- "Controller" means the natural or legal person that, alone or jointly with others, determines the purpose and means of processing personal data.
- Personal data" means any information that is linked or reasonably linkable to an identified or identifiable natural person. "Personal data" does not include de-identified data or publicly available information.

CONSUMER DATA PROTECTION ACT

§ **59.1-572**. Scope; exemptions.

A. This chapter applies to persons that conduct business in the Commonwealth or produce products or services that are targeted to residents of the Commonwealth and that (i) during a calendar year, control or process personal data of at least 100,000 consumers or (ii) control or process personal data of at least 25,000 consumers and derive over 50 percent of gross revenue from the sale of personal data.

B. This chapter shall not apply to any (i) body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth; (ii) financial institution or data subject to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.); (iii) covered entity or business associate governed by the privacy, security, and breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164 established pursuant to HIPAA, and the Health Information Technology for Economic and Clinical Health Act (P.L. **111-5**); (iv) nonprofit organization; or (v) institution of higher education.

CONSUMER DATA PROTECTION ACT

§ **59.1-572**, Cont.

C. The following information and data is exempt from this chapter:

10. The collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency or furnisher that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.);

13. Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act (12 U.S.C. § 2001 et seq.);

CONSUMER DATA PROTECTION ACT

§ **59.1-573**. Personal data rights; consumers.

A. A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A known child's parent or legal guardian may invoke such consumer rights on behalf of the child regarding processing personal data belonging to the known child. A controller shall comply with an authenticated consumer request to exercise the right:

1. To confirm whether or not a controller is processing the consumer's personal data and to access such personal data;

2. To correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

3. To delete personal data provided by or obtained about the consumer;

4. To obtain a copy of the consumer's personal data that the consumer previously provided to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means; and

5. To opt out of the processing of the personal data for purposes of (i) targeted advertising, (ii) the sale of personal data, or (iii) profiling in furtherance of decisions that produce legal or similarly significant effects concerning the consumer.

CONSUMER DATA PROTECTION ACT

§ **59.1-573 B**. Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to subsection A as follows:

1. A controller shall respond to the consumer without undue delay, but in all cases within 45 days of receipt of the request submitted pursuant to the methods described in § 59.1-573 A. The response period may be extended once by 45 additional days when reasonably necessary, taking into account the complexity and number of the consumer's requests, so long as the controller informs the consumer of any such extension within the initial 45-day response period, together with the reason for the extension.

2. If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision pursuant to subsection C.

3. Information provided in response to a consumer request shall be provided by a controller free of charge, up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

CONSUMER DATA PROTECTION ACT

§ **59.1-573 C**. A controller shall establish a process for a consumer to appeal the controller's refusal to take action on a request within a reasonable period of time after the consumer's receipt of the decision pursuant to subdivision B 2. The appeal process shall be conspicuously available and similar to the process for submitting requests to initiate action pursuant to subsection A. Within 60 days of receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied, the controller shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the Attorney General to submit a complaint.

CONSUMER DATA PROTECTION ACT

§ **59.1-574**. Data controller responsibilities; transparency.

A. A controller shall:

1. Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which such data is processed, as disclosed to the consumer;

2. Except as otherwise provided in this chapter, not process personal data for purposes that are neither reasonably necessary to nor compatible with the disclosed purposes for which such personal data is processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;

3. Establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security practices shall be appropriate to the volume and nature of the personal data at issue;

4. Not process personal data in violation of state and federal laws that prohibit unlawful discrimination against consumers. A controller shall not discriminate against a consumer for exercising any of the consumer rights contained in this chapter, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods and services to the consumer. However, nothing in this subdivision shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the consumer has exercised his right to opt out pursuant to § **59.1-573** or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program; and

5. Not process sensitive data concerning a consumer without obtaining the consumer's consent, or, in the case of the processing of sensitive data concerning a known child, without processing such data in accordance with the federal Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.).

CONSUMER DATA PROTECTION ACT

§ **59.1-574 B**. Any provision of a contract or agreement of any kind that purports to waive or limit in any way consumer rights pursuant to § 59.1-573 shall be deemed contrary to public policy and shall be void and unenforceable.

CONSUMER DATA PROTECTION ACT

§ **59.1-574 C**. Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

1. The categories of personal data processed by the controller;

2. The purpose for processing personal data;

3. How consumers may exercise their consumer rights pursuant § **59.1-573**, including how a consumer may appeal a controller's decision with regard to the consumer's request;

4. The categories of personal data that the controller shares with third parties, if any; and

5. The categories of third parties, if any, with whom the controller shares personal data.

D. If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose such processing, as well as the manner in which a consumer may exercise the right to opt out of such processing.

E. A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable means for consumers to submit a request to exercise their consumer rights under this chapter. Such means shall take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication of such requests, and the ability of the controller to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise consumer rights pursuant to § **59.1-573** but may require a consumer to use an existing account.

CONSUMER DATA PROTECTION ACT

§ **59.1-579**. Investigative authority.

Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § **59.1-9.10** shall apply mutatis mutandis to civil investigative demands issued under this section.

§ **59.1-580**. Enforcement; civil penalty; expenses.

A. The Attorney General shall have exclusive authority to enforce the provisions of this chapter.

B. Prior to initiating any action under this chapter, the Attorney General shall provide a controller or processor 30 days' written notice identifying the specific provisions of this chapter the Attorney General alleges have been or are being violated. If within the 30-day period, the controller or processor cures the noticed violation and provides the Attorney General an express written statement that the alleged violations have been cured and that no further violations shall occur, no action shall be initiated against the controller or processor.

C. If a controller or processor continues to violate this chapter following the cure period in subsection B or breaches an express written statement provided to the Attorney General under that subsection, the Attorney General may initiate an action in the name of the Commonwealth and may seek an injunction to restrain any violations of this chapter and civil penalties of up to $7,500 for each violation under this chapter.

D. The Attorney General may recover reasonable expenses incurred in investigating and preparing the case, including attorney fees, in any action initiated under this chapter.

CONSUMER DATA PROTECTION ACT

§ **59.1-580 E**. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or under any other law.

INDUSTRIAL HEMP

- **H.B. 2078 Industrial hemp**
- Updates Virginia's industrial hemp laws to address the new hemp producer license issued by the U.S. Department of Agriculture. Changes Virginia drug laws to exclude the industrial hemp possessed by a federally licensed hemp producer from the definition of "marijuana" and to exclude certain amounts of tetrahydrocannabinol (THC) in such industrial hemp from the prohibition on THC.
- Exempts federally licensed hemp producers from state industrial hemp registration requirements and adds such producers to the list of those eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund.
- Excludes from the definition of "dealer" any retail establishment that sells a completed product containing industrial hemp;
- Removes the requirement that the Attorney General of the United States be notified when a Virginia grower, dealer, or processor exceeds the federal THC limit
- Effective March 12, 2021

GENERAL DISTRICT COURTS

- **S.B. 1108 General district courts; jurisdictional limits.**

§ **8.01-195.4**. Jurisdiction of claims under this article; right to jury trial; service on Commonwealth or locality; amending amount of claim.

The general district courts shall have exclusive original jurisdiction to hear, determine, and render judgment on any claim against the Commonwealth or any transportation district cognizable under this article when the amount of the claim does not exceed $4,500, exclusive of interest and any attorney fees. Jurisdiction shall be concurrent with the circuit courts when the amount of the claim exceeds $4,500 but does not exceed $50,000, exclusive of interest and such attorney fees. Jurisdiction of claims when the amount exceeds $50,000 shall be limited to the circuit courts of the Commonwealth. The parties to any such action in the circuit courts shall be entitled to a trial by jury.

GENERAL DISTRICT COURTS

§ **16.1-77**. Civil jurisdiction of general district courts; amending amount of claim.

Except as provided in Article 5 (§ **16.1-122.1** et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of (i) any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, when the amount of such claim does not exceed $4,500, exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds $4,500 but does not exceed $25,000, exclusive of interest and any attorney fees, and (ii) any action for injury to person, regardless of theory, and any action for wrongful death as provided for in Article 5 (§ **8.01-50** et seq.) of Chapter 3 of Title 8.01 when the amount of such claim does not exceed $4,500, exclusive of interest and any attorney fees, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds $4,500 but does not exceed $50,000, exclusive of interest and any attorney fees

COURT OF APPEALS

- **S.B. 1261 Court of Appeals; expands jurisdiction, increases from 11 to 17 number of judges on Court.**
- Expands the jurisdiction of the Court of Appeals of Virginia by providing for an appeal of right in every civil case and provides that the granting of further appeal to the Supreme Court of Virginia shall be within the discretion of the Supreme Court.
- Appeal of right in criminal cases by a defendant, but leaves unchanged the current requirement that in criminal cases the Commonwealth must petition the Court of Appeals for granting of an appeal. T
- Increases from 11 to 17 the number of judges on the Court of Appeals.
- Delayed effective date of January 1, 2022, except for the increase in the number of judges on the Court of Appeals (“in due course”).

CORPORATIONS

- **H.B. 2121 - State Corporation Commission; business entities filings; Virginia Stock Corporation Act.**
- Amends various provisions of the Virginia Stock Corporation Act (the Act). The bill provides that for any notice to shareholders required by the Act, such notice is not required for a shareholder for whom notice of two consecutive annual meetings and all notices of meetings in between, or all distributions in a 12-month period or two consecutive distributions in a period of more than 12 months, have been sent and have been returned undeliverable or could not be delivered.
- Authorizes a board of directors to adopt certain emergency bylaws and exercise its emergency powers when there is a catastrophic event, including an attack on the United States or in any locality in which the corporation conducts its business or customarily holds meetings of the board of directors or shareholders, an epidemic or pandemic, or a declaration of a national emergency by the United States government or an emergency by the government of the locality in which the corporation's principal office is located, that affects the corporation and regardless of whether a quorum of the board of directors or a committee can be readily convened for action.
- Provides that during such an emergency, a board of directors is authorized to take any action it deems practicable and necessary to address the circumstances of the emergency, including (i) postponing any meeting; (ii) for certain corporations, notifying shareholders of any such postponement by filing with the U.S. Securities and Exchange Commission; and (iii) for a distribution that has been declared by the record date that has not occurred, canceling distribution or changing the amount of distributions, or changing the record date or the payment date of such distributions.

CORPORATIONS

§ 13.1-628. Emergency powers.

C. During such an emergency, the board of directors, or, if a quorum cannot be readily convened for a meeting, a majority of the directors present, may:

1. Take any action that it determines to be practical and necessary to address circumstances of the emergency with respect to a meeting of shareholders notwithstanding anything to the contrary in this chapter or in the articles of incorporation or bylaws, including (i) to postpone any such meeting to a later time or date, with the record date for determining the shareholders entitled to notice of, and to vote at, such meeting applying to the postponed meeting irrespective of § **13.1-660**, unless the board of directors fixes a new record date, and (ii) with respect to a corporation subject to the reporting requirements of § 13(a) or 15(d) of the federal Securities Exchange Act of 1934, as amended, to notify shareholders of any postponement, a change of the place of the meeting, or a change to hold the meeting solely by means of remote communication pursuant to § **13.1-660.2** solely by a document publicly filed by the corporation with the U.S. Securities and Exchange Commission pursuant to § 13, 14, or 15(d) of the federal Securities Exchange Act of 1934, as amended; and

2. With respect to any distribution that has been declared as to which the record date has not occurred, cancel such distribution, change the amount of such distribution, or change the record date or the payment date to a later date; provided that, in any such case, the corporation gives notice of such action to shareholders as promptly as practicable thereafter, and in any event before the record date theretofore in effect. Such notice, in the case of a corporation subject to the reporting requirements of § 13(a) or 15(d) of the federal Securities Exchange Act of 1934, as amended, may be given solely by a document publicly filed by the corporation with the U.S. Securities and Exchange Commission pursuant to § 13, 14, or 15(d) of the federal Securities Exchange Act of 1934, as amended.

JUNETEENTH

H.B. 5052 / S.B. 5031 - Legal holidays; Juneteenth.

§ **2.2-3300**. Legal holidays.

Legal holidays; Juneteenth. Recognizes the nineteenth day of June of each year, also known as Juneteenth, as a legal holiday in the Commonwealth to commemorate the announcement of the abolition of slavery in Texas, the last of the former Confederate States of America to abolish slavery, and to recognize the significant roles and many contributions of African Americans to the Commonwealth and the nation.

Effective March 1, 2021

VIRGINIA HUMAN RIGHTS ACT; DISCRIMINATION ON THE BASIS OF DISABILITY

- **H.B. 1848**
- Adds discrimination on the basis of disability as an unlawful discriminatory practice under the Virginia Human Rights Act.
- Requires employers make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer.
- Prohibits employers from taking any adverse action against an employee who requests or uses a reasonable accommodation, from denying employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation to the applicant or employee, or from requiring an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the disability.

VIRGINIA HUMAN RIGHTS ACT; DISCRIMINATION ON THE BASIS OF DISABILITY

§ **2.2-3905**. Nondiscrimination in employment; definitions; exceptions.

A. "Employer" means a person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person. However, (i) for purposes of unlawful discharge under subdivision B 1 on the basis of race, color, religion, national origin, status as a veteran, sex, sexual orientation, gender identity, marital status, *disability,* pregnancy, or childbirth or related medical conditions including lactation, "employer" means any employer employing more than five persons and (ii) for purposes of unlawful discharge under subdivision B 1 on the basis of age, "employer" means any employer employing more than five but fewer than 20 persons.

VIRGINIA HUMAN RIGHTS ACT; DISCRIMINATION ON THE BASIS OF DISABILITY

§ **2.2-3905**. B. It is an unlawful discriminatory practice for:

1. An employer to:

a. Fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to such individual's compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, disability, or national origin; or

b. Limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related medical conditions including lactation, age, status as a veteran, disability, or national origin.

MARIJUANA LEGALIZATION

- **H.B. 2312 / S.B. 1406 - Marijuana; legalization of simple possession, etc.**
- **§ 18.2-248.1 -** Eliminates criminal penalties for simple possession of up to one ounce of marijuana by persons 21 years of age or older, modifies several other criminal penalties related to marijuana, and imposes limits on dissemination of criminal history record information related to certain marijuana offenses.
- Creates the Virginia Cannabis Control Authority (the Authority), the Cannabis Oversight Commission, the Cannabis Public Health Advisory Council, the Cannabis Equity Reinvestment Board and Fund, and the Virginia Cannabis Equity Business Loan Program and Fund and establishes a regulatory and licensing structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority.
- Contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. Effective January 1, 2024.
- Maximum penalty for possessing up to 1 ounce (28 grams) of marijuana is a $25 fine, which doesn't go on the person's criminal record. Effective July 1, 2021.

MARIJUANA LEGALIZATION

§ 6.2-107.1. Financial services for licensed marijuana establishments.

A. As used in this section, "licensed" and "marijuana establishment" have the same meaning as provided in § 4.1-600.

B. A bank or credit union that provides a financial service to a licensed marijuana establishment, and the officers, directors, and employees of that bank or credit union, shall not be held liable pursuant to any state law or regulation solely for providing such a financial service or for further investing any income derived from such a financial service.

C. Nothing in this section shall require a bank or credit union to provide financial services to a licensed marijuana establishment

- Marijuana remains illegal under federal law.

EMPLOYEE PROTECTIONS – CANNABIS OIL

- **H.B. 1862 - Employee protections; medicinal use of cannabis oil.**
- Prohibits an employer from discharging, disciplining, or discriminating against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease.
- Provides that such prohibition does not (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours; (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding; or (iii) require any defense industrial base sector employer or prospective employer to hire or retain any applicant or employee who tests positive for tetrahydrocannabinol (THC) in excess of certain amounts.

EMPLOYEE PROTECTIONS – CANNABIS OIL

§ **40.1-27.4**. Discipline for employee's medicinal use of cannabis oil prohibited.

A. As used in this section, "cannabis oil" means the same as that term is defined in § **54.1-3408.3**.

B. No employer shall discharge, discipline, or discriminate against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease pursuant to § **54.1-3408.3**.

C. Notwithstanding the provisions of subsection B, nothing in this section shall (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours, (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding, or (iii) require any defense industrial base sector employer or prospective employer, as defined by the U.S. Cybersecurity and Infrastructure Security Agency, to hire or retain any applicant or employee who tests positive for tetrahydrocannabinol (THC) in excess of 50 ng/ml for a urine test or 10 pg/mg for a hair test.

CASINOS & SPORTS BETTING (2020 SESSION)

- **Sports betting:**
- § 58.1-4031. Powers and duties of the Director related to sports betting; reporting.
- A. The Department shall operate a sports betting program under the direction of the Director, who shall allow applicants to apply for permits to engage in sports betting operations in the Commonwealth. The Board shall regulate such operations. The Department shall not operate a sports betting platform.

CASINOS & SPORTS BETTING (2020 SESSION)

- **§ 58.1-4101. Regulation and control of casino gaming; limitation.**
- A. Casino gaming shall be licensed and permitted as herein provided to benefit the people of the Commonwealth. The Board is vested with control of all casino gaming in the Commonwealth, with authority to prescribe regulations and conditions under this chapter. The purposes of this chapter are to assist economic development, promote tourism, and provide for the implementation of casino gaming operations of the highest quality, honesty, and integrity and free of any corrupt, incompetent, dishonest, or unprincipled practices.
- B. The conduct of casino gaming shall be limited to the qualified locations established in § 58.1-4107. The Board shall be limited to the issuance of a single operator's license for each such qualified location.
  - Bristol, Danville, Portsmouth, Norfolk and Richmond.

THANK YOU!

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