

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 2.2-3705.1 of the Code of Virginia, relating to the Virginia Freedom of*  
 3 *Information Act; record exclusion for personal contact information; limitation.*

4 [S 1040]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 2.2-3705.1 of the Code of Virginia is amended and reenacted as follows:**8 **§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public**  
 9 **bodies.**

10 The following information contained in a public record is excluded from the mandatory disclosure  
 11 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such  
 12 disclosure is prohibited by law. Redaction of information excluded under this section from a public  
 13 record shall be conducted in accordance with § 2.2-3704.01.

14 1. Personnel information concerning identifiable individuals, except that access shall not be denied to  
 15 the person who is the subject thereof. Any person who is the subject of such information and who is 18  
 16 years of age or older may waive, in writing, the protections afforded by this subdivision. If the  
 17 protections are so waived, such information shall be disclosed. Nothing in this subdivision shall be  
 18 construed to authorize the withholding of any resumes or applications submitted by persons who are  
 19 appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

20 2. Written advice of legal counsel to state, regional or local public bodies or the officers or  
 21 employees of such public bodies, and any other information protected by the attorney-client privilege.

22 3. Legal memoranda and other work product compiled specifically for use in litigation or for use in  
 23 an active administrative investigation concerning a matter that is properly the subject of a closed  
 24 meeting under § 2.2-3711.

25 4. Any test or examination used, administered or prepared by any public body for purposes of  
 26 evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's  
 27 qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license  
 28 or certificate issued by a public body.

29 As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test  
 30 or examination and (b) any other document that would jeopardize the security of the test or examination.  
 31 Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by  
 32 law, or limit access to individual records as provided by law. However, the subject of such employment  
 33 tests shall be entitled to review and inspect all records relative to his performance on such employment  
 34 tests.

35 When, in the reasonable opinion of such public body, any such test or examination no longer has any  
 36 potential for future use, and the security of future tests or examinations will not be jeopardized, the test  
 37 or examination shall be made available to the public. However, minimum competency tests administered  
 38 to public school children shall be made available to the public contemporaneously with statewide release  
 39 of the scores of those taking such tests, but in no event shall such tests be made available to the public  
 40 later than six months after the administration of such tests.

41 5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to  
 42 § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed  
 43 exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

44 6. Vendor proprietary information software that may be in the public records of a public body. For  
 45 the purpose of this subdivision, "vendor proprietary information software" means computer programs  
 46 acquired from a vendor for purposes of processing data for agencies or political subdivisions of the  
 47 Commonwealth.

48 7. Computer software developed by or for a state agency, state-supported institution of higher  
 49 education or political subdivision of the Commonwealth.

50 8. Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior  
 51 to the completion of such purchase, sale, or lease.

52 9. Information concerning reserves established in specific claims administered by the Department of  
 53 the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of  
 54 Chapter 18, or by any county, city, or town; and investigative notes, correspondence and information  
 55 furnished in confidence with respect to an investigation of a claim or a potential claim against a public  
 56 body's insurance policy or self-insurance plan. However, nothing in this subdivision shall authorize the

57 withholding of information taken from inactive reports upon expiration of the period of limitations for  
58 the filing of a civil suit.

59 10. Personal *contact* information; as defined in ~~§ 2.2-3801~~, including electronic mail addresses,  
60 furnished to a public body for the purpose of receiving electronic mail from the public body for the  
61 purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has  
62 requested that the public body not disclose such information. However, access shall not be denied to the  
63 person who is the subject of the record. *As used in this subdivision, "personal contact information"*  
64 *means the information provided to the public body for the purpose of receiving electronic mail from the*  
65 *public body and includes home or business (i) address, (ii) email address, or (iii) telephone number or*  
66 *comparable number assigned to any other electronic communication device.*

67 11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the  
68 Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

69 12. Information relating to the negotiation and award of a specific contract where competition or  
70 bargaining is involved and where the release of such information would adversely affect the bargaining  
71 position or negotiating strategy of the public body. Such information shall not be withheld after the  
72 public body has made a decision to award or not to award the contract. In the case of procurement  
73 transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the  
74 provisions of this subdivision shall not apply, and any release of information relating to such  
75 transactions shall be governed by the Virginia Public Procurement Act.

76 13. Account numbers or routing information for any credit card, debit card, or other account with a  
77 financial institution of any person or public body. However, access shall not be denied to the person  
78 who is the subject of the information. For the purposes of this subdivision, "financial institution" means  
79 any organization authorized to do business under state or federal laws relating to financial institutions,  
80 including, without limitation, banks and trust companies, savings banks, savings and loan companies or  
81 associations, and credit unions.