

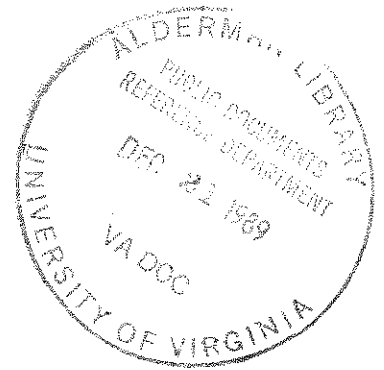
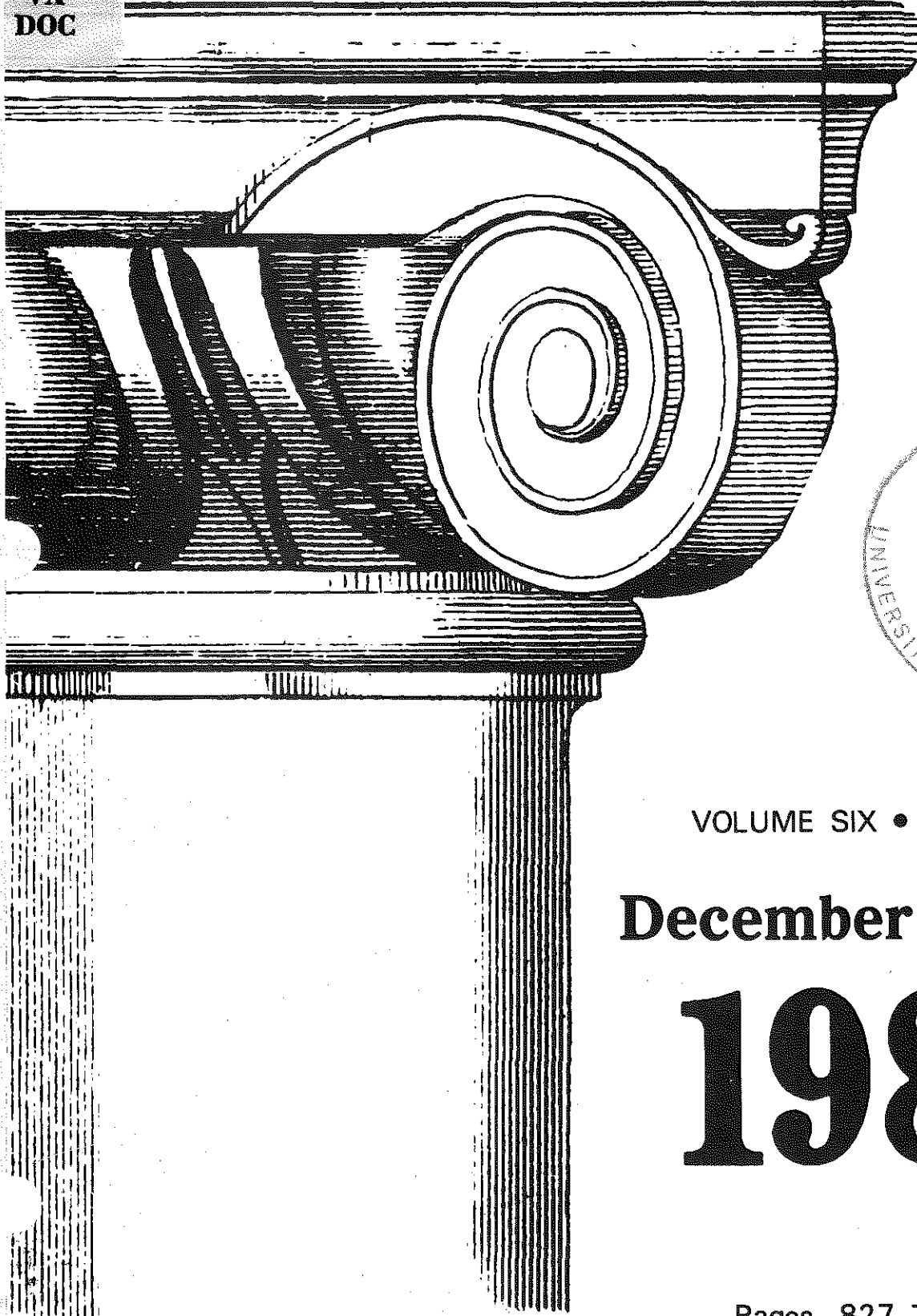
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THE VIRGINIA REGISTER

OF REGULATIONS

VA
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December 18, 1989

1989

Pages 827 Through 1032

VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the *Virginia Tax Bulletin* issued periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Register* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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July 1989 through September 1990

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June 14	July 8
June 28	July 17
July 12	July 31
July 26	Aug. 14
Aug. 9	Aug. 28
Aug. 23	Sept. 11
Sept. 6	Sept. 25
Final Index - Volume 5	

Volume 6 - 1989-90

Sept. 20	Oct. 9
Oct. 4	Oct. 23
Oct. 18	Nov. 6
Nov. 1	Nov. 20
Nov. 15	Dec. 4
Nov. 29	Dec. 18
Dec. 13	Jan. 1 1990
Index 1 - Volume 6	

Dec. 27	Jan. 15
Jan. 10	Jan. 29
Jan. 24	Feb. 12
Feb. 7	Feb. 26
Feb. 21	Mar. 12
Mar. 7	Mar. 26
Index 2 - Volume 6	

Mar. 21	Apr. 9
Apr. 4	Apr. 23
Apr. 18	May 7
May 2	May 21
May 16	June 4
May 30	June 18
Index 3 - Volume 6	

June 13	July 2
June 27	July 16
July 11	July 30
July 25	Aug. 13
Aug. 8	Aug. 27
Aug. 22	Sept. 10
Sept. 5	Sept. 24
Final Index - Volume 6	

TABLE OF CONTENTS

PROPOSED REGULATIONS

BOARD FOR COSMETOLOGY

Board for Cosmetology Regulations. (VR 235-01-02) .. 829

**VIRGINIA HOUSING DEVELOPMENT
AUTHORITY**

Rules and Regulations for Single Family Mortgage
Loans to Persons and Families of Low and
Moderate Income. (VR 400-02-0003) 834

COUNCIL ON HUMAN RIGHTS

Regulations to Safeguard Virginian's Human Rights
from Unlawful Discrimination. (VR 402-01-02) 855

DEPARTMENT OF PERSONNEL AND TRAINING

Commonwealth of Virginia Health Benefits Program.
(VR 525-01-02) 858

DEPARTMENT OF TAXATION

Individual Income Tax: Virginia Tax Reform Credit.
(VR 630-2-335) 884

VIRGINIA RACING COMMISSION

Regulations Pertaining to Horse Racing with
Pari-Mutuel Wagering. (VR 662-01-02) 887

FINAL REGULATIONS

**DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES (BOARD OF)**

Rules and Regulations for Enforcement of the
Virginia Pest Law - Virginia Gypsy Moth Quarantine.
(VR 115-04-02) 922

**DEPARTMENT OF CORRECTIONS (STATE
BOARD OF)**

Rules and Regulations for the Purposes of Services
for Clients. (VR 230-01-002) REPEALED 924

DEPARTMENT OF LABOR AND INDUSTRY

Standard for Boiler and Pressure Vessel Operator
Certification. (VR 425-01-64) 924

**DEPARTMENT OF MEDICAL ASSISTANCE
SERVICES (BOARD OF)**

State Plan for Medical Assistance Relating to
Nursing Home Rent/Leases: Nursing Home Payment
System. (VR 460-03-4.1940) 928

**DEPARTMENT OF WASTE MANAGEMENT
(VIRGINIA WASTE MANAGEMENT BOARD)**

Virginia Hazardous Waste Management Regulations.
(VR 672-10-1) 929

EMERGENCY REGULATIONS

**BOARD OF FUNERAL DIRECTORS AND
EMBALMERS**

Preneed Emergency Regulations. (VR 320-01-2) 930

DEPARTMENT OF PERSONNEL AND TRAINING

Guidelines for Public Participation in Regulation
Development and Promulgation. (VR 525-01-01) 938

STATE CORPORATION COMMISSION

ADMINISTRATIVE LETTERS

Reporting of Medical Malpractice Claims. (1989-11) . 940

STATE LOTTERY DEPARTMENT

**STATE LOTTERY DEPARTMENT (STATE
LOTTERY BOARD)**

Administration Regulations. (VR 447-01-2) 943

Instant Game Regulations. (VR 447-02-01) 963

On-Line Game Regulations. (VR 447-02-2) 982

GOVERNOR

COMMENTS

DEPARTMENT OF CORRECTIONS

Minimum Standards for Virginia Delinquency
Prevention and Youth Development Act Grant
Programs. (VR 230-40-005) 1007

DEPARTMENT OF HEALTH (STATE BOARD OF)

Regulations for Disease Reporting and Control. (VR
355-28-01.02) 1007

Virginia Medical Care Facilities Certificate of Public
Need Rules and Regulations. (VR 355-30-01) 1007

Table of Contents

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

State Plan for Medical Assistance Relating to New Drug Review Program.	
Amount, Duration and Scope of Services. (VR 460-03-3.1100)	1007
New Drug Review Program. (VR 460-05-2000.0000)	1007
New Drugs Not Covered by Medicaid. (VR 460-05-2000.1000)	1007
Amount, Duration and Scope of Services (Coverage of Orthoptics). (VR 460-03-3.1100)	1007

BOARD OF MEDICINE

Regulations Governing the Practice of Physical Therapy. (VR 465-03-01)	1007
--	------

DEPARTMENT OF MOTOR VEHICLES

Virginia Commercial Driver's License Regulations. (VR 485-50-8901)	1008
--	------

BOARD OF PHARMACY

Regulations for Practitioners of the Healing Arts to Sell Controlled Substances. (VR 530-01-02)	1008
---	------

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR)

Provision of Services in Vocational Rehabilitation. (VR 670-03-1)	1008
Regulation for the Program for Infants, Children and Youth. (VR 670-03-2)	1008

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Virginia Hazardous Waste Management Regulations. (VR 672-10-1)	1008
--	------

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent	1009
-------------------------	------

GENERAL NOTICES

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Notice to the Public of Proposed Regulation Action and Notice of Public Regulatory Development Meeting.	1013
--	------

NOTICE TO STATE AGENCIES

Forms for filing material on date for publication in the Virginia Register of Regulations.	1013
---	------

ERRATA

DEPARTMENT OF TAXATION

Corporation Income Tax: Telecommunications Companies. (VR 630-3-400.1)	1014
--	------

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings	1015
---	------

LEGISLATIVE

Open Meetings and Public Hearings	1029
---	------

CHRONOLOGICAL LIST

Open Meetings	1030
Public Hearings	1032

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text. Language which has been stricken indicates proposed text for deletion.

BOARD FOR COSMETOLOGY

Title of Regulation: VR 235-01-02. Board for Cosmetology Regulations.

Statutory Authority: § 54.1-201 5 and Chapter 12 (§ 54.1-1200 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Pursuant to § 54.1-201 5 of the Code of Virginia and in accordance with § 9-6.14:7.1, the Virginia Board for Cosmetology proposes to amend § 3.5 of VR 235-01-02.

The regulation applies directly to approximately 90 licensed schools, 885 certified instructors, and 2,500 individuals applying per year to sit for the cosmetology examination. Also affected are the 34,330 licensed cosmetologists and 5,470 licensed salons.

The proposed amendment to § 3.5 requires cosmetology schools to report the hours and performances completed by a terminated student within 30 days from the date of termination to the board. The current regulation requires such a report be provided to the student, rather than the board and only to those students who have fulfilled their financial obligation to the school.

VR 235-01-02. Board for Cosmetology Regulations.

PART I. ENTRY.

§ 1.1. Individual license.

Upon filing an application with the Board for Cosmetology on forms approved by the board, and paying the license fee, any person meeting the qualifications set by the board shall be granted a license if the applicant has amply demonstrated that:

1. The applicant has received training as defined in Part III of these regulations.
2. The applicant has qualified for licensure either by passing the required examination or by endorsement.
3. The applicant's license as a cosmetologist has not been previously revoked or suspended.

The fee for license by endorsement shall be \$20.

§ 1.2. Acceptable training.

A. Schools.

Any person completing a training program in a licensed cosmetology school or a Virginia public school's cosmetology program shall be eligible for examination.

B. Apprenticeship training.

Any person completing the Virginia apprenticeship program in cosmetology shall be eligible for examination.

1. Cosmetology salons training apprentices shall comply with the standards established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry for Apprenticeship Training.

§ 1.3. Exceptions to training requirements shown in § 1.2.

A. A licensed barber enrolling in a cosmetology training school shall be given credit for 50% of the training required for a barber's license.

B. A student shall be given educational credit for 50% of the training received in a barber school when transferring to a cosmetology school.

C. Persons with two years of cosmetology training or experience outside the territorial limits of the United States shall be eligible for examination upon submission of satisfactory documentary evidence of the training or experience.

§ 1.4. Examinations required.

A. Examinations generally.

Applicants for licensure shall pass a practical and written examination provided by the board or by a testing service acting on behalf of the board.

B. Any applicant passing one part of the examination shall not be required to take that part again provided both parts are passed within one year.

C. The fee for taking the entire examination shall be \$60.

D. The fee for retaking the written portion of the examination shall be ~~\$40~~ \$20 .

Proposed Regulations

E. The fee for retaking the practical portion of the examination shall be \$20 \$40 .

F. Failure to appear.

Any candidate failing to appear as scheduled for examination shall forfeit the fee, and shall be required to pay a rescheduling fee equal to the original examination fee.

§ 1.5. Administration of examination.

A. The examination shall be administered by examiners independent from the board and shall be supervised by a chief examiner.

B. Every examiner shall be a practicing cosmetologist who has completed the prescribed cosmetology training and who has three or more years of active experience as a cosmetologist, and who holds a current cosmetology license.

C. No certified instructor who is currently teaching or who is a school owner shall be an examiner.

D. A chief examiner shall be a practicing cosmetologist who has completed the prescribed cosmetology training and who has five or more years of active experience as a licensed cosmetologist, and who has three years of active experience as an examiner, and who holds a cosmetology license.

§ 1.6. License/certification by endorsement.

Upon proper application to the board, on prescribed forms, any person currently licensed to practice as a cosmetologist in any other state or jurisdiction of the United States may be issued a cosmetology license without an examination.

§ 1.7. Temporary permit.

A. A temporary permit to work as a cosmetologist under the supervision of a currently licensed cosmetologist may be issued to any person found eligible by the board for examination.

B. The temporary permit shall remain in force for 30 days following the next scheduled examination for which the applicant would be eligible to sit.

C. A licensed cosmetologist or person holding a temporary permit may be granted a student instructor permit to function under the direct supervision of a certified instructor. The student instructor permit shall remain in force for no more than 12 months after the date of issuance and shall be nonrenewable. Failure to maintain a cosmetology license or a temporary permit pending examination shall disqualify an individual from holding a student instructor permit.

D. All temporary permits are nonrenewable.

§ 1.8. Salon license.

A. Any individual wishing to operate a cosmetology salon shall obtain a license in compliance with § 54.1-1205 of the Code of Virginia.

B. A cosmetology salon license shall not be transferable and shall bear the same name and address as the business. Any changes in the name of the salon, address, or owners shall be reported to the board in writing within 30 days of such changes.

C. The application fee for a salon shall be \$75.

PART II. RENEWAL OF LICENSE/CERTIFICATE.

§ 2.1. Renewal required.

A. All cosmetology licenses, instructor certificates, and salon licenses shall expire two years from the last day of the month in which they were issued.

B. All certified cosmetology instructors shall have until September 1, 1989, to renew their instructor certificate. The instructor certificate will expire two years from the last day of the month in which issued. Individuals failing to renew the certificate by September 1, 1989, shall apply for reinstatement of the certificate in accordance with § 2.3.

C. Cosmetology school licenses shall expire on December 31 of each even numbered year.

D. The renewal fee for a cosmetology license shall be \$35, for an instructor certificate shall be \$40, for a salon license shall be \$60, and for a school license shall be \$100.

§ 2.2. Notice of renewal.

The Department of Commerce will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.

§ 2.3. Failure to renew.

A. When a licensed/certified individual or entity fails to renew the license within 30 days following its expiration date, an additional fee of \$35 for a cosmetology license, of \$40 for a teachers certificate, of \$60 for the salon license, and of \$100 for the school license will be required in addition to the regular renewal fee in order to renew his license.

B. When a licensed/certified individual or entity fails to renew his license within six months following its expiration date, the licensee must apply for reinstatement of the license by submitting to the Department of Commerce a reinstatement application and reinstatement fee of \$160 for a cosmetology license, of \$180 for an instructor certificate, of \$250 for a salon license, and \$300 for a school license with a statement of the reasons for failing to renew prior to the expiration date.

C. Upon receipt of the reinstatement application and fee the board may reinstate the license/certificate or require requalification, reexamination, or both.

D. When an individual licensee fails to renew his license after a two-year period of time the licensee must pass both a practical and a written examination in order to be reinstated.

E. The date a renewal fee is received by the Department of Commerce, or its agent, will be used to determine whether a penalty fee or the requirement for reinstatement of a license is applicable.

F. Fees.

All fees are nonrefundable.

§ 2.4. Board discretion to deny renewal.

The board, in its discretion, may deny renewal of a license upon such denial, the application for renewal may request that a hearing be held.

PART III. COSMETOLOGY SCHOOLS.

§ 3.1. General requirements.

A cosmetology school shall:

1. Hold a school license for each and every location;
2. Hold a salon license if the school receives compensation for services provided in its clinic;
3. Employ a staff of certified cosmetology instructors;
4. Develop individuals for entry level of competency in cosmetology.

The application fee for a cosmetology school license shall be \$100.

§ 3.2. To obtain a certificate as a cosmetology instructor, a person shall:

1. Hold a current Virginia cosmetology license;
2. Pass a course in teaching techniques approved by the State Board of Education; or

Complete an instructor training course approved by the Board for Cosmetology under the supervision of a certified cosmetology instructor in a beauty school and a seminar approved by the Board for Cosmetology; or

Pass an examination in cosmetology instruction administered by the board.

§ 3.3. Curriculum requirements.

Each school shall submit with its application a detailed course outline, to be taught, which shall include the following:

A. Orientation:

School policies

State law, regulations, and professional ethics

Personal hygiene

Bacteriology, sterilization, and sanitation

B. Manicuring and pedicuring:

Anatomy and physiology

Diseases and disorders

Procedures to include both natural and artificial application

Sterilization

C. Shampooing and rinsing:

Fundamentals

Safety rules

Procedures

Chemistry, anatomy, and physiology

D. Scalp treatments:

Analysis

Disorders and diseases

Manipulations

Treatments

E. Hair styling:

Anatomy and facial shapes

Finger waving, molding, and pin curling

Proposed Regulations

- Roller curling, combing, and brushing
- Heat curling, waving, and pressing
- F. Hair cutting:
 - Anatomy and physiology
 - Fundamentals, materials, and equipment
 - Procedures
 - Safety practices
- G. Permanent waving-chemical relaxing:
 - Analysis
 - Supplies and equipment
 - Procedures and practical application
 - Chemistry
 - Record keeping
 - Safety
- H. Hair coloring and bleaching:
 - Analysis and basic color theory
 - Supplies and equipment
 - Procedures and practical application
 - Chemistry and classifications
 - Record keeping
 - Safety
- I. Skin care and make up:
 - Analysis
 - Anatomy
 - Health, safety, and sanitary rules
 - Procedures
 - Chemistry and light therapy
 - Temporary removal of hair
 - Lash and brow tinting
- J. Wigs, hair pieces, and related theory:
 - Sanitation and sterilization

Types	
Procedures	
K. Salon management:	
Business ethics	
Care of equipment	
§ 3.4. Performance completions.	
Each approved school or approved apprenticeship sponsor shall certify, on a form provided by the board, that the student or apprentice has satisfactorily completed the following minimum performances.	
Hair and scalp treatments	10
Shampooing and hair styling	320
Tinting	15
Bleaching and frosting	10
Temporary rinses	10
Semi-permanent color	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
Manicuring	10
Facials	5
Total	500

§ 3.5. Performances and hours reported.

Upon completion of 25%, 50%, and 75% of performances or hours completed by a student in a licensed school, the school shall provide an individualized written report to the student of performances and hours completed. Upon termination of a student from a licensed school, for any reason, the school shall provide a written report to the student on performances and hours completed except that, where in the case of a written contract between an individual and a school, the individual has not met contractual financial obligations board on performances and hours within 30 days from the date of termination .

§ 3.6. Each cosmetology school shall maintain written records of hours and performances completed for each

student for a period of five years after the student terminates or completes the curriculum.

§ 3.7. Hours and performances required, exception:

Curriculum and completion requirements shall be offered over a minimum of 1500 clock hours unless the school presents evidence satisfactory to the board that the school:

1. Will measure for competency, for each student enrolled, tasks specified in subsections C through J of § 3.3 of these regulations;
2. Inform each student of progress in achieving competency of tasks taught; and
3. Record the number of clock hours of instructions and performances of each student.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. Display of license, permit, and certificate.

All current licenses, permits, and certificates issued by the board shall be visibly displayed in the school or establishment where business is conducted.

§ 4.2. Sanitation.

Licensees of schools and salons shall comply with the following sanitation standards and shall ensure that all employees likewise comply:

1. Premises and equipment.
 - a. Cleanliness. Wash basins and sinks shall be clean. Floors shall be kept free of hair and other waste materials. Combs, brushes, towels, razors, clippers, scissors, and other instruments shall be cleaned after every use and stored free from contamination.
 - b. Soiled towels and robes or smocks shall be stored in a closed container.
2. Operation and service.
 - a. Towels and robes. Clean towels and robes shall be used for each patron.
 - b. Haircloth. When a haircloth is used, a clean towel or neck strip shall be placed around the neck of the patron to prevent the haircloth from touching the skin.
 - c. Brushes, combs, scissors, razors, clippers, and all sharp-edged cutting instruments shall be washed and sanitized after each use.
 - d. Permanent wave rods shall be rinsed after each

use and end papers shall not be reused.

§ 4.3. Discipline.

The board has the power to fine any licensee or certificate holder or to suspend or revoke any license or certificate issued under the provisions of Chapter 12 of Title 54.1 of the Code of Virginia and the regulations of the board, at any time after a hearing is conducted pursuant to the provisions of Chapter 1.1:1 of Title 9 of the Code of Virginia if the board finds that:

1. The licensee or certificate holder is incompetent or negligent in practice or incapable mentally or physically to practice as a cosmetologist; or
2. The licensee or certificate holder is guilty of fraud or deceit in the practice or teaching of cosmetology; or
3. The owner or operator of a school or salon allowed a person to practice or teach cosmetology without the person obtaining a license, temporary permit, or certificate issued by the board. Exception: Holders of associate degrees or higher shall not be prohibited from teaching theory.
4. The licensee, certificate holder, or owner violates, induces others to violate, or cooperates with others in violating any of the provisions of Chapters 3 and 12 of Title 54.1 of the Code of Virginia, or these regulations.
5. The licensee, certificate holder, or owner refuses or fails, upon request or demand, to produce to the board or any of its agents, any document, book, record, or copy thereof in a licensee's, certificate holder's, or owner's possession concerning the practice or teaching of cosmetology.

Proposed Regulations

VIRGINIA BOARD OF COSMETOLOGY
3600 WEST BROAD STREET, RICHMOND, VA 23220-4917

NOTICE OF WITHDRAWAL OF STUDENT COSMETOLOGIST
(must be mailed to Board within 30 days)

PLEASE TYPE OR PRINT:

STUDENT'S NAME _____ SSN _____
 LAST FIRST MIDDLE
 RESIDENCE ADDRESS _____
 NAME OF SCHOOL _____
 ADDRESS OF SCHOOL _____
 DATE ENROLLED IN SCHOOL _____ DATE WITHDREW _____ HOURS RECEIVED _____
 SIGNATURE OF DIRECTOR OR OWNER _____ DATE _____

COURSE/INSTRUCTIONS	COURSE	HOURS/POINTS	NUMBER COMPLETED
ORIENTATION	HAIR AND SCALP TREATMENTS		10
MANICURING AND PEDICURING	SILVERING AND HAIRSTYLING		320
SHEDDING AND RINSING	TINTING		15
SCALP TREATMENTS	BLEACHING AND FROSTING		10
HAIR STYLING	TEMPORARY RINSE		10
HAIR CUTTING	SOFT-PERMANENT COLOR		10
PERMANENT WAVING; CHEMICAL RELAXING	COLD PERMANENT WAVING OR CHEMICAL RELAXING		25
HAIR COLORING AND BLEACHING	HAIR SHAMPOO		50
SKIN CARE AND MAKE UP	WIG CARE, STYLING, PLACING OF LENSES		5
WIGS, HAIR PIECES AND RELATED THEORY	FINER WAVING AND THERMAL WAVING		30
SKIN MAKEUP	PARICULARS		10
	FACTORS		5

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Title of Regulation: VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

NOTE: Documents and forms referred to herein as exhibits have not been adopted by the authority as a part of the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendments to the foregoing Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

Summary:

The proposed amendments to the authority's rules and regulations applicable to its single family mortgage loan program will eliminate certain outdated sales prices and income limits, redesignate the PDS agents as originating agents and servicing agents, describe the authority's loan buydown programs, clarify that certain changes in loan reservations are prohibited, explain that private mortgage insurance companies may have additional underwriting requirements, specify that applicants must be U.S. citizens or possess a "green card," list additional documents required to be included in FHA and VA loan packages, clarify the requirement for the submission of tax records by applicants seeking to finance a home in certain targeted areas and make certain typographical and stylistic revisions.

VR 400-02-003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

PART I. GENERAL.

§ 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the

Proposed Regulations

authority's rules and regulations) must have an "adjusted family income" or a "gross family income" (as determined in accordance with the authority's rules and regulations) as applicable, which does not exceed the applicable income limitation set forth in Part II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing, originating and administration of mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

§ 1.2. PDS Originating and servicing agents.

A. Approval /definitions .

The originating of mortgage loans and the processing of applications for the making or financing of mortgage loans hereunder, the disbursement of proceeds of mortgage loans and the servicing of mortgage loans thereof in accordance herewith shall be performed through commercial banks, savings and loan associations and private mortgage bankers

approved as Processing/Disbursing/Servicing Agents ("PDS agents") originating agents ("originating agents") of the authority. The servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as PDS agents an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a satisfactory rating from any state and federal agencies responsible for the regulation of the applicant;
3. Have a net worth equal to or in excess of \$100,000 or, in the case of a savings and loan association, have its deposits insured by the Federal Savings and Loan Insurance Corporation;
4. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
5. Each branch office of the applicant that is to originate mortgage loans must have demonstrated experience in the origination of mortgage loans;
6. Have reasonable business hours - i.e. be open to the public at least five hours every banking day; and
7. 5. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

If the applicant is to originate (but not service) mortgage loans, the applicant must satisfy the qualifications set forth in (3) and (4) above only with respect to the origination of mortgage loans.

All PDS agents Each originating agent approved by the authority shall enter into Processing/Disbursing/Servicing Agreements ("PDS agreements") an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing, disbursing and servicing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating

Proposed Regulations

ans servicing agreement”) with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of these rules and regulations, the term “originating agent” shall hereinafter be deemed to include the term “originating and servicing agent,” unless otherwise noted. Similarly, the term “originating agreement” shall hereinafter be deemed to include the term “originating and servicing agreement,” unless otherwise noted. The term “servicing agent” shall continue to mean an agent authorized only to service mortgage loans. The term “servicing agreement” shall continue to mean only the agreement between the authority and a servicing agent.

The PDS Originating agents and servicing agents shall maintain adequate books and records with respect to such mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the PDS agent originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the PDS originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to PDS originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;

4. The capability, history and experience of any PDS originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Processing and disbursing Originating guide and servicing guide.

The processing and disbursing originating guide attached hereto as Part II is incorporated into and made a part of these rules and regulations. All exhibits and other documents referenced in the processing and disbursing originating guide are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a servicing guide which shall set forth the accounting and other procedures to be followed by the PDS agents in all originating agents and servicing agents responsible for the servicing of the mortgage loans under the PDS applicable originating agreements and servicing agreements. Copies of the servicing guide shall be

available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the processing and disbursing originating guide and the servicing guide.

D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its PDS originating agents and (ii) agree to purchase individual mortgage loans from its PDS originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the PDS applicable originating agreement or servicing agreement, the processing and disbursing originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's PDS originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The

executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to PDS originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the PDS selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the PDS applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS originating agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which PDS originating agents may qualify for such delegation. If such delegation has been made, the PDS originating agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the processing and disbursing guide, the PDS applicable originating agreement, the Act or these rules and regulations, he may require the PDS originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

PART II.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING AND DISBURSING GUIDE.

Article I.

Eligibility Requirements.

§ 2.1. Eligible persons and families.

A. Person.

Proposed Regulations

A one-person household is eligible.

B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

C. Citizenship.

Each applicant for an authority mortgage loan must either be a United States citizen or have a valid and current alien registration card (U.S. Department of Immigration Form 1-551 or U.S. Department of Immigration Form 1-151).

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the PDS *originating* agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The PDS *originating* agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the "PDS *Originating Agent's Checklist for Certain Requirements of the Tax Code*" (Exhibit A (4) A(1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this guide.

§ 2.2.1. Eligible borrowers.

A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1.B Three-year requirement);
2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date

of the closing of the mortgage loan. (See § 2.2.1.C Principal residence requirement);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1.D New mortgage requirement);

4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements); and

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions).

B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 "Targeted areas"); *Targeted areas*); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

- a. A fee simple interest,
- b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
- c. The interest of a tenant shareholder in a cooperative,
- d. A life estate,
- e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and
- f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower)

that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a "Present ownership interest" *present ownership interest* include:

- a. A remainder interest,
 - b. An ordinary lease with or without an option to purchase,
 - c. A mere expectancy to inherit an interest in a principal residence,
 - d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and
 - e. An interest in other than a principal residence during the previous three years.
2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.
3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the PDS *originating* agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The PDS *originating* agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by PDS *originating* agent. The PDS *originating* agent must, with due diligence, verify the representations in the ~~borrower~~ affidavit of borrower (*Exhibit E*) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the

loan closing.

C. Principal residence requirement.

1. General. An eligible borrower must intend *at the time of closing* to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (*to be updated by the verification and update of information form*) and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres even in rural areas. However, exceptions may be made: (i) if the land is owned free and clear and is not being financed by the loan, the lot may be as large as five acres, (ii) if

Proposed Regulations

difficulty is encountered locating a well or septic field, the lot may exceed two acres to include the additional acreage required, and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. Review by PDS *originating* agent. The affidavit of borrower (*Exhibit E*) must be reviewed by the PDS *originating* agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the PDS *originating* agent shall review the appraiser report (*Exhibit H*) of an authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the PDS *originating* agent shall certify to ~~its~~ the authority its findings and certain opinions in the checklist for certain requirements of the tax code (*Exhibit A(1)*) at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The PDS *originating* agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the PDS *originating* agent may establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional

land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by PDS *originating* agent. Prior to closing the mortgage loan, the PDS *originating* agent must examine the affidavit of borrower (*Exhibit E*), the affidavit of seller (*Exhibit F*), and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the PDS *originating* agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

§ 2.2.2. Eligible dwellings.

A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the PDS *originating* agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the PDS *originating agent or, if applicable, the servicing agent* must in all cases contact the authority *see § 2.10 below*.

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The PDS *originating agent* is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The PDS *originating agent* shall assist the eligible borrower in the correct completion of the worksheet. The PDS *originating agent* must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by PDS *originating agent*. The PDS *originating agent* shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the PDS *originating agent* must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the PDS *originating agent or, if applicable, the servicing agent* must contact the authority for this determination in all cases - *see section 2.10 below*). Also, as part of its review, the PDS *originating agent* must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the PDS *originating agent* must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.2.3. Targeted areas.

A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in

Proposed Regulations

targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising PDS *originating* agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to a PDS *an originating* agent exclusively for targeted areas will be specified in a forward commitment agreement between the PDS *originating* agent and the authority.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1.B. *Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.*

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

§ 2.3. Sales price limits.

A. For reservations made on or after March 1, 1989.

The authority's maximum allowable sales price for new loans for which reservations are taken by the authority on or after March 1, 1989, shall be as follows:

MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority On or after March 1, 1989

AREA	NEW CONSTRUCTION/ EXISTING/ SUBSTANTIAL REHABILITATION
Washington, DC-MD-VA MSA (Virginia Portion) 1/	\$120,000
Norfolk-Virginia Beach- Newport News MSA 2/	\$ 81,500
Richmond-Petersburg MSA 3/	\$ 79,500
Charlottesville MSA 4/	\$ 77,000
Fauquier County	\$ 77,000
Spotsylvania and King George Counties	\$ 75,500
Balance of State	\$ 75,500

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

B. For reservations made between August 10, 1987, and March 1, 1989.

The authority's maximum allowable sales prices for new loans for which reservations are taken by the authority on or after August 10, 1987, but prior to March 1, 1989, shall be as follows:

MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority on or after August 10, 1987, but prior to March 1, 1989.

	New Construction	Substantial Rehabilitation	Existing
Washington, DC-MD-VA			

Proposed Regulations

MSA (Virginia Portion)			
1/	\$120,000	\$120,000	\$110,000
Norfolk-Virginia Beach Newport News MSA			
2/	\$ 81,500	\$ 81,500	\$ 75,500
Richmond-Petersburg MSA			
3/	\$ 77,000	\$ 71,500	\$ 68,500
Roanoke MSA			
4/	\$ 73,500	\$ 56,500	\$ 56,500
Lynchburg MSA			
5/	\$ 66,000	\$ 58,500	\$ 58,500
Charlottesville MSA			
6/	\$ 77,000	\$ 74,500	\$ 68,500
Fringe of Washington MSA Fauquier County	\$ 77,000	\$ 77,000	\$ 77,000
Fredericksburg	\$ 64,000	\$ 60,000	\$ 60,000
Spotsylvania County	\$ 66,000	\$ 60,000	\$ 60,000
Winchester Area			
7/	\$ 64,000	\$ 58,500	\$ 58,500
North Piedmont (Rural Part)			
8/	\$ 64,000	\$ 56,500	\$ 56,500
Balance of State	\$ 64,000	\$ 56,500	\$ 56,500

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

5/ Includes: Amherst County, Campbell County, Lynchburg City.

6/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

7/ Includes: Clarke County, Frederick County,

Winchester City.

8/ Includes: Caroline County, Culpeper County, King George County, Louisa County, Madison County, Orange County, Rappahannock County.

C. B. Effect of solar grant.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

§ 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of income over \$20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

§ 2.5. Income requirements.

A. Maximum gross income.

As provided in § 2.2.1.A.6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1.A.6 are *automatically met as long as the requirements of this subsection are met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.*

For the purposes hereof, the term "gross family income" means the annualized gross income of a person or all members of a family residing or intending to reside in a dwelling unit from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from

Proposed Regulations

business activities or investments).

The maximum annual gross family incomes for eligible borrowers shall be determined or set forth as follows:

1. For reservations made on or after March 1, 1989.

MAXIMUM ALLOWABLE GROSS INCOMES

Applicable only to loans for which reservations are taken by the authority and to assumptions for which applications are taken by the PDS Agent *an originating agent or a servicing agent* on or after March 1, 1989.

The maximum allowable gross *family* income for each borrower shall be a percentage (based on family size) of the applicable median family income (as defined in § 143(f)(4) of the Internal Revenue Code of 1986 (as amended), with respect to the residence of such borrower, which percentages shall be as follows:

Family Size	Percentage of applicable Median Family Income (Regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 person	85%
3 or more persons	100%

However, the maximum allowable gross *family* income for each borrower assuming a mortgage loan made prior to March 1, 1989, shall be the amount established for a family of three or more persons, regardless of the family size of such borrowers.

The authority shall from time to time inform the PDS Agents *its originating agents and servicing agents* by written notification thereto of the foregoing maximum allowable gross income limits expressed in dollar amounts for each area of the state and each family size. The effective dates of such limits shall be determined by the executive director.

2. For reservations made between August 10, 1987, and March 1, 1989.

MAXIMUM ALLOWABLE GROSS INCOMES

Applicable only to loans for which reservations are taken by the Authority and to assumptions for which applications are taken by the PDS agent on or after August 10, 1987, and prior to March 1, 1989.

	New Construction	Substantial Rehabilitation	Existing
Washington, DC-MD-VA MSA Virginia Portion)			
1/	\$ 49,400	\$ 49,400	\$ 46,000

Norfolk-Virginia Beach Newport News MSA	2/	\$ 37,000	\$ 37,000	\$ 35,800
Richmond-Petersburg MSA	3/	\$ 36,400	\$ 34,400	\$ 33,300
Roanoke MSA	4/	\$ 35,100	\$ 32,700	\$ 31,500
Lynchburg MSA	5/	\$ 32,200	\$ 32,200	\$ 30,000
Charlottesville MSA	6/	\$ 36,400	\$ 35,400	\$ 33,300
Fringe of Washington MSA				
Fauquier County		\$ 34,400	\$ 34,400	\$ 34,400
Fredericksburg		\$ 32,700	\$ 32,700	\$ 31,500
Spotsylvania County		\$ 32,700	\$ 32,700	\$ 31,500
Winchester Area	7/	\$ 32,200	\$ 32,200	\$ 30,000
North Piedmont (Rural Part)	8/	\$ 32,700	\$ 32,700	\$ 31,500
Balance of State		\$ 32,200	\$ 32,200	\$ 30,000

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

5/ Includes: Amherst County, Campbell County, Lynchburg City.

6/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

7/ Includes: Clarke County, Frederick County, Winchester City.

Proposed Regulations

8/ Includes: Caroline County, Culpeper County, King George County, Louisa County, Madison County, Orange County, Rappahannock County.

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration or the Veterans Administration (hereinafter referred to as "FHA or VA loans").

An applicant satisfies the *authority's* minimum income requirement for *authority* financing if the monthly principal and interest, tax, insurance (~~PITI~~) ("*PITI*") and other additional monthly fees such as condominium assessments *60% of the monthly condominium assessment shall be added to the PITI figure*), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income - (See (see Exhibit B) . However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. For units in condominiums, 60% of the monthly condominium assessment shall be used in the foregoing ratio calculations.

§ 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of a FHA or VA loan, such other percentage as may be permitted by FHA or VA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of a FHA or VA loan, such other percentage as may be permitted by FHA or VA) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of a FHA or VA loan, the FHA or VA insurance fees charged in connection with such loan (and, if a FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA and VA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

Unless the loan is an FHA or VA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on all loans which exceed each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The PDS originating agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA or VA insurance, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the PDS originating agent's name and purchased by the authority once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event that the authority purchases an FHA or VA loan, the PDS originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. (See Exhibit C) For assumptions of conventional loans (i.e., loans other than FHA and VA loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. Conventional loans.

The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1.C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed

Proposed Regulations

applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to

decline a loan when a bankruptcy and poor credit is involved.

c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed *provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, except that, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.*

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

D. FHA and VA buydown program.

With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown

funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see § 2.15 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).

E. Interest rate buydown program.

Unlike the program described in subsection D above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

§ 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA or VA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.10. Loan assumptions.

A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans as long as provided that certain

requirements are met. The requirements for each of the ~~four~~ two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

- (1) § 2.5 (Income requirement).
- (2) § 2.2.1.C (Principal residence requirement)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.2.1.B (Three year requirement)
- (5) § 2.2.2.B (Acquisition cost requirement)
- (6) § 2.7 (Mortgage insurance requirement).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

- (1) § 2.5 (Income requirements)
- (2) § 2.2.1.C (Principal residence requirements)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.7 (Mortgage insurance requirements).

2. Assumptions of FHA or VA loans.

a. For assumptions of FHA or VA loans financed by the proceeds of bonds issued on or after December 17, 1981 the following conditions must be met:

- (1) § 2.5.A (Maximum income requirement)
- (2) § 2.2.1.C (Principal residence requirement)
- (3) § 2.2.1.B (Three year requirement)
- (4) § 2.2.2.B (Acquisition cost requirements).

In addition, all applicable FHA or VA underwriting requirements, if any, must be met.

b. For assumptions of FHA or VA loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA or VA underwriting requirements, if any, must be met.

B. Requirement Authorization to process assumptions/requirement that the authority be contacted.

Proposed Regulations

Although the requirements listed in subsection A above are generally those that only originating agents are responsible for determining compliance with, in the case of assumptions, servicing agents are also authorized to make such determinations. More generally, for the purposes of this § 2.10, servicing agents may process assumption requests provided that they do so in accordance with all the requirements hereof, including those otherwise the exclusive responsibility of originating agents. Accordingly, references are made within this section to "originating agents or servicing agents" in order to reflect this additional role of servicing agents.

The PDS originating agent or servicing agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the PDS originating agent or servicing agent may not rely - as it may for new loans - on the fact that the acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

C. Application package for assumptions.

Once the PDS originating agent or servicing agent has contacted the authority and it has been determined which of the four categories described in subsection A above applies to the loan, the PDS originating agent or servicing agent must submit to the authority the information and documents listed below for the applicable category:

1. Assumption package for conventional loans:

a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

- (1) Affidavit of borrower (Exhibit E).
- (2) Affidavit of seller (Exhibit F).
- (3) Acquisition cost worksheet (Exhibit G).
- (4) Appraiser's report (Exhibit H).
- (5) Three year's tax returns.
- (6) PDS Originating agent's checklist (Exhibit A(1)).
- (7) 4506 form (Exhibit Q).
- (8) PDS Originating agent's loan submission cover letter (Exhibit 0(1)).
- (9) Authority's completed application (Exhibit D).
- (10) Verification of employment (VOE's) (and other income related information).

(11) Verification of deposit (VOD's).

(12) Credit report.

(13) Sales contract.

(14) Truth-in-lending (Exhibit K) and estimate of charges.

(15) Equal credit opportunity act (ECOA) notice (Exhibit I).

(16) Authority underwriting qualification sheet (Exhibit B(1)).

b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:

(1) Authority's completed application (Exhibit D).

(2) Verification of employment (VOE's) (and other income related information).

(3) Verification of deposit (VOD's).

(4) Credit report.

(5) Sales contract.

(6) Truth-in-lending (Exhibit K) and estimate of charges.

(7) Equal credit opportunity act (ECOA) notice (Exhibit I).

(8) Authority underwriting qualification sheet (Exhibit B(2)).

2. Assumption package for FHA or VA loans.

a. FHA or VA loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

(4) Appraiser's Report (Exhibit H).

(5) Three year's tax returns.

(6) PDS Originating agent's checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) PDS Originating agent's loan submission cover letter (Exhibit 0(2) or (3)).

(9) Authority's completed application (Exhibit D).

(10) Sales contract.

(11) Copy of the executed FHA mortgage credit analysis worksheet if the original borrowers are to be released from liability.

(12) In addition, all applicable requirements, if any, of FHA or VA must also be met.

b. FHA or VA loans financed by the proceeds of bonds issued prior to December 17, 1981: Only the applicable requirements, if any, of FHA or VA must be met.

D. Review by the authority/additional requirements.

Upon receipt from an originating agency or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the PDS originating agent or servicing agent of such determination in writing. The authority will further advise the PDS agent originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance and submission of an escrow transfer letter.

§ 2.11. Leasing, loan term, and owner occupancy.

A. Leasing.

The owner may not lease the property without first contacting the authority.

B. Loan term.

Loan terms may not exceed 30 years.

C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ 2.12. Reservations/fees.

A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first served basis. Reservations are made by specific originating agents with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates (see subdivision 5 below) are also nontransferable. In order to make a reservation of funds for a loan, the PDS originating agent shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.

2. Collect a \$100 nonrefundable reservation fee (or such other amount as the authority may require).

3. Determine what type of mortgage insurance will be required; specifically, whether the loan will be a conventional loan, an FHA loan or a VA loan.

4. Complete a reservation sheet (Exhibit C(1)).

5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, as the interest rate which shall be locked in for the reserved funds and an expiration date for the reservation, all of which will be assigned after the PDS originating agent gives to the authority the following information:

a. Name of primary applicant **ERROR NO STOP UNDERLINE OR STRIKE THRU**

b. Social security number of applicant

c. Estimated loan amount

d. PDS agent's servicer number

e. Gross family income of applicant and family, if any

f. Location of property (city or county)

g. Verification of receipt of the reservation fee

h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C;" if FHA, the suffix will be "F;" and, if VA, it will be "V").

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the PDS originating agent may sign the reservation card) and, in addition, complete a lock-in disclosure (Exhibit C(2)) and have the applicant execute it prior to submitting it with the application package.

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation). Funds will not be reserved longer than 60 days unless the PDS originating agent requests and receives an additional one-time extension prior to the 60-day deadline.

Proposed Regulations

B. More than one reservation.

An applicant may request a second reservation if the first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

C. The reservation fee.

Under no circumstances is this fee refundable. If the loan closes, it will be retained by the PDS *originating agent* as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, this reservation fee must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the PDS *Agent originating agent* shall be charged a penalty fee of \$50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

D. Other fee.

1. Commitment fee. The PDS *originating agent* must collect at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount less the amount of the reservation fee already collected (such that the total amount received by the PDS *originating agent* at that point equals 1.0% of the loan amount - please also note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the PDS *originating agent* retains the full such 1.0% fee as its original fee. If the loan does not close the origination fee (which includes the reservation fee) must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then everything collected except for the collected commitment fee less the reservation fee may at the option of the authority be refunded to the applicant. (The reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The PDS *origination agent* must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the PDS *originating agent*.

§ 2.13. Preparation of application package for new loans.

A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following

original documents :

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)) .
 2. Application - the application must be made on the authority's approved application form. (Exhibit D)
 3. Preliminary underwriting form. (Exhibit B)
 4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).
 5. Verification of employment (and any additional documentation).
 6. Verification of other income.
 7. Verification of deposits (and any additional documentation).
 8. Gift letters (and verification).
 9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.
 10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).
 11. Loan submission cover letter. (Exhibit O(1))
 12. Appraiser's report. (Exhibit H)
 13. Acquisition cost worksheet. (Exhibit G)
 14. Affidavit of seller. (Exhibit F)
 15. Affidavit of borrower. (Exhibit E)
 16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.
- (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).
17. PDS *Originating agent's* checklist for certain requirements of the tax code. (Exhibit A(1))
 18. Signed request for copy of tax returns. (Exhibit Q)

19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

20. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of the ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

21. Truth-in-lending disclosure. (Exhibit K)

B. FHA loans.

The application package submitted to the authority for approval of an FHA loan must contain the following items: *(Please note that items 13 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):*

1. Reservation sheet (Exhibit ~~E~~ C(1)) and lock-in disclosure (Exhibit C(2)).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the HUD application (FHA form 92900).
4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).
5. Copy of the credit report.
6. Copy of verification of employment and current pay stubs.
7. Copy of verification of other income.
8. Copy of verification of deposits.
9. Copy of gift letters (and verification).
10. Copy of sales contract.
11. Assignment letter - this must reference the case number, name of applicant.
12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.
13. FHA Notice to Buyers (Document F-9)

14. Loan submission cover letter. (Exhibit O(2))

15. Appraiser's report. (Exhibit H)

16. Acquisition cost worksheet. (Exhibit G)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § ~~2.2.1 B.3~~ § 2.2.1.B.3 hereof, such letter must be enclosed instead).

20. PDS *Originating* agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-lending disclosure. (Exhibit K)

C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items *(please note that items 15 through 18 and 20 and 21 are authority forms and must be submitted as originals, not copies):*

1. Reservation sheet (Exhibit ~~E~~ C(1)) and lock-in disclosure (Exhibit C(2)).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the VA application (VA form 26-1802A).
4. Copy of the Loan Analysis Worksheet (VA form

Proposed Regulations

6393).

5. Copy of VA certificate of eligibility.

6. Copy of VA benefits and related indebtedness letter.

7. Copy of the credit report.

8. Copy of verification of employment (if active duty, include current LES form).

9. Copy of verification of other income.

10. Copy of verification of deposits.

11. Copy of gift letters (and verification).

12. Copy of sales contract.

13. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.

14. Loan submission cover letter. (Exhibit O(3))

15. Appraiser's report. (Exhibit H)

16. Acquisition cost worksheet. (Exhibit G)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-lending disclosure. (Exhibit K)

D. Delivery of package to authority.

After the application package has been completed, it should be forwarded to:

Single Family Originations Division
Originations Department
Virginia Housing Development Authority
13 South 13th Street 601 South Belvidere Street
Post Office Box 5206
Richmond, VA. 23210 23220-8206

§ 2.14. Commitment. (Exhibit J)

A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the PDS originating agent. Also enclosed in this package will be other documents necessary for closing. The PDS originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the PDS originating agent, along with the 1.0% commitment fee, within 15 days after the date of the commitment. If the borrower does so indicate his acceptance of the commitment, the originating agent shall retain the fee in accordance with § 2.1.2.D.1. above. If the borrower fails to so indicate his acceptance of the commitment, either by failing to return an executed original thereof or by failing to submit the fee, or both, the originating agent shall, within 20 days after the date of the commitment, notify the authority in writing of such failure. If the originating agent does not do so, the authority shall deem that commitment to have been duly accepted, and the originating agent shall be liable to the authority for the uncollected commitment fee based on the loan's failure to close as described in § 2.1.2.D.1. above.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and

the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ 2.15. Loan settlement.

A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the PDS *originating* agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The PDS *originating* agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the PDS *originating* agent with the documents which the closing attorney is required to complete.

Once the attorney completes the preclosing package, it should be mailed to:

*Single Family Division
Pre-Closing Section
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 4593
Richmond, VA 23220-8593*

After the authority reviews the closing attorney's preliminary work and has been advised by the PDS *originating* agent in the case of an FHA or VA loan that all applicable FHA or VA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the *title insurance* commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the PDS *originating* agent. It is the PDS *originating* agent's responsibility to see that all documents and checks are received immediately

after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding ~~check checks~~ for buy-down points (*this applies to both the monthly payment buydown program described in § 2.8.D above and the interest rate buydown program described in § 2.8.E*). A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay *interest debt service* rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down fees *funds* may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Servicing Division
Post-Closing Section
Virginia Housing Development Authority
13 South 13th Street 601 South Belvidere Street
Post Office Box 5427
Richmond, VA ~~23210~~ 23220-8427

Within five days after the closing of the loan, the PDS *originating* agent must forward the fees, interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy.

Within 45 days after loan closing, the PDS *originating* agent shall forward to the authority the original recorded deed of trust and final mortgage title insurance policy. Within 55 days after loan closing the PDS *originating* agent shall forward to the authority the original hazard insurance policy.

During the 120-day period following the loan closing the PDS *originating* agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the

Proposed Regulations

same or if there is any such change of address. Subject to the authority's approval, the PDS *originating* agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event *that the originating agent receives information* at any time ~~otherwise becomes aware of the fact~~ that any item noted on the PDS *originating* agent's checklist for certain requirements of the tax code may not be correct or proper, the PDS *originating* agent shall immediately notify the authority.

§ 2.16. Property guidelines.

A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. The determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (*mobile homes*) may be financed only if it is new construction and insured 100% by FHA (see subsection C). *Existing manufactured housing is not eligible for authority financing.*

B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road (easements or right-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; *(iii) property with available water and sewer hookup must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that and (iii) joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority.*

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. FHA or VA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA or VA loan must meet all applicable requirements imposed by FHA or VA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new

manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an

unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Conventional loans.

1. The ~~PDS~~ *originating* agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The ~~PDS~~ *originating* agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which the authority has not previously financed the purchase of any units, Exhibit S providing basic information about the condominium must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. The authority will review the above described form and financial information. If on the basis of such review the authority finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit S requires that the Unit Owners Association agree to submit to the authority upon its request, the condominium's annual financial statements, operating budget and other information as the authority may require. The association is also required to agree that the authority shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for the authority's termination of its approval of the condominium.

3. Each year the authority will send Exhibit T to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the approvals of VA, FNMA and FHLMC, as applicable, and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, the authority may terminate its approval of the condominium. The authority will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, the authority will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event the authority determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to

the satisfaction of the authority, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by the authority.

4. If a condominium is approved by FNMA, the authority will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, the authority will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by the authority and exceeds the foregoing percentage limitations, the authority will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

B. FHA or VA loans. The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, or by VA, in the case of a VA loan.

COUNCIL ON HUMAN RIGHTS

Title of Regulation: VR 402-01-02. Regulations to Safeguard Virginian's Human Rights from Unlawful Discrimination.

Statutory Authority: § 2.1-720.6 of the Code of Virginia.

Public Hearing Date: March 28, 1990 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

The purpose of the Human Rights Act is to safeguard all individuals within the Commonwealth from unlawful discrimination on the basis of race, color, religion, national origin, sex, age, marital status or disability in places of public accommodation, including educational institutions and in real estate transactions; in employment; to preserve the public safety, health and general welfare; and to further the interests, rights and privileges of individuals within the Commonwealth, and to protect citizens of the Commonwealth against unfounded charges of unlawful discrimination. The regulations will elaborate on the procedures for filing complaints under the Virginia Human Rights Act, the administrative process and the remedies available to complainants under the Act.

VR 402-01-02. Regulations to Safeguard Virginian's Human Rights from Unlawful Discrimination.

§ 1. Policy.

Proposed Regulations

The purpose of these regulations is to supplement the Virginia Human Rights Act (§ 2.1-714 et seq.) of the Code of Virginia which safeguards all individuals within the Commonwealth from unlawful discrimination.

§ 2. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

“Act” means the Virginia Human Rights Act, Chapter 43 (§ 2.1-714 et seq.) of Title 2.1 of the Code of Virginia.

“Complaint” means a written statement by a person or by the council alleging an act of discrimination prohibited by § 2.1-716 of the Code of Virginia.

“Complainant” means a person who claims to have been injured by a discriminatory practice.

“Respondent” means a person against whom a complaint of violation of the Act is filed. Each reference to a “complainant” and “respondent” shall be deemed to refer, as appropriate, to the singular and plural.

§ 3. Complaints by or on behalf of persons claiming to be aggrieved.

A. A complaint on behalf of a person claiming to be aggrieved may be made by any person, agency, or organization. The written complaint need not identify by name the person on whose behalf it is made. The person making the complaint, however, shall provide the council orally with the name, address and telephone number of the person on whose behalf the complaint is made. During the council’s investigation, the director shall verify the complaint with the person on whose behalf the complaint is made. That person may request that the council keep his identity confidential. However, a request for confidentiality shall not prevent the council from revealing the identity to federal, state or local agencies that have agreed to keep such information confidential.

B. The complainant has the responsibility of providing the council with notice of any change in address and with notice of any prolonged absence from his current address.

§ 4. Where to make a complaint.

A complaint may be made in person at 101 N. 14th Street, James Monroe Building, 17th Floor, Richmond, Virginia 23219 or by mail at P.O. Box 717, Richmond, Virginia 23206.

§ 5. Contents of complaint.

A. Each complaint should contain the following:

1. The full name, address, and telephone number of the person making the complaint;

2. The full name and address of the person against whom the complaint is made;

3. A clear concise statement of the facts, including pertinent dates, constituting the alleged unlawful discriminatory practices;

4. The date of filing and the name of the agency in cases where alleged unlawful discriminatory practices have been filed before a local, state or federal agency charged with the enforcement of discrimination laws.

B. Notwithstanding the provisions of subsection A of this section, a complaint shall be considered filed when the council receives a written statement which identifies the parties and describes generally the action or practices complained of.

C. A complaint may be amended by the complainant or the director at any time prior to a hearing.

D. When an amendment is filed, the Office of Human Rights shall serve a copy of the amendment upon the respondent within five working days of the amendment. The respondent shall, within 10 days after the service of the amendment, file an answer to the amendment.

§ 6. Filing referrals to state and federal agencies.

A. Complaints which are under the jurisdiction of another state agency are considered filed with that agency when received by the council if the filing falls within the time limits for filing as required by that agency pursuant to § 2.1-722 of the Code of Virginia.

B. The council has established interagency agreements with the following state agencies:

1. Department of Commerce-Real Estate Board;
2. Department of Labor and Industry;
3. Department of Personnel and Training;
4. Department for Rights of the Disabled; and
5. Department of Employee Relations Counselors.

If the director or his designee determines that the complaint is not within the council’s jurisdiction, but possibly in the jurisdiction of one of the interagency agreement agencies, the complaint shall be sent to the appropriate agency within 15 working days of determination. The complainant shall be notified of this action and a reason provided. Once the complaint has been forwarded and the complainant notified, the council shall close the case.

C. Persons filing under Title VII of the Civil Rights Act of 1964, as amended, or the Fair Labor Standards Act shall be notified within 15 days that they should also file

with the appropriate federal agency within the appropriate time period if the statute of limitation has not already expired.

D. All charges shall be dated and time stamped upon receipt. A copy of the charge shall be transmitted by mail to the agency, and the complainant and the person filing a complaint on behalf of the complainant shall be notified in writing that the complaint has been forwarded to the appropriate state or federal agency or both.

E. Complaints shall be filed with the council not later than 180 days from the day upon which the alleged discriminatory practice occurred.

§ 7. Notice of complaint.

Within 15 working days after the filing of a complaint the director shall notify the respondent of the complaint by mail.

§ 8. Investigations by the director or his designee.

A. During the investigation of a complaint, the director may utilize the information gathered by government agencies. The director shall accept a statement of position or evidence submitted by the complainant, person making the complaint on behalf of complainant, or the respondent. The director may submit a request for information to the respondent which, in addition to specific questions, may request a response to the allegations contained in the complaint. The director's or his designee's request for information shall be mailed within 20 working days of receipt of the complaint. A response to the request for information should be submitted within 20 working days from the date the request is postmarked.

B. The director may require the complainant to provide such additional information as he deems necessary to conduct an investigation.

C. The director may require a fact-finding conference with the parties prior to a determination of a complaint of discrimination. The conference is an investigative forum intended to define the issues, to determine the elements in dispute and to ascertain whether there is a basis for a negotiated settlement of the complaint.

D. The director's or his designee's authority to investigate a complaint is not limited to the procedure outlined in subsections A, B and C of this section.

§ 9. Dismissal; procedure and authority.

A. When the director determines that the complaint is not timely filed, or fails to state a claim under the Act, the director shall dismiss the complaint.

B. When the director determines after investigation that there is not reasonable cause to believe that the Act has

been violated, the director shall dismiss the complaint. If the complainant disagrees with the director's decision, the council can be petitioned within 10 working days for a review of the decision.

C. Upon petition for review the council shall establish a panel of three members to hear such petitions. If it is determined within 30 working days after the petition for review of a dismissal of a complaint that there is not reasonable cause to believe the respondent has engaged in a discriminatory practice, the council shall issue an order dismissing the complaint and furnish a copy of the order to all parties.

§ 10. Settlement.

A. When the director determines that there is reasonable cause to believe that an unlawful discriminatory practice has occurred or is occurring, the director shall endeavor to eliminate such practice by informal methods of conference, conciliation and negotiation.

B. When conciliation or negotiated settlement is successful, the terms of the agreement shall be reduced to writing and signed by the complainant, respondent and the director within 10 working days of the agreement.

§ 11. Public hearing.

A. When conciliation efforts fail, or when the director determines that the conciliation process will not be in the best interest of the complainant or the Commonwealth, the director shall set the matter of public hearing or refer the complaint to the appropriate federal agency.

B. Notice of the time and place of the hearing shall be mailed to the parties at least 20 working days before the date of the hearing.

C. All hearings shall be open to the public.

D. A case will be heard by a hearing officer appointed by the council.

E. The hearing officer shall not be bound by statutory rules of evidence or technical rules of procedure.

F. Both the complainant and the respondent shall appear and be heard in person, but may be assisted by counsel, or by an authorized representative.

G. All testimony shall be given under oath or affirmation.

H. The order of presentation shall be established by the hearing officer with the burden of going forward being placed on the complainant.

I. Any party who fails to appear at a hearing or to respond to a request for information by a specified date,

Proposed Regulations

in the absence of good cause shown, shall be deemed to have waived all further rights to appear, present evidence, or petition for rehearing or reconsideration.

J. Irrelevant, immaterial and unduly repetitious evidence shall at the discretion of the hearing officer be excluded. The rules of privilege shall be given effect.

K. The hearing officer may accept relevant documents or other evidence into the record as exhibits. Documents to be submitted at the hearing by a party must be distributed to the council and the other party no later than five working days prior to the hearing. Documents not submitted in accordance with this rule will only be admitted when the presiding body or hearing officer determines that just cause exists for failure to follow this rule.

L. Before the hearing is closed, the parties shall be given an opportunity to present an oral argument of their case.

M. The hearing shall be recorded by an official reporter and one transcript will be purchased by the council. The council's copy will be made available for review within a reasonable time after request at the Office of Human Rights during regular business hours.

§ 12. Findings and recommendations.

A. The hearing officer of the council shall state findings of fact and conclusions of law in writing. The findings of the hearing officer shall be filed with the council within 30 working days of the date of completion of the hearing.

B. If the council votes to accept the hearing officer's findings that the respondent has not engaged in a discriminatory practice, it shall issue an order dismissing the complaint. A copy of the order shall be furnished to the complainant and the respondent.

C. If the council votes to accept the hearing officer's findings that the respondent has committed an unlawful discriminatory practice, it shall state its findings and may issue recommendations to eliminate the discriminatory practice, including, but not limited to:

- 1. Hiring, reinstating, promoting or upgrading the position of the complainant, with or without back pay, and providing such fringe benefits as the complainant has been denied;*
- 2. Restoring or admitting the complainant to membership in a labor organization, a training program, guidance program or other occupational training program, using the objective criteria for admission of persons to such programs;*
- 3. Leasing, renting or selling property at issue to the complainant;*

4. Extending to the complainant the full and equal enjoyment of the goods, services, facilities, privileges or accommodations of the respondent;

5. Admitting the complainant to a public accommodation or educational institution;

6. Reporting as to the manner of compliance;

7. Posting notices in a conspicuous place setting forth requirements for compliance with this chapter or other information that the council deems necessary to explain the Act; and

8. Revising personnel policies and procedures, including the undertaking of affirmative efforts.

D. If the council votes not to accept the hearing officer's findings, it will return the findings to the hearing officer for further consideration.

§ 13. General.

A. If the council fails to act by dates specified herein, neither the rights of the complainant nor the respondent will be prejudiced.

B. If the complainant or the respondent fails to comply with the provisions stated herein, except where good cause is shown, the failure may be deemed a waiver of any rights provided herein.

DEPARTMENT OF PERSONNEL AND TRAINING

Title of Regulation: VR 525-01-02. Commonwealth of Virginia Health Benefits Program.

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

Public Hearing Date: January 16, 1990 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The health benefits program is created for the benefit of state employees and employees of participating localities and to enable the state and localities to recruit and retain highly qualified employees. The purpose of these regulations is to provide guidance to participating employees, state agencies and local employers (as defined) regarding the administration of the Commonwealth of Virginia Health Benefits Program.

The regulations contain provisions applicable to state agencies, state employees, local employers and employees of participating local employers. Where applicable, provisions will distinguish between state

employees and employees of participating local employers.

VR 525-01-02. Commonwealth of Virginia Health Benefits Program.

PART I. GENERAL.

§ 1.1. Authority.

These regulations are promulgated by the Department of Personnel and Training (the "department") pursuant to §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

§ 1.2. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning unless the context clearly indicates otherwise:

"Accident or health plan" means a plan described in the Internal Revenue Code § 105.

"Adoption agreement" means an agreement executed between a local employer and the department specifying the terms and conditions of the local employer's participation in the health benefits program.

"Alternative health benefits plans" means optional medical benefits plans, inclusive of but not limited to HMOs and PPOs, which are offered pursuant to the health benefits program in addition to the basic plan.

"Administrative services arrangement" means an arrangement whereby a third party provider agrees to administer all or part of the health benefits program.

"Basic plan" means the hospitalization, medical and major medical plan offered pursuant to the health benefits program.

"Coordination of benefits" means the establishment of a priority between two or more underwriters which provide health benefits protection covering the same claims incident.

"Department" means the Department of Personnel and Training.

"Dependent" means any person who is determined to be an eligible family member of an employee pursuant to subsection E of § 4.1 these regulations.

"Director" means the Director of the Department of Personnel and Training.

"Dual membership" means the coverage in the health benefits program of the employee and either the spouse or one dependent. This definition does not include coverage of retirees or employees or their spouses who are

otherwise covered by Medicare.

"Effective date of coverage" means the date on which a participant is eligible for benefits under a plan or plans elected under the health benefits program.

"Employee" means a person employed by an employer participating in the health benefit program or, where demanded by the context of these regulations, a retired employee of such an employer. The term "employee" shall include state employees and employees of local employers.

"Employee health insurance fund" or "fund" means an account established by the state treasury within which shall be deposited contributions to the plan.

"Employer" means the entity with whom a person maintains a common law employee-employer relationship. The term "employer" is inclusive of an employee of each state agency and that of a local employer.

"Employer application" or "application" means the form, to be provided by the department, to be used by the local employer for applying to participate in the health benefits program.

"Experience adjustment" means the adjustment consistent with generally accepted actuarial practices to current contributions for benefits that reflects deviations in claims experience.

"Family membership" means the coverage in the health benefits program of the employee and two or more persons comprising the spouse or dependents, or both.

"Health Maintenance Organization" or "HMO" means an entity created under The Health Maintenance Organization Act of 1973 (Title XIII of the Public Health Service Act), as amended, as one defined under state law.

"Health benefits program" or "program" means individually or collectively, the plan or plans the department may establish pursuant to §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

"Insured arrangement" means an accident or health plan underwritten by an insurance company wherein the contract holder's only obligation as it may relate to claims is the payment of insurance company premiums.

"Independent hearing officer" means one or more individuals selected by the director of the department to arbitrate disputes which may arise in conjunction with these regulations or the health benefits program.

"Local administrator" means the person or office designated in the application and adoption agreement to be responsible for the day to day administration of the health benefits program at the local level.

"Local advisory committee" or "committee" is a

Proposed Regulations

committee established pursuant to § 2.1-20.1:02 of the Code of Virginia which shall provide guidance to the department concerning the administration of the health benefits program.

"Local employees" or "employees of local governments" means all officers and employees of the governing body of any county, city or town, employees of school boards and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from §§ 15.1-20, 15.1-21, or similar statutes, provided that the officers and employees of a social services department, welfare board, mental health and mental retardation services board or library board of a county, city, or town shall be deemed to be the employees of local government.

"Local employer" means any county, city or town, school board and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from §§ 15.1-20, 15.1-21, or similar statutes.

"Local retiree" means a former local employee who has met the terms and conditions for early, normal or late retirement from a local employer.

"Local officer" means the treasurer, registrar, commissioner of revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

"Open enrollment" means the period during which an employee may elect to commence or to change membership or plans offered pursuant to the health benefits program.

"Part-time employee" means an employee as discussed in subsection B of § 4.1 of these regulations.

"Participant" means any person actively enrolled and covered by the health benefits program.

"Plan administrator" means the department.

"Preferred provider organization" or "PPO" means an entity through which a group of health care providers, such as doctors, hospitals and others, agree to provide specific medical and hospital care and some related services at a negotiated price.

"Preexisting condition" means a condition which, in the

opinion of the plan's medical advisors, displayed signs or symptoms before the participant's effective date of coverage. These signs or symptoms must be ones of which the participant was aware or should reasonably have been aware. The condition is considered preexisting whether or not the participant was seen or treated for the condition. It is also considered preexisting whether or not the signs and symptoms of the condition were correctly diagnosed.

"Retiree" means any person who meets the definition of either a state retiree or a local retiree.

"Self-insured arrangement" means a facility through which the plan sponsor agrees to assume the risk associated with the type of benefit provided without using an insurance company.

"Single membership" means coverage of the employee only under the health benefits program.

"State" means the Commonwealth of Virginia.

"State agency" means an instrumentality of the Commonwealth authorized to do business by the General Assembly to carry out the business of the Commonwealth.

"State employee" means a state employee as defined in §§ 51-11.10 and 51-111.10:01 of the Code of Virginia, employee as defined in § 51-144 of the Code of Virginia, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 1-161 of the Code of Virginia and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth, and interns and residents employed by the Medical College of Virginia Commonwealth University and the School of Medicine and Hospital of the University of Virginia. The Athletic Department of Virginia Polytechnic Institute and State University is a local auxiliary whose members are considered state employees for purposes of eligibility for the program.

"State health benefits advisory council" or "advisory council" is an advisory council established pursuant to § 2.1-20:01 of the Code of Virginia.

"State retiree" means a former state employee who has met the terms and conditions for early, normal or late retirement from the Commonwealth.

"Teacher" means any employee of a county, city, or other local public school board.

§ 1.3. Designee and delegations of authority.

Pursuant to § 2.1-20.1 of the Code of Virginia, the Department of Personnel and Training shall establish a health benefits program (the "program"), subject to the approval of the Governor, for providing accident or health benefit protection, including but not limited to chiropractic treatment, hospitalization, medical, surgical

and major medical coverage for state employees and the employees of participating local employers.

The Secretary of Administration hereby delegates to the Department of Personnel and Training the authority to support the activities of the state advisory council, to review and evaluate that council's recommendations, and to transmit to the secretary the council's recommendations.

The Director of the Department of Personnel and Training hereby delegates to the Director of the Office of Health Benefits the authority to:

1. Propose, design and administer one or more accident or health plans, or both. All such approved plans will, in the aggregate, constitute the health benefits program. Any plan or plans proposed by the Office of Health Benefits shall be subject to the approval of the Director of the Department of Personnel and Training.

2. Propose regulations at any time for the purpose of the implementation, communication, funding and administration of the health benefits program.

3. Enter into one or more contracts for the purpose of implementing, communicating, funding or administering the health benefits program. To this end, but not exclusively, such contract(s) may be for the underwriting, the funding, and administration, including claims processing and claims adjudication, of the program. Such contracts may be for the legal, accounting and actuarial services as well as communication, statistical analysis and any other item that may be needed to effectively review and maintain the health benefits program.

4. Evaluate the effectiveness of the health benefits program or any plan which may constitute a component part, as it might relate to the objectives of such program or such component plan and make recommendations regarding the effectiveness of such program or plan in meeting such stated objectives. The stated objective of the program is to assist participating employers, including state agencies, to recruit and retain highly qualified employees.

§ 1.4. State advisory council.

In the administration of the health benefits program or any component plan or plans comprising such program, the department shall take into consideration the recommendations of the state health benefits advisory council (the "council" or "advisory council"). The council is created pursuant to § 2.1-20.1:01 of the Code of Virginia. Such advisory council will advise the Secretary of Administration on issues and concerns of active and retired employees of the Commonwealth who are participating in the health benefits program, such as the type and amount of benefits provided by the program, the

cost to employees to participate in the program and ways to effectively control claims experience.

The department shall consider the findings and recommendations of the council in its decision making process. Further, the department may request the council's guidance on other issues of concern to the department. The advisory council shall be composed of at least seven members, two of whom shall have retired from state service. Three members, two of whom shall have retired from state service, shall be appointed by the Governor; two members shall be appointed by the Speaker of the House of Delegates, and two members shall be appointed by the President Pro Tempore of the Senate. Appointees shall be subject to confirmation by the General Assembly.

Members shall serve for two-year terms and no member shall serve for more than two full successive terms. Initial appointments to the council shall be as follows: three for a term of one year, and four for a term of two years. A chairman shall be elected annually by the membership of the council. The council may adopt, modify or amend rules of procedure or bylaws that will govern its conduct with a 2/3rds vote of the membership.

§ 1.5. Local advisory committee.

In the administration of the health benefits program or any component plan or plans comprising such program, the department shall take into consideration the recommendations of the local advisory committee (the "committee" or "advisory committee"). The committee is created pursuant to § 2.1-20.1:02 of the Code of Virginia. Such advisory committee will serve to advise the department on issues and concerns of active and retired employees of local employers who are participating in the health benefits program, such as the type and amount of benefits provided by the program, the cost to employees to participate in the program and ways to effectively control claims experience.

The department shall consider the findings and recommendations of the committee in its decision making process. Further, the department may request the committee's guidance on other issues of concern to the department.

The advisory committee shall be composed of at least five members to be appointed by the Governor, with at least one member representing each of the following groups: local governments, local officers, local school boards, teachers and retirees. Each member shall serve a term of two years and no member shall serve more than two full successive terms. Initial appointments to the committee shall be as follows: two for a term of one year, two for a term of two years and two for a term of three years. Thereafter, all members shall serve two-year terms. A chairperson may be elected annually by the membership of the committee.

Advisory committee members shall be reimbursed for

Proposed Regulations

meetings and associated travel expenses incurred by them as members of the advisory committee but shall not be otherwise compensated for their service. Such reimbursement shall be made in accordance with applicable legislation dealing with per diem reimbursements.

The committee may adopt, modify or amend rules of procedure or bylaws, or both, that will govern their conduct with a 2/3rds vote of their membership.

The committee shall make all recommendations and findings to the department.

§ 1.6. Types of plans.

The department shall establish and implement one or more accident and health plans which in the aggregate shall constitute the health benefits program. The administration and underwriting of the plans shall be at the discretion of the department and may include but not be limited to self-insured arrangements, insured arrangements, administrative services arrangements, health maintenance organizations, and preferred provider organizations. The department is authorized to exercise judgment and discretion in the establishment, procurement and implementation of all underwriting and other services necessary for the establishment, maintenance and administration of such plans and will be deemed to do so in good faith.

The department, as it deems necessary or prudent, may contract for outside services, including but not limited to actuarial, consulting and legal counsel. The department may contract such services on an individual basis or in conjunction with other services.

Participation in the health benefits program shall be (i) voluntary, (ii) approved by a participating employer's governing body, or by the local school board in the case of teachers, and (iii) subject to these regulations.

Pursuant to § 2.1-20.1:02 of the Code of Virginia and subsection C of § 4.1 of these regulations, local employees whose local employers do not offer a health benefits plan as determined by the department may individually elect membership in the program.

§ 1.7. Procurement.

The department intends to comply with the Virginia Public Procurement Act, Chapter 7 (§ 11-35 et seq.) of Title 11 of the Code of Virginia, as it may relate to any services to which such Act shall apply.

In an effort to stabilize the administration and maintenance of the health benefits program, the department may contract for services applicable to such program for a period of time not exceeding 10 years, with the department reserving the right, in its sole discretion, to cancel such contracts annually upon 90 days written

notice to the contractor.

§ 1.8. Plan assets.

The assets of the health benefits program, together with all appropriations, contributions and other payments, shall be deposited in the employee health insurance fund (the "fund") from which payments for claims, premiums or other contributions, cost containment and administrative expenses shall be withdrawn from time to time.

The department may designate one or more insurance companies, banks or any such similar institution as a direct recipient of premiums or other contributions for part or all coverage under the health benefits program from local and state employers.

The assets of the fund shall be held for the sole benefit of the employee health insurance fund and to that end, employees participating in the health benefits program.

Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer may charge reasonable fees to recover the actual costs of investing the assets held in the fund.

§ 1.9. Appeals

The director of the department shall be the final arbiter of any disputes arising under these regulations. The director may not redelegate this authority other than to an independent hearing officer.

All disputes arising under these regulations shall be submitted to the department, which shall have the responsibility for interpreting and administering these regulations. All disputes shall be made in writing in such manner as may be reasonably required by the department and shall set forth the facts which the applicant believes to be sufficient to entitle to relief hereunder. The department may adopt forms for such submissions in which case all appeals shall be filed on such forms.

Appeals must be filed in a timely manner in order to be considered by the department. Appeals not filed within the time frames established herein shall be automatically denied. Requests for review of procurements under the provisions of the VPPA shall be filed within 10 days of the department's notice of intent to award a contract.

Requests for relief from local employers or state agencies with respect to any action of the department other than a procurement shall be filed within 30 days of the action grieving the applicant. Requests for relief from state or local employees with respect to any action of the department other than a procurement shall be filed within 60 days of the action grieving the employee.

Upon receipt by the department for a request for review under this section, it shall determine all facts which are necessary to establish the right of an applicant

for relief. The department shall approve, deny or investigate any and all disputes arising hereunder. Upon request, the department will afford the applicant the right of a hearing with respect to any finding of fact or determination related to any claim under this section. In the event of an adverse decision by the department, the applicant shall be notified of such decision as hereinafter provided.

The applicant shall be notified in writing of any adverse decision with respect to his claim within 90 days after its submission. The notice shall be written in a manner calculated to be understood by the applicant and shall include:

1. The specific reason or reasons for the denial;
2. Specific references to law, these regulations, contracts awarded pursuant to these regulations, or the Health Insurance Manual and related instructions on which the denial is based;
3. A description of any additional material or information necessary to the applicant to perfect the claim and an explanation why such material or information is necessary; and
4. An explanation of the review process.

If special circumstances require an extension of time for processing an initial application, the department shall furnish written notice of the extension and the reason therefore to the applicant before the end of the initial 90-day period. In no event shall such extension exceed 90 days.

§ 1.10. No presumption of right.

These regulations and the health benefits program herein established shall not be deemed to constitute a contract of employment between any participating employer and any participant. No participant in the program shall acquire any right to be retained in the employer's employ by virtue of the program, nor, upon the participant's dismissal or voluntary termination of employment, shall the participant have any interest in any assets of the program other than as may be specifically provided herein.

Furthermore, these regulations and the health benefits program herein established shall in no event confer upon any participant any rights, duties or responsibilities other than those granted herein. The Commonwealth of Virginia specifically reserves the right to amend, modify or terminate, inclusive of eligibility, coverage and contributions provisions, the health benefits program or any plan or plans comprising all or part of the program, as they may relate to any active or retired participant.

§ 1.11. Authority to withhold revenues.

In the event of default by any employer participating in the health insurance program authorized by § 2.1-20.1:02 of the Code of Virginia in the remittance of premiums or other fees and costs of the program, the State Comptroller is hereby authorized to pay such premiums and costs and to recover such payments from any funds appropriated and payable by the Commonwealth to the employer for any purpose. The State Comptroller shall make such payments upon receipt of notice from the director of the department that such payments are due and unpaid from the employer.

§ 1.12. Effective date.

These regulations shall be effective on the later of April 15, 1990, or 30 days after the date of issuance.

PART II. RIGHTS AND DUTIES OF THE DEPARTMENT.

§ 2.1. Develop health benefits program.

The department shall develop a health benefits program which shall be comprised of one or more accident and health plans the purpose of which shall be to provide accident and health benefits coverage for eligible state employees and their dependents and for local employees of participating local employers and their dependents. Such health benefits program shall be flexible in its form and content so as to accommodate a structure which permits the creation of multiple accident and health plans. The department has full authority to make changes in plan terms including, but not limited to, benefits and contributions, or to change underwriters and administrators as it deems appropriate. The mission of the Office of Health Benefits is to pursue the objective stated in § 1.3 of these regulations.

§ 2.2. Underwriting.

At the department's discretion, the program may either be created and maintained on a self-funded basis or procured from an insurance company licensed to do business in the Commonwealth of Virginia, or a combination of both. In addition, the department is authorized to contract with any third party providers for any and all services which may be necessary to design, administer, communicate or fund the health benefits program.

§ 2.3. Employer application.

The department shall develop a form on which local employers may apply for participation in the health benefits program and make available such form to local employers joining such program. The department will advise local employers on questions pertaining to the application. Among other items the department may deem necessary, the application may include:

1. Information regarding the political subdivision such

Proposed Regulations

as the governing body, individuals or offices responsible to provide, receive and remit information to the department and the method by which information can or will be transmitted.

2. Information regarding the total number of employees and those employees currently covered, those who will immediately become eligible, and those whose participation is anticipated. This information can include but is not limited to demographic data such as the age and sex of employees, geographic location of residence and employment, dependent status and information concerning employment responsibilities.

3. Information regarding past premiums, claims and enrollment experience, contribution history, financial arrangements with prior underwriters and the types of plans or benefits provided being offered within the five years prior to making the application.

§ 2.4. Establishing contribution rates and accounting for contributions and claims.

The department shall establish one or more pools for establishing contribution rates and for accounting for claims and contributions for participating local employers. There is hereby authorized pooling classes based on geographic and demographic characteristics and employment relationships. Such classes may include but shall not be limited to:

1. Active state employees, including retirees under age 65 and not eligible for Medicare,
2. Active local employees (excluding separately rated employees of public school systems),
3. Active employees of public school systems,
4. Retired state employees over age 65 and retired state employees eligible for Medicare,
5. Retired local employees (excluding separately rated employees of public school systems),
6. Retired employees of public school systems, and
7. Active employees whose employer does not sponsor a health insurance plan.

Participating employers shall make applicable contributions to the employee health insurance fund. Such contributions may take into account the characteristics of the group, such as the demographics of employees, inclusive of age, sex and dependent status of the employees of an employer; the geographic location of the employer or employees; claims experience of the employer; and the pooling class of the employers (for example, see subdivisions 1 through 6 above), applied according to generally accepted actuarial practices. Additionally, any

such contributions may further be determined by spreading large losses, as determined by the department, across pooling classes. Further, the department reserves the right to recognize, in its sole discretion, the claims experience of groups of sufficient size, regardless of their pooling class, where future claim levels can be predicted with an acceptable degree of credibility. The application of this rule by the department shall be exercised in a uniform and consistent manner.

The contribution rate in the aggregate will be composed of two factors; first, the current contribution and second, the amortization of experience adjustments. The current contributions will reflect the anticipated incurred claims and administrative expenses for the period; an experience adjustment will reflect gains and losses determined in accordance with generally accepted actuarial practices. An experience adjustment will be part of the contributions for the succeeding year; however, the department may authorize the amortization of the experience adjustment for a period not to exceed three years.

The department will notify a terminating local employer of any adverse experience adjustment at the time the local employer terminates participation in the program or as soon thereafter as may be practical. Further, the department reserves the right to modify the amount of the experience adjustment applicable to a terminating local employer for a period not to exceed 12 months from the end of the plan year in which such termination occurred. Such amount shall be payable within 12 months of such notification. The department will approve the payment of said adverse experience adjustment by a terminating local employer beyond a period of one year but not for a period longer than three years only in rare and unusual circumstances. In the event a payment period exceeds 12 months, the department may add a commercially competitive interest rate on any extended payments.

§ 2.5. Information to local employers.

The department will provide guidance and support to local administrators in the adoption, implementation and administration of the health benefits program.

The department shall furnish local employers with any and all information necessary for any reports the local employer is required to file with any federal or state agency as well as any information necessary for meeting the qualification or nondiscrimination rules under the Internal Revenue Code which may be applicable to such plans.

§ 2.6. Information to local employees.

The department shall inform local employees when their coverage terminates by reason of nonpayment of premiums for the local employee group by the local employer. The form of the notice shall be a notice in a newspaper of general circulation in the locality of the

local employer. Such notice shall be prospective with respect to the date of termination.

§ 2.7. Confidentiality.

The department will not disclose identifiable individual health data without the consent of the individual being provided coverage. The department may rely on the representations of any parent or guardian regarding such parent or guardian's consent to the release of information regarding a child of such parent or any other person to which such guardianship shall apply. Data may be compiled into statistical reports provided that the identity of individual persons is not ascertainable by the reader or disclosed by the department.

§ 2.8. Reports.

The department, on an annual basis, shall provide a report to the General Assembly. Such report shall discuss the overall objectives of the health benefits program, including enrollment, income and expense, participation by local employers and additional matters of general concern.

§ 2.9. Oversight.

The department has the responsibility and authority to maintain the health benefits program and take any action it deems necessary to maintain the financial and administrative integrity of the program.

A. The department shall review local administration, including state agency administration of the health benefits program to determine compliance with these regulations, law, and administrative directives. Deficiencies shall be reported to the governing body or agency administrator, who shall take prompt action to remedy the noted deficiencies. To this end, the department shall provide guidance to responsible parties regarding their duties and responsibilities in the administration of the program. Failure to correct noted deficiencies may result in the unilateral termination of participation (in the case of a local employer) in the health benefits program, or a revocation of the agency's administrative responsibility for the health benefits program (in the case of a state agency) and the imposition of a special employer contribution on the state agency to pay for the cost of direct administration of the program by the department. The cost of direct administration shall be determined by the department.

B. The department may exclude from coverage, any person who is not eligible for coverage notwithstanding the participation if the state agency or local employer in the health benefits program or the payment of contributions or the previous payment of claims on behalf of such person.

If a person is determined to be ineligible for coverage, contributions paid by that person shall be returned to said person for the six months prior to such

determination. Contributions for periods preceding this six-month period shall not be returned. Claims paid by the program during this same six-month period shall be recouped by the program from providers of care and from the ineligible employee to the extent practicable as determined by the department. Additional claims need not be recouped unless, in the sole discretion of the department, such recoupment, coupled with the return of additional contributions to the employee, is required to prevent material damage to the group (see classification in § 2.4 and as subsequently expanded by administrative direction).

Employer contributions on behalf of ineligible persons shall not be returned to the participating employer in as much as the employer agrees by participating in the health benefits program that the amount of such contributions constitute liquidated damages for enrolling an ineligible employee.

C. The department may exclude from coverage for a period of three years any employee (and dependent) who is found by the department to have enrolled in the health benefits program through fraud, deceit or misrepresentation a dependent who is not eligible for the program. A signed enrollment form shall be deemed prima facie evidence of misrepresentation.

D. The department may refuse, notwithstanding any agreement or assignment from a participant or third party, to make a payment on behalf of a participant for covered services to a provider of care who has been determined by the department to be abusing or defrauding the program. A pattern of billing for services not rendered, misrepresenting the complexity or length of the procedures or services actually rendered, or similar abuses shall compel the department to make such a determination. For the purposes of this section, a "pattern" constitutes a number of instances over a period of at least three months which are so similar as to suggest that the abuse is present in 5.0% or more of the services or procedures billed.

E. In the event the financial reserves of the program fall to an unacceptably low level as determined by the department, it shall have the authority to secure from the State Treasurer a loan sufficient to raise the reserve level to one which is considered adequate. Pursuant to § 2.1-20.1:02 D of the Code of Virginia the State Treasurer is authorized to make such a loan, to be made on such terms and conditions as established by him.

PART III. LOCAL EMPLOYER PARTICIPATION.

§ 3.1. Eligible employers.

Pursuant to § 2.1-20.1:02 of the Code of Virginia, local employers may, by making proper application and complying with these regulations, participate in the health benefits program.

Proposed Regulations

§ 3.2. Entrance into the health benefits program.

Any local employer desiring to participate in the health benefits program shall complete an employer application provided by the department and execute an adoption agreement acknowledging the rights, duties and responsibilities of the department and the local employer.

As a condition of participation, the department may require the local employer to complete the application in its entirety and deliver it to the department no less than 120 days prior to the effective date of coverage under the health benefits program. The application shall include the designation of a local administrator and include a list of other individuals whose responsibilities may be such that the department may have cause to contact them.

The application of a local employer may be withdrawn without penalty any time within the first 60 days after submission. Thereafter, the department may levy a processing charge not to exceed \$500 to cover the cost of processing the application.

Except in unusual circumstances to be determined by the department, neither evidence of insurability nor the completion of any required waiting periods will be required of employees of local employers joining the program at the time of a local employer's initial participation. Waiting periods will apply to employees with fewer than 12 months' service if the local employer, at any time during the 12 months prior to the initial application to join the program, had a waiting period or required proof of insurability in any of the health plans offered through the employer to its employees by payroll deduction or salary reduction, even if the employer made no contribution.

Local employers may include in the program their active employees, or their active employees and their retirees. Local employers may not elect to cover only retirees. The local employer's qualified beneficiaries under COBRA may also participate in the program.

§ 3.3. Payment of contributions.

A. Contributions due.

It is the sole responsibility of the local employer to remit local employer and local employee contributions to the department or its designee. The local employer is responsible for remitting such contributions for both active and retired employees. Health benefits program contributions are to be made monthly, in advance, and are due at the department on the first of each month. If the first day of the month falls on a weekend or holiday, the payment is due at the department on the first business day of the month.

B. Nonpayment of contributions.

A 10-day grace period for the nonpayment of

contributions is hereby provided. If the full and complete payment of contributions is not received by the 10th of the month, a notice will be sent to the local employer by the department. Additionally, there shall be imposed an interest penalty of 12% per annum of the outstanding balance unpaid as of the 10th.

In the event that payment is not received by the 20th of the month, the department shall place a notice of nonpayment of contributions in a newspaper of general circulation in the locality of the local employer notifying the employees of such local employer that claims incurred after the end of the current month will not be paid until all outstanding contributions and interest have been paid.

Furthermore, the department reserves the right to collect from a local employer the greater of the monthly contribution or any amounts incurred for claims during a period of nonpayment as well as any other costs related thereto.

C. Nonpayment as breach.

The nonpayment of contributions by a local employer shall be considered a breach of the adoption agreement and the local employer may be obligated to pay damages. In the event that the local employer terminates participation, such termination can only be prospective and the employer shall be obligated to pay the greater of past contributions or actual claims incurred during such period and any interest and damages that may be associated with such nonpayment.

D. Coverage and contribution period.

In the event a local employee should elect to enroll in the health benefits program in his first month of employment, such coverage shall begin on the first day of the month next following commencement of employment. Should a local employee commence employment on the first working day of the month and coverage is elected within that month, then such coverage shall commence on the local employee's date of hire or the first day of the month of hire, whichever is earlier.

Contributions shall always be for full calendar months. Local employees who terminate employment within a calendar month shall have coverage through the end of the month in which they terminate. In the event that a terminating local employee becomes covered under an accident or health plan of another employer prior to the end of the month in which the local employee terminates, the health benefits program shall be a secondary payor to the former local employee's new coverage.

§ 3.4. Enrollment.

The local employer is responsible for providing local employees with enrollment forms for participation in the health benefits program. Such forms shall be provided to the local employer by the department. It is the

Proposed Regulations

responsibility of the local employer to provide information to local employees concerning the benefits offered in each of the plans comprising the health benefits program at such time and in such manner that it can be expected that the local employee can make an informed decision regarding the types of coverage that are being offered.

The local employer is responsible for ensuring that enrollment forms for participation made by local employees are fully completed on a timely basis, signed and certified. Thirty days prior to the effective date of coverage the local employer shall forward the enrollment forms to the department or its designee, as may be appropriate. The department shall be responsible to notify the local employer as to the location and manner of delivery of all such local employee enrollment forms. Further, the local employer shall be responsible for reporting any changes in benefit coverage in a manner similar to the reporting of an initial application with the department having the ability to waive the 30-day notice requirement.

§ 3.5. Minimum local employer contributions.

The department shall require as a condition of local employer participation in the health benefits program that a local employer pay a minimum portion of the plan contribution attributable to an active local employee's coverage. Contributions toward the cost of retiree coverage are permitted but not required. Unless otherwise specified in a local employer's adoption agreement, participating local employers shall contribute as a condition of participation the following percentages of total required plan contributions on behalf of active participating employees:

Minimum Local Employer Contributions In Years		Contribution Percentage Attributable to Additional Coverage
1990 - 1991	50%	10%
1991 - 1992	60%	20%
1992 - 1993	70%	30%
1993 - 1994	80%	40%
1994 - 1995	80%	50%

For example, in the 1990 - 1991 plan year, a local employer would contribute, at a minimum, 50% of a single employee's membership. If an employee elects dual or family membership, a local employer would contribute, at a minimum, 50% of the single cost and 10% of any additional costs.

Local employers allowing part-time employees to participate in the program must contribute a minimum of 50% of these amounts on behalf of their participating part-time employees. For example, in the 1990-1991 plan year, a local employer would contribute, at a minimum, 25% of a single employee's membership and, if applicable, 5.0% of any additional cost of dual or family membership.

Pursuant to § 3.5, amounts contributed on behalf of an employee who has requested a reduction in salary pursuant to a plan qualified under § 125 of the Internal Revenue Code will not be counted as an employer contribution.

§ 3.6. Selection of plans.

Local employers electing to participate in the health benefits program must, as a condition of participation, agree to offer exclusively one or more plans constituting such program. Notwithstanding the above, a local employer, with the approval of the department may offer another accident or health plan provided that such other plan does not duplicate the coverage offered by the health benefits program. Such permission shall not be unreasonably withheld.

Local employers participating in the health benefits program who desire to offer a health maintenance organization (HMO) must offer the HMOs included in the health benefits program and only those HMOs.

§ 3.7. Commencement of local employer participation

Local employers may join initially at any time upon the timely submission of an employer application, but, thereafter, renewals must be as of July 1 of each year. Initial participation by a local employer at any time other than on July 1 shall be for the short year ending on the June 30 following initial participation.

There shall be no specified time for local employee enrollment coincident with the local employer's initial participation in the health benefits program provided the department or its designee shall have knowledge of the local employee elections at least 30 days prior to the effective date of coverage. Thereafter the open enrollment period for local employees shall take place during the month of April of each year with the effective date of coverage then being July 1 of such year.

§ 3.8. Reparticipation of local employers.

Local employers having withdrawn from the health benefits program may reenter the program only with the consent of the department, and only on the July 1 following the timely submission of an employer application. Normally, employees of local employers seeking reparticipation will be required to furnish evidence of insurability or to serve a waiting period, whichever the department requires.

Department consent shall not be granted until all pending contributions, penalties and other assessments have been paid by a local employer and there is no outstanding litigation pending between the department and the local employer. A pending appeal will not prohibit a local employer from reparticipating in the health benefits program.

Proposed Regulations

§ 3.9. Ceasing participation in the health benefits program.

A local employer who desires to terminate participation in the health benefits program may do so at any time, as of the last day of any calendar month, with 90 days notice to the department. The local employer shall be obligated to pay any and all contributions otherwise required through the date of termination of participation and interest related thereto. Additionally, a terminating local employer shall be responsible for any adverse experience adjustment which may apply with respect to the year termination occurred and any prior year within which the terminating local employer participated in the program.

Upon the local employer's cessation of participation in the program, all of the local employers' participants, including retirees, dependents of retirees and COBRA beneficiaries will cease to be covered under the program.

§ 3.10. Compliance.

The department shall oversee the local employers and state agencies and shall assist the employees thereof in the pursuit of all rights and benefits. The department shall hold the employee harmless for the errors of the local employers and state agencies, charging the cost of such errors, where applicable, to the local employer or state agency.

Nothing in these regulations shall affect the rights of any local employee to bring a cause of action against a local employer for action taken hereunder with respect to such local employer's willful disregard of these regulations. In the event a local employee brings a cause of action against the department due to a local employer's willful disregard for the requirements of these regulations, the local employer as a condition of initial participation in the program shall reimburse the department for any such settlement required by a court of law.

PART IV. EMPLOYEE PARTICIPATION.

§ 4.1. Eligible employees.

A. State employees.

Only full-time salaried, classified employees and faculty are eligible for membership in the health benefits program. A state employee is one who receives a salaried paycheck from the Commonwealth. Certain full-time employees in auxiliary enterprises (such as food services, bookstores, laundry services, etc.) at the University of Virginia, Virginia Military Institute and the College of William and Mary are also considered state employees even though they do not receive a salaried state paycheck. The Athletic Department of Virginia Polytechnic Institute and State University is a local auxiliary whose members are eligible for the program.

Medical College of Virginia house staff members are eligible for the program as long as they are on the state payroll and remain in the program with payroll deductions for family membership even if they rotate to the Veterans' Administration Hospital or other acute care facility.

A full-time salaried employee is one who is scheduled to work at least 40 hours per week or carries a faculty teaching load considered to be full time at his institution.

A salaried employee is one who receives a paycheck no more often than biweekly and who is not paid on an hourly basis.

A classified position includes employees who are fully covered by the Virginia Personnel Act, employees excluded from the Virginia Personnel Act by § 2.1-116(16) of the Virginia Code, and employees on a restricted appointment. A restricted appointment is a classified appointment to a position that is funded at least 10% from gifts, grants, donations, or other sources that are not identifiable as continuing in nature. An employee on a restricted appointment must receive a state paycheck in order to be eligible.

B. Local employees.

1. Full-time employees. Full-time employees of participating local employers are eligible to participate in the program. A full-time employee is one who meets the definition set forth by the local employer in the employer application.

2. Part-time employees. Some or all classifications of part-time employees of local employers may participate in the plan if the local employer elects. The conditions of participation for these employees shall be decided by the local employer. However, all part-time employees in the same classification shall be treated similarly. In the event of a leave of absence without pay, the local employer shall not be obligated to continue contributions toward coverage. The department reserves the right to establish a separate plan for part-time employees.

C. Unavailability of employer-sponsored coverage.

Employees, officers and teachers without access to employer-sponsored health care coverage may participate in the plan. The employers of such employees, officers and teachers must apply for participation and certify that other employer-sponsored health care coverage is not available. The employers shall collect contributions from such individuals and timely remit them to the department or its designee, act as a channel of communication with the covered employee and otherwise assist the department as may be necessary. The employer shall act as fiduciary with respect to such contributions and shall be responsible for any interest or other charges imposed by the department in accordance with these regulations.

Local employees living outside the service area of the plan offered by their local employer shall not be considered as local employees whose local employers do not offer a health benefits plan. For example, a local employee who lives in North Carolina and works in Virginia may live outside the service area of the HMO offered by his employer; however, he may not join the program individually.

Employer sponsorship of a health benefits plan will be broadly construed. For example, an employer will be deemed to sponsor health care coverage for purposes of this section and § 3.5 if it utilizes § 125 of the Internal Revenue Code or any similar provision to allow employees, officers or teachers to contribute their portion of the health care contribution on a pretax basis.

Individual employees and dependents who are eligible to join the program under the provisions of this subsection must meet all of the eligibility requirements pertaining to state employees except the identity of the employer.

D. Retirees. Retirees are not eligible for coverage outside of the one-time opportunity provided in this section.

Retirees who are over age 65 or are otherwise covered or eligible for Medicare may enroll in certain plans as determined by the department provided that they apply for such coverage within 31 days of their separation from active service for retirement. Medicare will be the primary payor and the program shall serve as a supplement to Medicare's coverage.

Retirees who are ineligible for Medicare must apply for coverage within 31 days of their separation from active service for retirement. In order to receive coverage, the individual must have been covered under the program at the time of separation from service and be 55 years of age with 10 years of service with a participating employer.

E. Dependents.

1. The following family members may be covered if the employee elects:

- a. The employee's spouse;
- b. The employee's unmarried natural or legally adopted children;
- c. Unmarried stepchildren living with the employee in a parent-child relationship and dependent on the employee for federal tax purposes;
- d. Other children on an exception basis. Generally, an exception will not be granted unless:

(1) A court orders the eligible employee to assume permanent custody of the child, and

(2) Both of the child's natural parents are deceased, missing or incarcerated.

Local employers and state agencies do not have the authority to grant exceptions. If the circumstances appear to meet the criteria, the facts of the case must be sent in writing to the department for a determination.

Minor children who are adopted, regardless of relationship to the state employee, enjoy the same benefits as natural children. Natural or adopted children who are otherwise eligible for coverage may be covered by the employee whether or not they live with the employee.

Children of the spouse of an eligible employee may not be covered as a dependent in the health benefits program unless they live with the employee and meet the criteria for family membership, as given in previous paragraphs.

A child who is self-supporting is ineligible to be covered under the employee's family membership. A child who is otherwise eligible to be covered by family membership may be covered until such time as they become self-supporting.

Coverage for a dependent child stops at the end of the month in which the child marries.

e. Special rules.

(1) There are certain categories of persons who may not be covered as dependents under the program. These include: dependent siblings, grandchildren, nieces, nephews, and most other children except where the criteria for "other children" are satisfied (see § 4.1 (e)(iv)). Parents, grandparents, aunts and uncles are not eligible for coverage regardless of dependency status.

(2) Under the basic plan and alternative health benefits plans, eligible children may be covered to the end of the year in which they turn age 19 if not a full-time student. Children who are full-time students may be covered to the end of the month in which they turn 23, or cease to be full-time students, whichever occurs first. Children may be covered regardless of the age if incapable of self-support because of a severe physical or mental handicap which was diagnosed while coverage was in force. An application for continued coverage for a disabled child is required within 31 days of the child's age attainment (above) to maintain coverage (see § 4.2.)

(3) Under the PPO alternative plan(s), eligible children may be covered to the end of the month in which they turn age 23, regardless of student status, if the child lives at home and is not

Proposed Regulations

self-supporting. Living at home is characteristic of the child who is not self-supporting. In the case of natural or adopted children, living at home may mean living with the other parent. Also, a child who is away at school may be covered. Children may be covered regardless of age if incapable of self-support because of a severe physical or mental handicap which was diagnosed while coverage was in force. An application for continued coverage for a disabled child is required within 31 days of the child's age attainment (above) to maintain coverage (see § 4.2.)

§ 4.2. Enrollment form.

No coverage is available unless an employee files an enrollment form. No changes in coverage are effective unless an employee files an enrollment form. Employees alone are responsible for knowing when an enrollment form is required, for completing the enrollment form, and for certifying that the information contained therein is complete and true.

The employer is responsible for checking that the employee fills in the form completely and accurately. The employer will certify each enrollment form in the space provided on the form.

The effective date of coverage shall be determined from the date the application is stamped as received by a designee of the department.

§ 4.3. Payment of contributions.

Active employees shall pay their portion, if any, of contributions through payroll deduction.

State retirees who retired prior to January 1, 1990, will have their contributions deducted from VSRS or other retirement system. If the retirement payment is not sufficient to pay the entire contribution, they may pay their contributions directly to the department's designee. State retirees retiring after January 1, 1990, shall have their contributions deducted from benefits payable from the Virginia Supplemental Retirement System (VSRS) or other retirement system. If the payment is not made by the retirement plan, the retirees may make payment directly to the department's designee. There will be an administrative fee of \$10 per bill for direct payment. Such fee may be waived by the department if payment is made monthly by bank draft.

Retired employees of local employers shall pay contributions by either of two methods. The retired employee may authorize contributions to be deducted from the retiree's pension payment, whether it be through the VSRS or otherwise. Alternatively, if the employer so provides, the retiree may pay his contribution to the employer who shall be responsible for remitting the contributions to the department.

§ 4.4. Membership.

A. Type of membership.

Participants have a choice of three types of membership under the program:

1. Single (employee only). If a participant chooses employee only membership, the health benefits program does not cover the employee's dependents (spouse or children). A woman with single membership under the program does have maternity coverage. However, the newborn child is covered only for routine hospital nursery care, unless the mother changes to dual or family membership;

2. Dual (employee and one eligible dependent); and

3. Family membership (employee and eligible dependents).

B. Changing type of membership.

Employees may change from family or dual membership to single membership at any time subject to § 4.6 A of these regulations. Also, employees may change from family to dual membership at any time subject to § 4.6 A.

The change from single to dual or family membership or the change from dual to family membership may be made only at the following times:

1. Within 31 days of employment;

2. Within 31 days of return from a leave without pay, but only if all coverage or dual or family membership was dropped during the leave;

3. During the open enrollment period; or

4. Within 31 days of a change in eligibility status. If a change in eligibility status occurs during a leave without pay, dual or family membership may be elected within 31 days of returning from the leave; and

5. Infrequently, an employee is hired from a foreign country and the spouse or eligible children remain for a period of time in that country. The employee may enroll in single membership initially and submit an application for dual or family membership within 31 days of the family's arrival in this country. Coverage will be effective the first of the month after the family's arrival.

If the change is from single to dual or family membership because of a change in eligibility status, the employee must certify on the application the type of status change and the date of the change.

§ 4.5. Choice of plans.

During the annual open enrollment period, state employees eligible to participate in the health benefits program have a choice of enrolling in any plan offered by their employer, which may often include the basic plan or an alternative health benefits plan offered by the department. To be eligible for membership in the health benefits program, the employee or retiree must live within the service area of the particular plan.

Employees of other participating employers have a choice of enrolling in the plans offered by their respective employers.

An application will not be accepted outside of open enrollment except for an employee whose employment status or personal status changes in specified ways as addressed in the Health Insurance Manual published by the department.

The employer's contribution toward coverage, if any, shall be determined by the employer except with respect to the minimum contribution rate applicable to local employers.

§ 4.6. Effective date of coverage.

A. General.

Coverage and changes in coverage or membership are generally prospective, effective on the first day of the month following the month in which the enrollment form is received by the department's designee.

B. Date coverage begins.

Coverage begins on the first day of the first full month of employment if the employee's application for coverage is received within 31 days of employment. Employees who begin work on the first working day of the month are considered employed effective the first of the month. Coverage will not be available to the new employee unless the employee is on the payroll for a minimum of 16 calendar days.

C. Exceptions.

The department may allow coverage to commence on an earlier date in limited circumstances when prior coverage is unavailable, for example, a new employee who has moved out of the service area of an HMO.

D. Eligibility changes.

In the event of an eligibility change as addressed under § 4.4 B, coverage may be retroactive to the date of the event provided an application for the change is submitted to the department's designee within 31 days of the event.

§ 4.7. Leaves of absence.

A. Leave of absence with full pay.

As long as an employee is still receiving full pay, health benefits coverage continues automatically with the employer making its contribution. Nothing must be done to maintain coverage.

Local employers are not required to contribute toward coverage for any part-time employee granted any type of leave of absence.

B. Educational leave - full or partial pay.

An official educational leave is a leave for educational reasons with partial or full pay maintained for the leave, not for work rendered. It is possible to maintain health coverage on an educational leave even when less than full pay is given provided that at least half pay is given. Coverage may continue for the duration of the leave up to 24 months. The employer's contribution continues.

C. Leave of absence without pay.

Coverage with the employer contribution continues to the end of the month in which the leave without pay begins provided the first day of the leave is after the first work day of the month. If the leave without pay begins on or before the first work day of the month, coverage with the employer contribution ceases on the first calendar day of that month.

If the person returns from leave the following month and works at least half of the work days in the month, coverage will be continuous.

If the leave without pay extends beyond the end of the month when coverage would cease, it is possible for an employee to maintain coverage (except on a military leave). Arrangements to continue coverage must be made with the employer. Employees should contact their benefits administrator for more information.

Employees who do not want to continue coverage will be asked to sign a waiver.

The conditions under which coverage may continue, the length of time coverage may extend while on leave without pay and whether the employer contribution continues are set forth in the Health Insurance Manual published by the department.

D. Changing coverage while on leave.

Coverage changes may be made while on leave in the same manner that changes may be made while actively employed. The same procedures and rules apply.

An employee enrolled in an alternative health benefits plan who moves out of the plan's service area while on a leave of absence may change to another plan offered by the department in his new location by filing an application within 31 days of the date of the move. The employee may change back to an alternative health

Proposed Regulations

benefits plan within 31 days of returning to the plan's service area. A new application must be completed.

E. Returning from leave without pay.

1. *Employees who have maintained coverage while on leave without pay. If the employee has maintained coverage while on leave, the employee's coverage in the health benefits program (with the employer making its contribution) will begin on the first of the month in which the employee returns to work if he works at least half of the working days in the month. It is not necessary for the employee to file a new application form.*

Employees may change from single to dual or family membership within 31 days of returning from leave without pay if the employee dropped dual or family membership during the leave or if there was a change in eligibility status during the leave. A new application form must be filed. In the case of an eligibility status change, the effective date would follow the rule on initiating dual or family membership at the time of the particular eligibility status change.

2. *Employees who have not maintained coverage while on leave without pay. Employees who have not maintained coverage while on leave will be treated in the same manner as new employees:*

a. It shall be necessary to file a new enrollment form to receive coverage. The enrollment form shall indicate the date the employee returned to work as the date that the employee's continuous full-time employment commenced. If the employee remained continuously eligible, waiting periods must be credited accordingly. Family members will have to serve new waiting periods as prescribed in § 4.11 of these regulations.

b. The employee has a choice of type of membership and plan.

c. The usual deadlines for filing apply. Coverage begins according to the rules and procedures for new employees.

3. *Employees returning from military leave for active service. Employees returning from military leave of six months or more have the same choice of coverage as a new employee. If the employee returning from a military leave applies for coverage within 31 days of discharge, the coverage will begin on either the first day of the month of discharge or the first of the following month, whichever is necessary to effect continuous coverage. If the employee chooses a plan with waiting periods, the employee should be given credit toward the waiting periods for the amount of time on military leave. Dependents also are credited if they were covered under the state program prior to*

the leave.

4. *Employees returning from leave in a country with national health coverage. These employees must apply for coverage within 31 days of returning to the United States to have waiting periods credited and to have a choice of effective dates. The effective date for coverage will be the first of the month that the person returned to the United States or the first of the following month, whichever is necessary to effect continuous coverage.*

5. *Taking a second leave without pay. If an employee returns from a leave without pay and works full-time for at least one full month before taking another leave without pay, the second leave will be treated as a new leave.*

If there is less than one month of full-time employment between leaves without pay, the leaves will be treated as one, regardless of the types of leave. The length of time that coverage may be continued will depend on the current type of leave.

§ 4.8. Termination of coverage.

Coverage ends at the end of the month in which an employee terminates the employment relationship, otherwise loses group eligibility, or on the last day of the month for which premiums are paid.

Coverage ends on the date of a participant's death.

In the event that an employee on leave without pay notifies the employer that he is terminating employment, coverage ends on the last day of the month in which the leave without pay ceases.

§ 4.9. Termination of employment.

Coverage continues to the end of the month in which an employee terminates. Each terminating employee may elect continuation of coverage pursuant to Internal Revenue Code section 4980B and accompanying regulations.

Terminating employees also have the option of converting to a non-group policy. The carrier will send the employee a letter offering non-group coverage. The employee will have 30 days after the date of the letter to reply in order for coverage to be continuous.

§ 4.10. Suspension and reinstatement.

A. General.

Coverage generally continues through the end of the month in which the suspension began. However, if the suspension was effective on or before the first work day of the month, there will be no coverage for that month unless the employee is reinstated in time to work half of

the work days in the month. For example, if a suspension is effective on April 19, the employee will have coverage through the end of April. If the suspension is effective April 1, the employee will have no coverage in April. By the same token, if the suspension is effective April 2 and the employee's first work day in April is April 3, the employee will not have coverage in April. If the employee is reinstated in time to work half of the work days in the following month, there will be continuous coverage.

If the employee is suspended pending court action or pending an official investigation, the suspension may go beyond one pay period. In these cases, coverage will continue to the end of the month in which the suspension began. If the employee is reinstated in time to work half of the work days of the following month, there would be no break in coverage. Suspension beyond that period should be handled in the same way as a leave without pay with no employer contribution. The employee may remain in the group by paying monthly contributions to the employer in advance. Group coverage may continue until a court decision is issued or the official investigation is completed, or up to a period of 12 months, whichever is less.

If the employee is reinstated with back benefits, the employer should refund the employee the amount of the employer contribution during the period the employee paid the full premium. Single membership should be reinstated retroactive to the date the employee was removed from the group up to a limit of three months. Retroactive dual or family membership will be available up to a maximum period of three months. Appropriate contributions must be made to cover the retroactive period. Alternatively, the family membership may begin the first full month of reinstatement if the employee applies within 31 days of reinstatement. If there is a lapse in dual or family membership, waiting periods, where applicable, will be in force on dependent coverage unless the reinstated employee chooses the three months' retroactive family coverage.

B. Termination and grievance reinstatement.

Employees who are terminated and file a grievance shall be treated as terminated employees and may elect extended coverage or nongroup coverage. In the event such an employee is reinstated with back pay, they will be given single membership retroactive up to three months. Retroactive dual or family membership will be available up to a maximum period of three months. Appropriate contributions must be made to cover the period.

If the employee is reinstated without full back pay, no retroactive coverage is available, and both the reinstated employee and the dependents must serve waiting periods, unless the reinstatement order specifically addresses health benefits.

§ 4.11. Waiting periods.

A. General.

With the exception of coverage under HMO's, waiting periods apply for certain services and preexisting conditions.

There is a 12-month waiting period for the following services:

1. Hernias of any type or location;
2. Tonsil or adenoid operations;
3. Sterilizations;
4. Tuberculosis;
5. Acquired Immune Deficiency Syndrome;
6. Elective surgical services. This is nonemergency surgery. "Elective" means that the surgery can safely be postponed for 72 hours.
7. Preexisting conditions (the waiting period also applies to complications or increases in severity of the preexisting condition).

B. Twelve-month waiting period for major medical services.

There is also a 12-month waiting period for services paid for under the major medical provisions of the plans or under the comprehensive plan. This waiting period begins on the participant's effective date. However, this waiting period is only for preexisting conditions and there is one exception. After 90 consecutive days during which the participant has not received any health care services or supplies for a preexisting condition, major medical services for that preexisting condition will be covered. The 90-day period may begin before the participant's effective date of coverage but must end on or after the participant's effective date.

C. Preexisting conditions.

These waiting periods do not apply to a participant's child who has been covered under the program since birth.

Participants will not be required to serve waiting periods if enrolling under the program directly from an HMO in which the participant is enrolled as a state or local employee or as a spouse or dependent of a state or local employee.

Dependents of reinstated employees may not have to serve waiting periods if the employee elects retroactive coverage in accordance with § 4.10 A.

§ 4.12. Coordination of benefits.

Proposed Regulations

A. General.

All covered services a participant receives are subject to this section. If a participant is eligible for coverage under two or more health plans (as defined below), benefits will be coordinated to avoid duplicate payments. The health plans involved will share the responsibility for benefits according to the priority rules listed below. Except as otherwise provided, benefits under this section will not be increased by virtue of this section.

B. Special rules.

The following rules apply when participants have a claim for a coordinated service:

1. If the other health plan does contain a coordination of benefits provision of similar purpose to the one in this section, the following will apply in the order of priority listed:

a. Primary coverage will be the health plan which lists the person receiving services as the participant, not as a dependent.

b. Primary coverage for an enrolled child will be the health plan which lists the parent whose month and day of birth occurs earliest in the calendar year as a participant, except in the following circumstances:

(1) When the parents are separated or divorced and the parent with custody of the child has not remarried. Primary coverage will be the health plan which covers the child as a dependent of the parent with custody.

(2) When the parents are divorced and the parent with custody of the child has remarried, primary coverage will be the health plan which covers the child as a dependent of the parent with custody. In this case, the health plan of the husband or wife of the remarried parent with custody may provide primary coverage if the remarried parent with custody does not have a health plan which covers the child.

c. Notwithstanding subdivisions (1) and (2) of this § 4.12 B 1 b, if there is a court order which requires one parent to provide medical or hospital coverage for the child, primary coverage will be that parent's health plan.

2. If subdivisions a and b of this § 4.12 B 1 do not apply, primary coverage will be the health plan which has covered the participant for the longest uninterrupted period of time, except when both health plans have the same priority rules for retired or laid-off employees. In this case, primary coverage will be the health plan which covers the participant as a working employee or dependent of a working

employee. Secondary coverage will be the health plan which covers the participant as a retired or laid-off employee or dependent of such an employee.

3. If a health plan does not have a coordination of benefits provision of similar purpose to the one in this article, that health plan will be the primary coverage.

C. Payment of coordinated benefits.

1. At the option of the health plan, payments may be made to anyone who paid for coordinated services received. These benefit payments by the health plan are ones which normally would have been made to the participant or on his behalf to a covered facility or provider. The benefit payments made by the health plan will satisfy the obligation of the health plan for covered services.

2. A participant is required to notify the health plan that he is enrolled under another health plan. The health plan is not required to investigate to determine whether or not a participant is covered by another health plan. The health plan will determine coordinated services when the health plan is made aware of enrollment under another health plan.

D. Right of recovery.

1. If the health plan provided primary coverage and discovers later that it should have provided secondary coverage, the health plan has the right to recover any excess payment from any person or organization, including the participant. If the plan requests a refund, it will send a written notice to the participant.

2. If excess benefit payments are made, the participant must cooperate with the plan in exercising its right of recovery.

E. Right to receive and release necessary information.

1. As a condition of coverage under the program, the participant is obligated to supply the health plan the information needed to administer this section. This must be done before the participant is entitled to receive benefits under this section.

2. The health plan has the right to obtain or release information about covered services or benefits received. This right will be used when working with another person or organization to settle payments for coordinated services. Prior consent of the participant is not required.

F. Definitions.

These definitions are added to those set forth in § 1.2 of these regulations:

1. Health plan.

a. A plan or program offering benefits for, or as a result of, any type of health care service is considered a health plan when it is:

(1) Group or blanket insurance (including school insurance programs);

(2) Blue Cross, Blue Shield, group practice (including HMOs and PPOs), individual practice (IPAs), or any other prepayment arrangement (including this program) when:

(a) An employer contributes any portion of the premium or

(b) An employer contracts for the group coverage on behalf of employees, or

(3) Is any labor-management trustee plan, union welfare plan, employer organization plan, or employee benefit organization plan.

b. The term health plan refers to each plan or program separately. It also refers to any portion of a plan or program which reserves the right to take into account benefits of other health plans when determining its own benefits. If a health plan has a coordination of benefits provision which applies to only part of its services, the terms of this section will be applied separately to that part and to any other part.

c. A prepaid health care services contract or accident or health plan meeting all the following conditions is not a health plan:

(1) One that is individually underwritten;

(2) One that is individually issued;

(3) One that provides only for accident and sickness benefits; and

(4) One that is paid for entirely by the subscriber.

A contract or policy of the type described in subdivision c of this § 4.12 F 1 is not subject to coordination of benefits.

2. Coordinated service. This is a health care service or supply covered under both the program and another health plan. The coordinated service will be provided under the program only to the extent it is not excluded or limited in this benefits section.

3. Primary coverage. This means the health plan which will provide benefits first. It does not matter whether or not a claim has been filed for benefits with the primary health plan.

4. Secondary coverage. This is the health plan under which the benefits may be reduced to prevent duplicate or overlapping coverage.

§ 4.13. Claims.

Claims must be filed no later than the end of the calendar year after the year in which the claim is incurred. Claims not filed in a timely fashion will not be considered.

PART V. BENEFITS PLANS.

§ 5.1. Basic plan.

The department provides a medical and hospitalization plan (the "basic plan"). This plan is available to eligible participants wherever they reside. The coverage is divided into two major parts:

Hospital and physician coverage - pays for covered hospital expenses; pays for covered doctor's care and other medical services up to the usual, customary and reasonable allowance (UCR).

Major Medical - supplements the basic plan with a lifetime maximum for services such as local ambulance services, private duty nursing, and other services. Major medical payments for covered services are made subject to a deductible and coinsurance. When a participant's covered expenses exceed a specified amount in a calendar year, major medical pays 100% UCR for the balance of the calendar year. This 100% payment does not apply to outpatient mental and nervous services. Employees are also eligible for an outpatient prescription drug program.

§ 5.2. Alternative health benefit plans.

The department also offers several health maintenance organization and preferred provider organization plans which are available to participants residing in the service area of the HMO or PPO. The HMOs and PPOs offered on the effective date of these regulations are:

KeyCare Plus Dental Health Benefits Plan;

Cost Awareness Plus Dental Health Benefits Plan;

Kaiser Permanente Health Benefits Plan;

Partners Health Benefits Plan;

PruCare Health Benefits Plan;

Equicor Health Benefits Plan;

Sentara Health Benefits Plan;

Medicare Complementary Plan (Option I);

Proposed Regulations

Medicare Supplemental Plan (Option II);

Accidental Death and Dismemberment Insurance (through the Virginia Supplemental Retirement System); and

State Employee Assistance Service.

The department reserves the right to add or delete any alternative health benefits plan or modify the terms and conditions of existing plans without modifying these regulations.

§ 5.3. Benefits coverage.

Interpretations of covered services will be made in the following manner, listed in order of priority:

- 1. The contract documents, including the request for proposal;*
- 2. Member handbooks;*
- 3. The interpretation of the department;*
- 4. The interpretation of the department's contractors;*

The benefit provisions of the contract documents are contained in the contract booklets or member handbooks distributed to employees by their benefits administrators.

The benefits administrators have copies of the contract booklets and member handbooks for all plans offered by that employer. By appointment, any employee or citizen may inspect the entire contract(s) at the offices of the department.

Any employee or citizen may obtain copies of the contract(s) by writing to the department, describing as precisely as possible the document(s) requested, and promising to pay the cost of collecting, collating, copying and mailing (first class U.S. postage) the requested documents.

Based on actual costs for collecting (etc.), the department may charge \$0.07 per page, including blank pages, furnished to employees or citizens.

§ 5.4. Department discretion.

The department reserves the right to change the plans offered and benefits provided thereunder at its sole discretion based upon reasonable market and department considerations.

COMMONWEALTH OF VIRGINIA
LOCAL EMPLOYER APPLICATION
FOR GROUP HEALTH COVERAGE

This Form shall be used by local employers to apply for coverage under the Health Benefits Program sponsored by the Commonwealth of Virginia.

CURRENTLY IN FORCE COVERAGE SHOULD NOT BE TERMINATED UNTIL THIS APPLICATION HAS BEEN APPROVED AND ACCEPTED IN WRITING BY THE COMMONWEALTH OF VIRGINIA.

Date: _____

I. General Information

1.1 Full name of local employer _____

Type of group (check both if both are applicable)

Local government _____ School district _____

1.2 Street Address _____

City/County _____ Zip code _____

1.3 Application prepared by _____

1.4 Telephone number _____

1.5 Plan administration executive correspondent, address and telephone number _____

1.6 Plan administration routine correspondent, address and telephone number _____

1.7 Applicable only for employers who offer no health care coverage to their employees and whose employees elect to individually join the Health Benefits Program.

It is hereby certified that _____ (the "Employer") offers no health care plan to employees. The Employer will, on behalf of employees who elect to individually join the Program, collect and remit contributions and assist the Department as necessary.

By: _____

(These Employers do not need to complete the remainder of the form.)

II. Eligibility Requirements

2.1 Please describe the criteria for eligibility for active employee coverage in the upcoming year.

A. Define permanent full-time employees eligible for coverage

B. Are any permanent full-time employees excluded from eligibility (Y/N) _____ (if yes, please define)

C. Are permanent part-time employees eligible (Y/N) _____ (if yes, please define)

D. Are temporary employees eligible (Y/N) _____ (if yes, please define)

E. Are other employees eligible (Y/N) _____ (if yes, please define) _____

F. Please describe any employees specifically excluded from coverage, in addition to those listed in 2.1.B.

G. Please specify whether the information in 2.1.A.-F. differs in any way from the eligibility criteria for the current year.

2.2 Are Retirees to be offered coverage (Y/N) _____ (if yes, please explain terms and conditions including the definition of retiree eligibility).

Please specify whether the information in 2.2 differs in any way from the eligibility criteria for the current year.

2.3 Are Dependents to be offered coverage (Y/N) _____ (if yes, please define the eligibility requirements for dependent coverage)

2.4 Will Employees be required to contribute (either before- tax or after-tax) to obtain employee coverage (Y/N) _____ (if yes, please explain your current policy with regard to the amounts of employer and employee contributions)

2.5 Will Employees be required to contribute (either before- tax or after-tax) to obtain dependent coverage (Y/N) _____ (if yes, please explain your current policy with regard to the amounts of employer and employee contributions)

2.7 Will retirees be required to contribute (either before-tax or after-tax) to obtain retiree coverage (Y/N) _____ (if yes, please explain your current policy with regard to the amounts of employer and employee contributions)

2.8 Will retirees be required to contribute (either before-tax or after-tax) to obtain dependent coverage (Y/N) _____ (If yes, please explain your current policy with regard to the amounts of employer and retiree contributions)

2.9 Please indicate below the plans you intend to offer:

Do you plan to offer one of the indemnity plans offered by the state? (Y/N) _____ If yes, check the plan you intend to offer:

- _____ Full service
- _____ Comprehensive
- _____ PPO

Do you plan to offer the HMOs offered by the state in your area? (Y/N) _____

2.10 Proposed effective date of participation:

Month _____ Day _____ Year _____

CHART #2

Note: If, as asked in question 1.1, this application covers both local government employees and school system employees, please provide the information requested separately for each group.

If you maintain more than one medical plan (indemnity, HMO or PPO) provide separate information (by copying this form) for each type of coverage.

Name of plan _____
 Type of coverage ___ Indemnity ___ HMO ___ PPO
 Covered employees ___ Local government employees
 ___ School system employees

ACTIVE COVERAGE

AGE RANGE	<u>EMPLOYEE ONLY</u>		<u>EMPLOYEE + 1 DEP.</u>		<u>FAMILY</u>	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
<30						
30-34						
35-39						
40-44						
45-49						
50-54						
55-59						
60-64						
64-69						
70>						

RETIREE COVERAGE

AGE RANGE	<u>RETIREE ONLY</u>		<u>RETIREE + SPOUSE (FAMILY)</u>	
	MALE	FEMALE	MALE	FEMALE
<55				
55-59				
60-64				
65-69				
70-74				
75-79				
80+				

ADOPTION AGREEMENT
 HEALTH BENEFITS PROGRAM

WHEREAS, the Department of Personnel and Training of the Commonwealth of Virginia (hereinafter referred to as the "Department"), has established the Health Benefits Program (hereinafter referred to as the "Program") effective _____, 19__; and

WHEREAS, the Governor has approved such Program; and

WHEREAS, pursuant to § 2.1-20.1:02 of the Code of Virginia, local employers may, by making proper application and complying with the regulations governing the Program, participate in the Program; and

WHEREAS, _____ (hereinafter called the "Employer") is eligible to participate in the Program and become a party to any agreements established to carry out the funding of the Program, and wishes to adopt said Program for the benefit of its eligible employees, and to become a party to said agreements;

NOW, THEREFORE, by this instrument of writing, effective as of _____, 19__, the Employer, acting herein by and through its duly authorized representatives, hereby adopts the Program for all of its eligible employees and subscribes to the provisions of the regulations and all agreements related thereto by and between the Department and any third party, effective _____, 19__, all in accordance with the following:

- (1) The Employer agrees to comply with the regulations governing the Program and the duties of Employers set forth therein. These duties include but are not limited to the following:
 - Complete an employer application and execute an adoption agreement;
 - Remit employer and employee contributions to the Department or its designee as set forth in regulations;
 - Provide employees with enrollment forms, process and certify the same;
 - Serve as a channel of communication between the Department and employees;
 - Otherwise assist in administration of the Program as requested by the Department.

- (2) The Employer agrees to be bound by all of the terms, provisions, conditions and limitations of the Program and any agreements which are pertinent to any entity defined as an "Employer" therein, with respect to its employees eligible for participation in the Program.

- (3) The Employer agrees that the Department of Personnel and Training shall act as Plan Administrator for the Employer and its employee-participants under the Program in the same manner in which the Department acts for state employee-participants.
- (4) The Employer agrees to provide 90 days notice to the Department in the event it wishes to cease participation in the Program. The Employer shall be obligated to pay any and all contributions otherwise required through the date of termination and interest related thereto as well as any adverse experience adjustment which may apply with respect to the year the termination occurred.
- (5) The Employer understands and agrees that nonpayment of contributions shall be considered a breach of the adoption agreement and the Employer may be obligated to pay damages. In the event that the Employer terminates participation, such termination can only be prospective and the employer shall be obligated to pay the greater of past contributions or actual claims incurred during such period and any interest and damages that may be associated with such nonpayment. In no event will the Department return to the Employer contributions made for ineligible employees.
- (6) The Employer agrees to furnish from time to time such information with reference to its employee-participants as may be required by the Plan Administrator.
- (7) The Employer agrees to reimburse the Department for any expenses or settlement incurred by the Department as a result of any employee's bringing a cause of action based on the Employer's disregard of the regulations or violation of this adoption agreement.
- (8) The Effective Date of the Program shall mean _____ in regard to the Employer and its employee-participants.

IN WITNESS WHEREOF, this agreement has been executed on behalf of the Employer, and its seal hereunto affixed by its duly authorized representatives on this _____ day of _____, 19__.

By: _____

Attest:

* * * * *

It is hereby certified that the Employer is eligible to become signatory to the Health Benefits Program and that its participation in the Program has been approved.

Department of Personnel and Training

By: _____

Dated: _____

Commonwealth of Virginia
Health Benefits Plan

Enrollment Application/ Waiver Form

For active employees, retiring/retired employees, and for those no longer eligible for coverage who wish to select Extended Coverage.

PART A — TO WAIVE OR CANCEL COVERAGE PART B — TO CHANGE MEMBERSHIP OR ENROLL
PART C — FAMILY MEMBERSHIP FOR TWO ACTIVE, ELIGIBLE EMPLOYEES PART D — APPLICATION

GENERAL

- To *Enroll or Change*
Complete Part B, and Part D.
- To *Waive Enrollment or Cancel Coverage*
Complete Part A.

Active Employees

- If your spouse is also eligible to enroll as an active state employee and Family Membership is needed complete Part C as well as Parts B and D. New employees must be employed at least 16 calendar days in order to join the group.

Retiring/Retired Employees

- Your application should be completed three months before the date of your retirement
if you are eligible for a monthly benefit from the Virginia Supplemental Retirement System (VRS) or Teachers Insurance and Annuity Association/College Retirement Equities Fund (TIAA/CREF), you are eligible to enroll. You

will have the advantage of group rates and benefits. If your spouse is an active State employee, compare the rate for retiree coverage with the rate your spouse pays or would pay for Family Membership.

You make no payment now. After your retiree application is processed by the plan you have selected, you will be billed at your home address. You will continue to be billed by your selected plan until deductions can be made from your VRS retirement check. Deductions for health benefits cannot be made from your TIAA/CREF retirement check, so you will continue to receive a bill at home.

Employees/Dependents No Longer Eligible

- You must use this application if you wish to select Extended Coverage. The period of time for which you are eligible for Extended Coverage depends on the event which qualified you for this option. You will be responsible for the entire cost of the plan you select. You will be billed at your home address after your selected plan has processed your application.

Health Care Plans Available

Check information you have received. HMO and PPO coverage is offered in specific areas. Make sure you select a Plan that is available to you:

State-Wide:

- Blue Cross and Blue Shield Basic Coverage
- Blue Cross and Blue Shield Medicare Complementary Coverage Option I (eligible retirees only)
- Blue Cross and Blue Shield Option II (eligible retirees only)

State-Wide:

- Preferred Provider Organization (PPO)
- KeyCare OR CostAwareness, depending on the area

Northern Virginia

- Health Maintenance Organizations (HMO):
Kaiser Permanente
Partners Health Plan

Richmond Metropolitan Area

- Health Maintenance Organizations (HMO):
ProCare
Equicor

Tidewater (Greater Hampton Roads) Area

- Health Maintenance Organizations (HMO):
Equicor
Sentara Health Plan

Write the name of your selected plan in the space indicated on your Enrollment Application

Part A: To Waive Or Cancel Coverages

Print Name _____ (FIRST NAME) _____ (M.I.) _____ (LAST NAME)
Social Security Number _____ Employing Agency _____
Home Address: _____

IF RETIRING: Date of Retirement _____
I do NOT wish to enroll or to continue enrollment for myself and my eligible family members in the State Health Benefits Program. I understand that I will not have another opportunity to enroll unless I am actively employed by a State Agency. I also understand that active employees may elect Family Membership only during Open Enrollment or as a result of an eligibility status change.

Signature _____ Date _____

If you have elected to waive all rights to enrollment at this time, return this form to your Agency Representative.

Part B: To Change Membership Or Enroll

Print Name _____ (FIRST NAME) _____ (M.I.) _____ (LAST NAME) Social Security Number _____

I have selected: _____ NAME OF PLAN

My type of Membership will be (check the same box you check on the Application)
 Single Family Family Membership for Two Active Employees

WITH MEDICARE (CHECK WITH YOUR AGENCY HEALTH BENEFITS GROUP ADMINISTRATOR TO LEARN IF YOU ARE ELIGIBLE TO ENROLL):

- Single—Employee w/Medicare and Dependent with Regular coverage
- Employee with Regular coverage and dependent with Medicare
- Both employee and dependent with Medicare

The current monthly cost to me for the Plan and type of membership I have selected is \$ _____, effective (date) _____

I want to enroll in the State Health Benefits Program. The current and future cost (if any) of coverage may be deducted from my pay check/retirement check until I notify the state that I no longer want coverage by completing Part A of an application. I understand that notice of cancellation does not relieve me from payment for any month already begun. In addition, if I am eligible for Medicare Part B reimbursement, I agree to make notification of retirement or termination to my payroll office not less than 30 days before my last working day.

Signature _____ Date _____

Part C: Family Membership For Two Eligible Active Employees

If you are eligible to participate in the State Health Benefits Plan and your spouse is also eligible to participate, and you need Family Membership, this section MUST be completed to gain maximum State contribution toward the plan you have selected.

HUSBAND

Name _____ (FIRST NAME) _____ (M.I.) _____ (LAST NAME)

Social Security Number _____

Employing Agency _____

AGENCY COMPLETES THE FOLLOWING:

I hereby certify that the employee has been continuously eligible for the state Health Benefits Program since

(date) _____

Agency Payroll Number _____

Agency Representative's Signature: _____

_____ Date _____

WIFE

Name _____ (FIRST NAME) _____ (M.I.) _____ (LAST NAME)

Social Security Number _____

Employing Agency _____

AGENCY COMPLETES THE FOLLOWING:

I hereby certify that the employee has been continuously eligible for the state Health Benefits Program since

(date) _____

Agency Payroll Number _____

Agency Representative's Signature: _____

_____ Date _____

Date of Marriage _____ Deduct the cost of coverage from (check one) Husband Wife

Special Reduced Family Rate is requested to begin on (date) _____

• Spouse paying for Family Membership must read and sign this acknowledgement: I acknowledge full responsibility to repay any state contribution paid in error on my behalf due to my spouse's termination of state employment or divorce. (This spouse should also complete and sign PART B.)

Signature _____ Date _____

• Spouse NOT paying for Family Membership must read and sign this waiver: I do not want separate coverage of my own. I will be covered by my spouse's Family Membership. I understand that I will not have coverage if my spouse's Family Membership stops, unless I apply within the appropriate deadlines.

Signature _____ Date _____

Part D Application

Effective Date: Payroll # 10 Name (FIRST NAME) (M.I.) (LAST NAME) Social Security Number Address Zip Sex: Male Female Birth date: / Office Phone: Home Phone:

1. I wish to choose the following plan. IF YOU SELECT AN HMO, you agree to the following when you sign the application: If the HMO I have selected requires selection of a Primary Care Physician or Medical Center...

2. Current Enrollment: IF you or any member of your family are now covered by one of the State Health Benefits Plans give the name of the plan and your Identification Number

3. Dependent Information (Must be completed to enroll under Family Membership) (RELATIONSHIP CODES: H-Husband W-Wife S-Son D-Daughter SS-Stepson SD-Stepdaughter O-Other (attach explanation))

Table with columns: Name (include last name if different), Birth date (mo. day yr.), Soc. Sec. Number, Relationship CODE, Dependent Over 19 Student? Disabled? (Check if yes), IF HMO, Name of Primary Care Physician

4. Medicare Information (complete if you or enrolled family members are also Medicare beneficiaries) Name, HIB (Claim Number), Effective Date: HOSPITAL (PART A), MEDICAL (PART B)

5. Type of Membership Single Family Family Membership for Two State Employees (WITH MEDICARE) Single Employee w/Medicare and Dependent with Regular coverage Employee, Regular coverage and Dependent w/Medicare Both Employee & Dependent w/Medicare

6. Reason application is being submitted (check one) New employee, retiree, or selecting Extended Coverage Transfer to Medicare Carry-Out Change in Coverage Selection Transfer from another State Agency Change in Family Membership (check one) Add or Drop (give dependents name) as of effective date Other (explain)

7. Change in Status—If Family Membership is selected any time other than 31 days from the date of employment or during the open enrollment period, check one of the following reasons and give the effective date of the change in status.

- Marriage Spouse's employer discontinuing health care plan (*)
Divorce Transfer to another State agency (*)
Birth of a child Loss of coverage due to spouse's termination of employment (*)
Adoption of a child Death of Spouse
Loss of student status Other (explain)

EFFECTIVE DATE OF STATUS CHANGE: (*)NAME AND ADDRESS OF SPOUSE'S EMPLOYER

8. Other Coverage (Complete carefully. This information is subject to verification) Are you, your spouse, or dependent child(ren)—whether or not they are enrolled under the State Health Benefits Program—covered by any other group hospital, medical surgical, dental, or drug program? IF YES, complete the following:

Name of policy holder: Contract or policy number: Group Number: Effective Date: Name of Insurance Company: Address of Insurance Company:

Name of employer or organization providing the group program Who does the policy cover? (check all that apply): What does the policy include? (check all that apply):

9. Authorization—I authorize any medical professional, medical care institution or any other provider of health care services or supplies to furnish to the plan I have selected information concerning services or supplies provided to me, or persons covered, for the purposes of review, investigation, or payment of a claim.

A copy of this authorization is available upon request. This authorization is valid for the duration of coverage. I hereby authorize the State of Virginia to review and/or examine my records as necessary in auditing and administering the State Health Benefits Program.

10. Certification—I certify that I have read and fully understand the authorization and have reviewed the information on this application and found it to be complete and accurate to the best of my knowledge. I understand that by signing this application I give the plan I have selected the right to receive and release information needed to administer the Coordination of Benefits provision of the State Health Benefits Program.

Signature: Date:

Agency Approval/Verification

Agency Name Group Number Effective Date: I certify that I have reviewed this application and that it is complete and accurate to the best of my knowledge. Agency Representative's Signature: Date: Print Name and Title

IF NEW COVERAGE: Date employee's continuous, full-time, permanent salaried employment began If employee is a faculty member on a 9, 10, or 11-month contract, coverage begins

IF RETIREE: This employee is retiring under: Virginia Supplemental Retirement Act and has submitted a VSRS retirement application through this office TIAA-CREF State Police Officer's Retirement Act Judicial Retirement Act The retiring employee has been told that the first premium would be in the amount of \$ and will be billed directly by the selected plan until VSRS deductions begin. Effective date of Service Disability Retirement is

IF DEDUCTIONS FROM THE RETIREMENT CHECK CANNOT BE MADE, VSRS COMPLETES AND RETURNS TO AGENCY: Deduction cannot be made BECAUSE: Not on record as VSRS SPORS JRS member Lump-Sum settlement PLAN SHOULD COLLECT PREMIUM BECAUSE: Check is insufficient OR Workers' Compensation is involved

Proposed Regulations

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-2-335. Individual Income Tax: Virginia Tax Reform Credit.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Public Hearing Date: February 20, 1990 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The regulation sets forth the correct procedures for individual income taxpayers to claim the Virginia Tax Reform Credit enacted by the 1989 session of the General Assembly.

The regulation provides individual income taxpayers with a credit against their Virginia income tax liability of up to \$35 in taxable year 1989, and of up to \$22.50 in each of taxable years 1990 through 1993. Qualifying individuals may claim a credit for each personal and dependent exemption allowable for federal income tax purposes. However, no credit is allowed for the additional personal exemptions for aged and blind taxpayers.

VR 630-2-335. Individual Income Tax: Virginia Tax Reform Credit.

I. Definitions.

The following words and terms, when used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

"Credit" means the Virginia Tax Reform Credit provided for individuals in § 58.1-335 of the Code of Virginia.

"Credit base" means and includes the total number of exemptions allowable to a taxpayer under § 58.1-322 D 2 a of the Code of Virginia, but does not include the additional personal exemptions provided for aged and blind taxpayers.

"VAGI" means Virginia adjusted gross income.

§ 2. Generally.

Effective for taxable years beginning on and after January 1, 1989, and before January 1, 1994, and subject to the limitations set forth below, a sliding scale credit, based upon a taxpayer's Virginia adjusted gross income (VAGI) and credit base, is allowable against the individual income tax imposed in § 58.1-320 of the Code of Virginia.

§ 3. Computation of the credit.

A. Taxable year 1989.

1. Credit amount.

a. For taxable years beginning on and after January 1, 1989, and before January 1, 1990 (taxable year 1989), a credit of \$35 for each personal and dependent exemption is allowable to:

- (i) all single individuals, or married individuals filing separate returns, with VAGI of \$17,000 or less, and
- (ii) all married taxpayers filing jointly, or separately on a combined return, with VAGI of \$34,000 or less.

b. For single individuals, or married individuals filing separate returns, the maximum \$35 credit per exemption is reduced by \$2.00 for each \$1,000, or fraction thereof, of VAGI over \$17,000. The credit is reduced to \$0.00 when VAGI exceeds \$34,000.

c. For married individuals filing jointly or separately on a combined return, the maximum \$35 credit is reduced by \$1.00 for each \$1,000, or fraction thereof of total VAGI in excess of \$34,000. The credit is reduced to \$0.00 when VAGI exceeds \$68,000. For married taxpayers who file separately on a combined return, (filing status four), the VAGI of husband and wife must be aggregated to determine the correct credit amount.

d. Based on the credit computation required, no credit of less than \$1.00 for single individuals (or married individuals filing separate returns), or \$2.00 for married taxpayers filing jointly or separately on a combined return may be claimed in taxable year 1989.

B. Examples.

The following examples illustrate the computation of the credit in taxable year 1989.

Example 1. Taxpayer A is single, has no dependents, and has VAGI in 1989 of \$15,200. After subtracting the standard deduction of \$3,000 and one personal exemption of \$800, A's Virginia taxable income is \$11,400, and his Virginia income tax is \$441. Since A's VAGI is less than \$17,000, he is entitled to the maximum \$35 credit. A's Virginia income tax after subtracting the credit is \$406.

VAGI	\$15,200
Less: Virginia Standard Deduction	(3,000)
Less: Personal Exemption	(800)
Virginia Taxable Income	\$11,400
Virginia Income Tax	\$441
Less: Credit	(35)
Virginia Income Tax After Credit	\$406

Example 2. Taxpayers C are married, have two dependents and file jointly for taxable year 1989. Their VAGI for tax year 1989 is \$32,600. After itemized deductions of \$7,183 and four personal and dependent exemptions of \$3,200 (4 X \$800 = \$3,200), their Virginia taxable income is \$22,217 and their Virginia income tax is \$1,027.

Since their VAGI is below \$34,000 Taxpayers C are entitled to the maximum \$35 credit. Based on their credit base of four, Taxpayers C receive a total credit of \$140 (4 x \$35 = 140). Their Virginia income tax after subtracting the credit is \$887.

VAGI	\$32,600
Less: Itemized Deductions	(7,183)
Less: Personal Exemptions	(3,200)
Virginia Taxable Income	\$22,217
Virginia Income Tax	\$1,027
Less: Credit	(140)
Virginia Income Tax After Credit	\$887

Example 3. Taxpayer A is single, has no dependents, and has VAGI in 1989 of \$18,500. After subtracting the standard deduction of \$3,000 and one personal exemption of \$800, A's Virginia taxable income is \$14,700, and his Virginia income tax is \$605.

Since A's VAGI is greater than \$17,000, the maximum available credit in tax year 1989 of \$35 must be reduced by \$2.00 for each \$1,000, or fraction thereof, of A's VAGI in excess of \$17,000. Since A's VAGI exceeds \$17,000 by more than \$1,000, A's credit is reduced to \$31: $(\$35 - 4) \times 1$ (A's credit base) = \$31. A's Virginia income tax after subtracting the credit is \$574.

VAGI	\$18,500
Less: Standard Deduction	(3,000)
Less: Personal Exemption	(800)
Virginia Taxable Income	\$14,700
Virginia Income Tax	\$605
Less: Credit	(31)
Virginia Income Tax After Credit	\$574

C. Taxable years 1990 - 1993.

1. Credit amount.

a. For taxable years beginning on and after January 1, 1990, and before January 1, 1994 (taxable years 1990 - 1993), a maximum credit of \$22.50 is available to: (i) all single individuals, or married individuals filing separate returns, with VAGI of \$10,000 or less, and (ii) all married taxpayers filing jointly or separately on a combined return with VAGI of \$24,000 or less.

b. For single individuals, or married individuals filing separate returns, with VAGI of \$14,000 or less, the maximum \$22.50 credit is reduced by \$4.00 for each \$1,000, or fraction thereof of VAGI over \$10,000. The credit is reduced to \$0.00, when VAGI exceeds \$14,000.

c. For married individuals filing jointly, or separately on a combined return, with total VAGI of \$32,000 or less, the maximum \$22.50 credit is reduced by \$2.00 for each \$1,000, or fraction thereof, of VAGI over \$24,000. The credit is reduced to \$0.00 when total VAGI exceeds \$32,000. For married taxpayers who file separately on a combined return, (filing status four), the VAGI of

husband and wife must be aggregated to determine the correct credit amount.

d. No credit of less than \$5.00 will be allowed in taxable years 1990 through 1993.

D. Examples.

The following examples illustrate the computation of the credit in taxable years 1990 through 1993.

Example 1. H and W, husband and wife, file separately on a combined return and have one dependent. H has 1990 VAGI of \$20,000 and W has 1990 VAGI of \$4,000. H claims the entire standard deduction of \$5,000, and two personal and dependent exemptions of \$1,600, while W claims one personal exemption of \$800. After subtracting the standard deduction and personal and dependent exemptions, H has Virginia taxable income of \$13,400 while W has Virginia taxable income of \$3,200.

Since their combined VAGI is \$24,000 or less, H and W are entitled to the maximum \$22.50 credit. H and W's credit base of three must be apportioned in the same manner as their personal and dependent exemptions. Thus, H is entitled to a credit of \$45, $(2 \times \$22.50)$, while W is entitled to a credit of \$22.50, $(1 \times \$22.50)$. After subtracting their respective credits, H's Virginia income tax is \$496 and W's Virginia income tax is \$43.50, for a combined tax liability of \$539.50.

	(W)	(H)
	Col A	Col B
VAGI	\$4,000	\$20,000
Less: Standard Deduction		(5,000)
Less: Personal Exemptions	(800)	(1,600)
Virginia Taxable Income	\$3,200	\$13,400
Virginia Income Tax	\$66.00	\$541
Less: Credit	(22.50)	(45)
Virginia Income Tax After Credit	\$43.50	\$496

Example 2. Taxpayer A is married, files a separate return, has no dependents and has VAGI in 1990 of \$11,000. After subtracting her \$2,500 standard deduction and \$800 personal exemption, A's Virginia taxable income is \$7,700, and her Virginia income tax is \$259. Since A's VAGI is greater than \$10,000, the maximum available credit in tax year 1990 of \$22.50 must be reduced by \$4.00 for each \$1,000, or fraction thereof, of A's VAGI in excess of \$10,000.

A's VAGI exceeds \$10,000 by \$1,000, thus the maximum available credit of \$22.50 must be reduced by \$4.00, to \$18.50. Based on her credit base of one, A receives a total credit of \$18.50: $(\$22.50 - \$4.00) \times 1$ (A's credit base) = \$18.50. A's Virginia income tax after subtracting the credit is \$240.50.

VAGI	\$11,000
Less: Standard Deduction	(2,500)
Less: Personal Exemption	(800)
Virginia Taxable Income	\$7,700
Virginia Income Tax	\$259.00
Less: Credit	(18.50)

Proposed Regulations

Virginia Income Tax After Credit \$240.50

Example 3. Taxpayers B are married, file jointly, have three dependents and have VAGI in 1990 of \$28,000. After claiming itemized deductions of \$5,256, and five personal and dependent exemptions of \$4,000 (5 X \$800 = \$4,000), their Virginia taxable income is \$18,744, and their Virginia income tax is \$820.28. Since their VAGI is greater than \$24,000, the maximum available credit in taxable year 1990 of \$22.50 must be reduced by \$2.00 for each \$1,000 of VAGI over \$24,000.

Their VAGI exceeds \$24,000 by \$4,000, thus the maximum \$22.50 credit must be reduced by \$8.00, to \$14.50. Based on their credit base of five, Taxpayers B receive a total credit of \$72.50, as follows: \$22.50 - \$8.00 = \$14.50. \$14.50 x 5 (credit base) = \$72.50. Their Virginia income tax after subtracting the credit is \$747.78.

VAGI	\$28,000
Less: Itemized Deductions	(5,256)
Less: Personal Exemptions	(4,000)
Virginia Taxable Income	\$18,744
Virginia Income Tax	\$820.28
Less: Credit	(72.50)
Virginia Income Tax After Credit	\$747.78

E. Credit limitations.

1. Credit nonrefundable. The credit is nonrefundable, i.e., the amount of the credit may not exceed an individual's tax liability, and any excess cannot be carried forward or back to other taxable years. Therefore, individuals with either no taxable income or with VAGI below the filing exclusion specified in § 58.1-321 of the Code of Virginia (\$5,000 for single persons, \$8,000 for married couples, and \$4,000 for married persons filing separate returns), may not claim the credit.

2. Dependents ineligible. No individual who is claimed or eligible to be claimed as a dependent by another taxpayer for purposes of either the federal or Virginia individual income tax may claim the credit in the filing of his individual income tax return.

3. Credit claimed before other credits. The credit shall be applied to reduce a taxpayer's Virginia individual income tax imposed in § 58.1-320 of the Code of Virginia before the application of any other credits.

F. Examples.

The following examples illustrate limitations in the computation of the Virginia Tax Reform Credit.

Example 1. Taxpayer A is single, has no dependents, and has VAGI in 1989 of \$4,900. A's VAGI is less than the filing exclusion of \$5,000. Thus, A's Virginia individual income tax liability for 1989 is \$0.00. Since the credit is nonrefundable, i.e., may not exceed an individual's tax liability, and since A's tax liability is \$0.00, he is not entitled to the credit in 1989. Furthermore, A may not

carry the credit forward or backward to other taxable years. However, he may still file for a refund of any withholding or estimated taxes paid during the year.

Example 2. Taxpayers B are married, file jointly, have one dependent, and have 1989 VAGI of \$11,500. After subtracting the standard deduction of \$5,000 and claiming three personal and dependent exemptions of \$2,400 (3 X \$800 = \$2,400) their Virginia taxable income for 1989 is \$4,100, and their Virginia income tax is \$93.

Since their VAGI is less than \$34,000 Taxpayers B receive the maximum credit of \$35. Based on their credit base of three, Taxpayers B receive a total credit of \$105, (3 X \$35 = \$105). The credit exceeds their tax liability by \$12, (\$105 - \$93 = \$12). Since the credit is nonrefundable, Taxpayers B may not claim a refund of the \$12 of excess credit. However, they may still file for a refund of all \$288 in Virginia income tax withheld during 1989, as follows:

VAGI	\$11,500
Less: Standard Deduction	(5,000)
Less: Personal Exemptions	(2,400)
Virginia Taxable Income	\$4,100
Virginia Income Tax	\$93
Less: Credit	(105)
Virginia Income Tax After Credit	\$ 0
Less: Virginia Income Tax Withheld	(\$288)
Overpayment (Refund Due)	(\$288)

§ 4. Credit allocation required for certain married taxpayers.

Married taxpayers who file separately on a combined return (filing status four) must allocate the credit between husband and wife in the same manner as they allocate their personal and dependent exemptions. If husband claims three personal and dependent exemptions and wife claims two personal and dependent exemptions, husband's credit base for purposes of computing the credit will be three, while wife's credit base will be two. See, Example 1 in § 3 D.

§ 5. Part year residents.

A. Computation of the credit.

In claiming the credit, the VAGI of a taxpayer who is a resident of Virginia for only a portion of the taxable year shall be computed as though the taxpayer was a resident for the entire taxable year.

Example.

Taxpayer A is single, has no dependents, and moved from Virginia on July 1, 1989. As reported on his 1989 Part Year Virginia income tax return, A's income while not a resident of Virginia was \$16,200 and his VAGI was \$14,500. After claiming itemized deductions of \$2,400, and a prorated personal exemption of \$399, A's Virginia taxable income is \$11,701, and his Virginia income tax is \$455. For purposes of computing the credit only, A's VAGI

Proposed Regulations

must be increased by the \$16,200 of income while not a resident of Virginia. Thus, A's VAGI for purposes of computing the credit is \$30,700 (\$14,500 + \$16,200 = \$30,700).

Since A's VAGI computed as if he was a full year resident exceeds \$17,000, the maximum available credit in tax year 1989 of \$35 must be reduced by \$2.00 for each \$1,000, or fraction thereof, of A's VAGI in excess of \$17,000.

Since A's VAGI for purposes of computing the credit exceeds \$17,000 by more than \$13,000, the maximum \$35 credit must be reduced by \$28 to \$7. Based on A's credit base of 1, A receives a total credit of \$7.00: $\$35 - \$28 = \$7.00$. $\$7.00 \times 1$ (A's credit base) = \$7.00. A's Virginia income tax after subtracting the credit is \$448.

VAGI	\$14,500
Less: Itemized Deductions	(2,400)
Less: Prorated personal exemption	(399)
Virginia Taxable Income	\$11,701
VAGI	\$14,500
Plus: Income earned while a nonresident	16,200
VAGI for purposes of computing the credit only	\$30,700
Virginia Income Tax	\$455
Less: Credit	(7)
Virginia Income Tax After Credit	\$448

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-01-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

Statutory Authority: § 59.1-364 of the Code of Virginia.

Public Hearing Date: January 18, 1990 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

These proposed amendments to the proposed regulations published in Vol. 6, Issue 4, November 20 in the Register (i) set forth the procedure for requesting racing days, (ii) establish procedures for approving racing days, (iii) establish procedures for transferring a license and acquiring an interest in a license, (iv) establish procedures for appealing a licensing decision, (v) specify the conditions under which pari-mutuel wagering will be conducted and (vi) establish procedures for the distribution of purse moneys.

VR 662-01-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

The following words and terms, when used in these

regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$.10

"Commission" means the Virginia Racing Commission.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the commission.

"Horse owner" means a person owning an interest in a horse.

"Horse racing" means a competition on a set course involving a race among horses on which pari-mutuel wagering is permitted.

"Licensee" includes any person holding an owner's, operator's, limited or unlimited license, or any other license issued by the commission.

"Limited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for a period not exceeding 14 days in any calendar year.

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Owner's license" means a license issued by the commission allowing the holder to construct a horse racing facility for the purpose of conducting a limited or unlimited race meeting with pari-mutuel wagering privileges.

"Operator's license" means a license issued by the commission allowing the holder to conduct a horse race meeting with pari-mutuel wagering privileges.

"Pari-mutuel wagering" means the system of wagering on horse racing in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, less deductions required or permitted by law.

"Permit holder" includes any person holding a permit to participate in horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting where pari-mutuel wagering is offered thereon as provided in the Act.

"Person" includes a natural person, partnership, joint

Proposed Regulations

venture, association or corporation.

"Pool" means the amount wagered during a race meeting in straight wagering, in multiple wagering, or during a specified period thereof.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, owns or controls, directly or indirectly, 5.0% or more of the stock of any person who is a licensee, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of 5.0% or more of any such stock.

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Retainage" means the total amount deducted, from the pari-mutuel wagering pool in the percentages designated by statute for the Commonwealth of Virginia, purse money for the participants, Virginia Breeders Fund, and the operators.

"Stock" includes all classes of stock of an applicant or licensee corporation, and any debt or other obligation of such corporation or stockholder thereof or stock of any affiliated corporation if the commission finds that the holder of such obligation or stock derives therefrom such control of or voice in the operation of the applicant or licensee corporation that he should be deemed a stockholder.

"Totalizator" means an electronic data processing system for registering wagers placed on the outcomes of horse racing, deducting the retainage, calculating the mutuel pools and returns to ticket holders, and displaying approximate odds and payouts, including machines utilized in the sale and cashing of wagers.

"Unlimited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for periods of 15 days or more in any calendar year.

"Virginia Breeders Fund" means the fund established to foster the industry of breeding racehorses in the Commonwealth of Virginia.

PART II. LICENSURE.

§ 2.1. Identification of applicant for owner's, owner-operator's, operator's license.

An application shall include, on a form prepared by the commission, the name, address, and telephone number of the applicant and the name, position, address, telephone number, and authorized signature of an individual to whom the commission may make inquiry.

§ 2.2. Applicant's affidavit.

An application shall include, on a form prepared by the commission, an affidavit from the chief executive officer or a major financial participant in the applicant setting forth:

1. That application is made for a license to own, own-operate, or operate a horse racing facility at which pari-mutuel wagering is conducted;

2. That the affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority shall be attached;

3. That the applicant seeks a grant of a privilege from the Commonwealth of Virginia, and the burden of proving the applicant's qualifications rests at all times with the applicant;

4. That the applicant consents to inquiries by the Commonwealth of Virginia, its employees, the commission members, staff and agents, into the financial, character, and other qualifications of the applicant by contacting individuals and organizations;

5. That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the Commonwealth of Virginia, its employees, the commission, staff, or agents;

6. That the affiant has read the application and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated as information and belief; as to those matters, affiant believes them to be true;

7. That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of required information, or substantial deviation from representations in the application may result in denial, revocation, suspension or conditioning of a license or imposition of a fine, or any or all of the foregoing;

8. That the applicant will comply with all applicable state and federal statutes and regulations, all regulations of the commission and all other local ordinances;

9. The affiant's signature, name, organization, position, address, and telephone number; and

10. The date.

§ 2.3. Disclosure of ownership and control.

An applicant must disclose:

1. The type of organizational structure of the applicant, whether individual, business corporation, nonprofit corporation, partnership, joint venture, trust, association, or other;

2. If the applicant is an individual, the applicant's legal name, whether the applicant is a United States citizen, any aliases and business or trade names currently or previously used by the applicant, and copies of all state and federal tax returns for the past five years;

3. If the applicant is a corporation:

a. The applicant's full corporate name and any trade names currently or previously used by the applicant;

b. The jurisdiction and date of incorporation;

c. The date the applicant began doing business in Virginia and a copy of the applicant's certificate of authority to do business in Virginia;

d. Copies of the applicant's articles of incorporation, bylaws, and all state and federal corporate tax returns for the past five years;

e. The general nature of the applicant's business;

f. Whether the applicant is publicly held as defined by the rules and regulations of the Securities and Exchange Commission;

g. The classes of stock of the applicant. As to each class, the number of shares authorized, number of shares subscribed to, number issued, number outstanding, par value per share, issue price, current market price, number of shareholders, terms, position, rights, and privileges must be disclosed;

h. Whether the applicant has any other obligations or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, the nature thereof, face or par value, number of units authorized, number outstanding, and conditions under which they may be voted;

i. The names, in alphabetical order, and addresses of the directors and, in a separate list, officers of the applicant. The number of shares held of record directly or indirectly by each director and officer as of the application date of each class of stock, including stock options and subscriptions, and units held of record or beneficially of other obligations or securities which bear voting rights must be

disclosed;

j. The names, in alphabetical order, and addresses of each recordholder as of the date of application or beneficial owner of shares, including stock options and subscriptions, of the applicant or units of other obligations or securities which bear voting rights. As to each holder of shares or units, the number and class or type of shares or units shall be disclosed;

k. Whether the requirements of the Securities Act of 1933 and Securities and Exchange Act of 1934, as amended, and Securities and Exchange Commission rules and regulations have been met in connection with issuance of applicant's securities, and copies of the most recent registration statement and annual report filed with the Securities and Exchange Commission;

l. Whether the securities registration and filing requirements of the applicant's jurisdiction of incorporation have been met, and a copy of the most recent registration statement filed with the securities regulator in that jurisdiction; and

m. Whether the securities registration and filing requirements of the Commonwealth of Virginia have been met. If they have not, the applicant must disclose the reasons why. The applicant must provide copies of all securities filings with Virginia's State Corporation Commission during the past five years.

4. If the applicant is an organization other than a corporation:

a. The applicant's full name and any aliases, business, or trade names currently or previously used by the applicant;

b. The jurisdiction of organization of the applicant;

c. The date the applicant began doing business in Virginia;

d. Copies of any agreements creating or governing the applicant's organization and all of the applicant's state and federal tax returns for the past five years;

e. The general nature of the applicant's business;

f. The names, in alphabetical order, and addresses of any partners and officers of the applicant and other persons who have or share policy-making authority. As to each, the applicant must disclose the nature and extent of any ownership interest, direct or indirect, including options, or other voting interest, whether absolute or contingent, in the applicant; and

Proposed Regulations

g. The names, in alphabetical order, and addresses of any individual or other entity holding a record or beneficial ownership interest, direct or indirect, including options, as of the date of the application, or other voting interest, whether absolute or contingent, in the applicant. As to each, the applicant must disclose the nature and extent of the interest.

5. If a nonindividual record or beneficial holder of an ownership or other voting interest of 5.0 % or more in the applicant is identified pursuant to subdivision 3, i or j or subdivision 4, f and g, the applicant must disclose the information required by those subdivisions as to record or beneficial holders of an ownership or other voting interest of 5.0% or more in that nonindividual holder. The disclosure required by those subdivisions must be repeated, in turn, until all other voting interests of 5.0% or more in the applicant or any nonindividual holder are identified. When an applicant is unable to provide the information required, it shall explain fully and document its inability to do so;

6. Whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant must disclose the identity of the controlling entity and a description of the nature and extent of control;

7. Any agreements or understandings which the applicant or any individual or entity identified pursuant to this part has entered into regarding ownership or operation of applicant's horse racing facility, and copies of any such agreements in writing;

8. Any agreements or understandings which the applicant has entered into for the payment of fees, rents, salaries, or other compensation concerning the proposed horse racing facility by the applicant, and copies of any such agreements in writing; and

9. Whether the applicant, any partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of 5.0% or more has held or holds a license or permit issued by a governmental authority to own or operate a horse racing facility, pari-mutuel wagering facility or any other form of gambling or has a financial interest in such an enterprise or conducts any aspect of horse racing or gambling. If so, the applicant must disclose the identity of the license or permit holder, nature of the license or permit, issuing authority, and dates of issuance and termination.

§ 2.4. Disclosure of character information.

An applicant for a license must disclose and furnish particulars as follows whether the applicant or any individual or other entity identified pursuant to

subdivisions 3 and 4 of § 2.3 and subdivisions 2 and 3 of § 2.10 of these regulations:

1. Been charged in any criminal proceeding other than a traffic violation. If so, the applicant must disclose nature of the charge, the date charged, court and disposition;

2. Had a horse racing, gambling, business, professional, or occupational license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant must disclose the date of commencement, circumstances and disposition;

3. Been accused in an administrative or judicial proceeding of violating a statute or regulation relating to horse racing or gambling;

4. Been charged in an administrative or judicial proceeding of violating a statute or regulation relating to unfair labor practices or discrimination;

5. Begun an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances and disposition;

6. Been the subject of voluntary or involuntary bankruptcy proceedings. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision and disposition;

7. Failed to satisfy any judgment, decree or order of an administrative or judicial tribunal. If so, the applicant must disclose the date and circumstances; and

8. Been delinquent in filing a tax return required or remitting a tax imposed by any government. If so, the applicant must disclose the date and circumstances.

§ 2.5. Disclosure of sites and facilities.

An application for a license must disclose with respect to the pari-mutuel horse racing facility it will own, operate, or own and operate:

1. The address of the facility, ownership of site for the last five years, legal description, mortgages, proof of title insurance, its size, and geographical location, including reference to county and municipal boundaries;

2. A site map showing existing highways and streets adjacent to the facility, and separately showing any proposed highways and streets adjacent to the facility, including their scheduled completion dates;

3. The type or types of racing for which the facility

Proposed Regulations

is designed, whether thoroughbred, harness, quarterhorse, or other;

4. Racetrack dimensions for each racetrack operated by the facility by:

- a. Circumference;
- b. Width;
- c. Banking;
- d. Location of chutes;
- e. Length of stretch;
- f. Distance from judges' stand to first turn;
- g. Type of surface; and
- h. Description of safety rail.

5. A description of the backstretch area, giving:

- a. Dimensions and number of barns, whether open or enclosed;
- b. Location and interval of barns;
- c. Dimensions and number of stalls per barn;
- d. Location of offices for veterinarians;
- e. Location of facilities for emergency care for horses;
- f. Location of facilities for feed, tack, and other vendors;
- h. Location, description and number of housing units for backstretch employees;
- i. Location and description of commissary, lavatory and recreational facilities for backstretch employees; and
- j. Location and description of training track, if any.

6. A description of the grandstand, giving:

- a. Total seating capacity;
- b. Total reserved seating capacity;
- c. Indoor and outdoor seating capacity;
- d. Configuration of grandstand seating and pari-mutuel and concession facilities within the grandstand;
- e. The number and location of men's and women's

restrooms, drinking fountains and medical facilities available to patrons; and

f. Description of public pedestrian traffic patterns throughout the grandstand.

7. A description of the post-race detention barn, giving:

- a. Distance from the post-race detention barn to track and paddock;
- b. Number of sampling stalls;
- c. Placement of viewing ports on each;
- d. Location of post-mortem floor;
- e. Number of wash stalls with hot and cold water and drains;
- f. Availability of video monitors and other security measures; and
- g. The walking ring.

8. A description of the paddock and saddling area, giving:

- a. Number of stalls in the paddock;
- b. Height from the floor to lowest point of the stall ceiling and entrance;
- c. Paddock public address and telephone services; and
- d. Public viewing area.

9. A description of the jockeys' and drivers' quarters, giving:

- a. Changing areas;
- b. A listing of equipment to be installed in each; and
- c. The location of the jockeys' or drivers' quarters in relation to the paddock.

10. A description of the pari-mutuel totalizator, giving:

- a. Approximate location of bettors' windows and cash security areas; and
- b. A description of the equipment, including vendor and manufacturer if known.

11. A description of the parking, giving:

- a. Detailed attention to access to parking from

Proposed Regulations

surrounding streets and highways;

b. Number of parking spaces available, distinguishing between public and other;

c. A description of the road surface on parking areas and the distance between parking and grandstand; and

d. A road map of the area showing the relationship of parking to surrounding, existing and proposed streets and highways.

12. A description of the height, type of construction and materials of perimeter fence;

13. A description of improvements and equipment at the racetrack for security purposes in addition to perimeter fence, including the vendor and manufacturer of equipment if known;

14. A description of starting, timing, photo finish, and photo-patrol or video equipment, including the vendor and manufacturer if known;

15. A description of work areas for the commission members, officers, employees, stewards, and agents;

16. A description of the facility's access to public transportation, the types of public transportation and schedules and road maps of area which show pick-up and drop-off points; and

17. A description of manure and other refuse containers and plans for their prompt and proper removal.

§ 2.6. Disclosure of development process.

An applicant for a license must disclose with regard to development of its horse racing facility:

1. The total cost of construction of the facility, distinguishing between known costs and projected costs;

2. Separate identification of the following costs, distinguishing between known costs and projected costs:

a. Facility design;

b. Land acquisition;

c. Site preparation;

d. Improvements and equipment, separately identifying the costs of section 5, subsections D to O, and other categories of improvements and equipment; and

e. Organization, administrative, accounting, and legal.)

3. Documentation of the nature of interim financing and the nature of permanent financing;

4. Documentation of fixed costs;

5. The schedule for construction of the facility, giving:

a. Acquiring land;

b. Soliciting bids;

c. Zoning and construction permit approval;

d. Awarding construction contracts;

e. Beginning construction;

f. Completing construction;

g. Training staff; and

h. Beginning of racing.

6. Schematic drawings;

7. Copies of any contracts with and performance bonds from the:

a. Architect or other design professional;

b. Project engineer;

c. Construction engineer;

d. Contractors and subcontractors; and

e. Equipment procurement personnel.

8. Whether the site has been acquired or leased by applicant. If so, the applicant must provide the documentation. If not, the applicant must state which actions must be taken in order to obtain the site; and

9. Whether present construction planning envisions future expansion of the facilities and, if so, a general description of the nature of such expansion.

§ 2.7. Disclosure of financial resources.

An applicant for license must provide the following with regard to financial resources:

1. The most recent independently audited financial statement showing:

a. The applicant's current assets, including investments in affiliated entities, loans and accounts receivable;

- b. Fixed assets;
- c. Current liabilities, including loans and accounts payable; and
- d. Long-term debt and equity; and
- e. Statement of income and expenses, and statement of cash flow;

2. Equity and debt sources of funds to develop, own and operate the horse racing facility:

- a. With respect to each source of equity:
 - (1) Contribution;
 - (2) Identification of the source;
 - (3) Amount;
 - (4) Form;
 - (5) Method of payment;
 - (6) Nature and amount of present commitment; and
 - (7) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts;
- b. With respect to each source of debt:
 - (1) Contribution;
 - (2) Identification of the source;
 - (3) Amount;
 - (4) Terms of debt;
 - (5) Collateral;
 - (6) Identity of guarantors;
 - (7) Nature and amount of commitments; and
 - (8) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts; and

3. Identification and description of sources of additional funds if needed due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other cause.

§ 2.8. Disclosure of financial plan.

An applicant for a license must disclose with regard to its financial plan the financial projections for the development period and for each of the first five racing

years, with separate schedules based upon the number of racing days, types of racing, and types of pari-mutuel wagering the applicant requires to break even and the optimum number of racing days and types of wagering the applicant seeks each year. The commission will utilize financial projections in deciding whether to issue licenses.

Neither acceptance of a license application nor issuance of a license shall bind the commission as to matters within its discretion, including, but not limited to, assignment of racing days and approval of types of permissible pari-mutuel pools.

The disclosure must include:

1. The following assumptions and support for them:
- a. Average daily attendance;
 - b. Average daily per capita handle and average bet;
 - c. Retainage;
 - d. Admissions to track, including ticket prices and free admissions;
 - e. Parking volume, fees and revenues;
 - f. Concessions, gift shop and program sales;
 - g. Cost of purses;
 - h. Pari-mutuel expenses;
 - i. State taxes;
 - j. Local taxes;
 - k. Federal taxes;
 - l. Virginia Breeders' Fund;
 - m. Payroll;
 - n. Operating supplies and services;
 - o. Utilities;
 - p. Repairs and maintenance;
 - q. Insurance;
 - r. Travel expenses;
 - s. Membership expenses;
 - t. Security expenses;
 - u. Legal and audit expenses; and
 - v. Debt service;

Proposed Regulations

2. The following profit and loss elements:

- a. Total revenue, including projected revenues from retainage, breakage, uncashed tickets, admissions, parking, and concessions, gift and program operations;
- b. Total operating expenses, including anticipated expenses for:

- (1) Purses;
- (2) Pari-mutuel;
- (3) Sales tax;
- (4) Local taxes;
- (5) Admissions tax;
- (6) Virginia Breeders' Fund;
- (7) Special assessments;
- (8) Cost of concession goods, gifts and programs;
- (9) Advertising and promotion;
- (10) Payroll;
- (11) Operating supplies and service;
- (12) Maintenance and repairs;
- (13) Insurance;
- (14) Security;
- (15) Legal and audit; and
- (16) Federal and state taxes.

- c. Nonoperating expenses, including anticipated expenses for debt service, facility depreciation and identification of method used, and equipment depreciation and identification of method used;

3. Projected cash flow, including assessment of:

- a. Income, including equity contributions, debt contributions, interest income and operating revenue; and
- b. Disbursements, including land, improvements, equipment, debt service, operating expense and organizational expense.

4. Projected balance sheets as of the end of the development period and of each of the first five racing years setting forth:

- a. Current, fixed and other noncurrent assets;
- b. Current and long-term liabilities; and
- c. Capital accounts.

5. The applicant must also disclose an accountant's review report of the financial projections.

§ 2.9. Disclosure of governmental actions.

An applicant for a license must disclose with regard to actions of government agencies:

1. The street and highway improvements necessary to ensure adequate access to applicant's horse racing facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

2. The sewer, water and other public utility improvements necessary to serve applicant's facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

3. The status of any required government approvals for development, ownership and operation of its horse racing facility:

- a. A description of the approval, unit of government, date and documentation;

- b. Whether public hearings were held. If they were, the applicant must disclose when and where the hearings were conducted. If they were not held, the applicant must disclose why they were not held; and

- c. Whether the unit of government attached any conditions to approval. If so, the applicant must disclose these conditions, including documentation. In addition, the applicant must summarize its plans to meet these conditions.

4. Whether any required governmental approvals remain to be obtained, as well as a description of the approval, unit of government, status, likelihood of approval and estimated date of approval;

5. Whether an environmental assessment or environmental impact statement of the facility has been or will be prepared. If so, the applicant must disclose its status and the governmental unit with jurisdiction, and provide a copy of any statement; and

6. Whether the applicant is in compliance with all state statutes, local charter provisions, local ordinances, and state and local regulations pertaining to the development, ownership and operation of its horse racing facility. If the applicant is not in compliance, the applicant must disclose the reasons

why the applicant is not in compliance and summarize plans to obtain compliance.

§ 2.10. Disclosure of management.

An applicant for a license must disclose with regard to the development, ownership and operation of its pari-mutuel horse racing facility:

1. A description of the applicant's management plan, with budget and identification of management personnel by function, job descriptions and qualifications for each management position, and a copy of the organization chart;

2. Management personnel to the extent known and with respect to each:

a. Legal name, alias(es) and previous name(s);

b. Current residence and business addresses and telephone numbers;

c. Qualifications and experience in the following areas:

(1) General business;

(2) Marketing, promotion and advertising;

(3) Finance and accounting;

(4) Horse racing;

(5) Pari-mutuel wagering;

(6) Security; and

(7) Human and animal health and safety.

d. Description of the terms and conditions of employment and a copy of each type of agreement;

3. Consultants and other contractors who have provided or will provide management-related services to applicant with respect to each:

a. Full name;

b. Current address and telephone number;

c. Nature of services;

d. Qualifications and experience; and

e. Description of terms and conditions of each contractor's agreement and a copy of the agreement.

4. Memberships of the applicant, management personnel and consultants in horse racing

organizations.

5. Description of the applicant's marketing, promotion and advertising plans;

6. A description of the applicant's plan for concessions, including whether the licensee will operate concessions and, if not, who will;

7. A description of training of the applicant's personnel; and

8. A description of plans for compliance with all laws pertaining to discrimination, equal employment and affirmative action; policies regarding recruitment, use and advancement of minorities; policies with respect to minority contracting; and a copy of Equal Employment Opportunity Statement.

§ 2.11. Disclosure of safety and security plans.

An application for a license must disclose with regard to the development of its horse racing facility:

1. A description of the local emergency services available to the racetrack, including fire fighting, law enforcement and medical emergency services;

2. A description of the security equipment, such as fences, locks, alarms and monitoring equipment, for the facility, including:

a. Perimeter fence and its construction;

b. Stables;

c. Paddock;

d. Cash room and the vault;

e. Pari-mutuel ticket windows;

f. Totalizator room;

g. Post-race detention barn; and

h. Parking lot.

3. A description of the security procedures to be used:

a. To admit individuals to restricted areas of the racetrack;

b. To secure areas where money and mutuel tickets are vaulted, and daily transfers of cash via armored trucks;

c. To provide security for patrons and employees; and

d. Specific plans to discover persons at the facility

Proposed Regulations

who have been convicted of a felony, had a license suspended, revoked, or denied by the commission or by the horse racing authority of another jurisdiction or are a threat to the integrity of racing in Virginia.

4. A description of the security personnel to be employed at the facility, giving:

a. Whether personnel will be employees of the licensee or employees of an independent contractor;

b. If the personnel are employed by an independent contractor, describe the organization and qualifications of the contractor as well as meeting applicable state licensing requirements;

c. State the number of individuals to be employed and the area of the racetrack where each will serve;

d. Provide an organizational chart of the security force with a job description of each level; and

e. State whether or not the security personnel are bonded and if so, state amount and conditions of the bond and the name and address of the surety company that issued the bond.

5. A description of the fire safety and emergency procedures, giving:

a. Evacuating the patrons and controlling traffic in an emergency;

b. Inspecting the facility for fire and safety hazards;

c. Restricted smoking areas; and

d. Coordinating the facility's security, fire and safety procedures with the state police, the commission and other local agencies.

6. A description of the first aid facilities available at the racetrack during racing hours and the facilities available to employees during non-racing hours;

7. Whether the applicant will be a member of the Thoroughbred Racing Protective Bureau or other security organization; and

8. A description of the internal accounting controls to create cross checks and balances in order to safeguard assets and detect fraud and embezzlement.

§ 2.12. Disclosure of public service.

An applicant for a license must disclose its plans for promotion of the orderly growth of horse racing in Virginia and education of the public with respect to horse racing and pari-mutuel wagering.

§ 2.13. Disclosure of impact of facilities.

An applicant for a license must disclose and document the projected impact of its horse racing facility, including:

1. Economic impact, giving:

a. Number of jobs created, whether permanent or temporary, type of work, compensation, employer and how created;

b. Purchases of goods and services, types of purchases and projected expenditures;

c. Public and private investment; and

d. State and local tax revenues generated.

2. Environmental impact;

3. Impact on energy conservation and development of alternative energy sources; and

4. Social impact on the community in which the race track would be located.

§ 2.14. Effects on competition.

An applicant must disclose the anticipated short- and long-range effects of its ownership and operation of its horse racing facility on competition within the horse racing industry.

§ 2.15. Disclosure of assistance in preparation of application.

An applicant must disclose the names, addresses and telephone numbers of individuals and businesses who assisted the applicant in the writing of its application and supply copies of all studies completed for the applicant.

§ 2.16. Personal information and authorization for release.

In an application for a license, the applicant shall include the following with respect to each individual identified as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of five percent or more in the applicant and each individual identified pursuant to subdivisions 2 and 3 of § 2.10:

1. Full name, business and residence addresses and telephone numbers, residence addresses for past five years, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and

2. An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he:

a. Authorizes a review by, and full disclosure to, an agent of the Virginia State Police, of all records concerning the individual;

b. Recognizes the information reviewed or disclosed may be used by the Commonwealth of Virginia, its employers, the commission, members, staff and agents to determine the signer's qualifications for a license; and

c. Releases authorized providers and users of the information from any liability under state or federal data privacy statutes.

§ 2.17. License criteria.

A. The commission may issue a license if it determines on the basis of all the facts before it that:

1. The applicant is financially able to operate a racetrack;

2. Issuance of a license will not adversely affect competition within the horse racing industry and the public interest;

3. The racetrack will be operated in accordance with all applicable state and federal statutes and regulations, regulations of the commission and all local ordinances; and

4. The issuance of the license will not adversely affect the public health, safety and welfare.

B. In making the required determinations, the commission must consider the following factors:

1. The integrity of the applicant, including:

a. Criminal record;

b. Involvement in litigation over business practices;

c. Involvement in disciplinary actions over a business license or permit or refusal to renew a license or permit;

d. Involvement in proceedings in which unfair labor practices, discrimination or government regulation of horse racing or gambling was an issue;

e. Involvement in bankruptcy proceedings;

f. Failure to satisfy judgments, orders or decrees;

g. Delinquency in filing of tax reports or remitting taxes; and

h. Any other factors related to integrity which the commission deems crucial to its decision making, as long as the same factors are considered with regard

to all applicants.

2. The types and variety of pari-mutuel horse racing, pari-mutuel wagering, and other uses of the facility when racing or wagering is not offered;

3. The quality of physical improvements and equipment in applicant's facility, including:

a. Racetrack or tracks and provisions, if any, for a turf course;

b. Stabling, including fire control measures;

c. Grandstand;

d. Detention barn;

e. Paddock;

f. Jockeys', drivers' and backstretch employees' quarters;

g. Pari-mutuel totalizator;

h. Parking;

i. Access by road and public transportation;

j. Perimeter fence;

k. Other security improvements and equipment;

l. Starting, timing, photo finish and photo-patrol or video equipment;

m. Commission work areas; and

n. Any other factors related to quality which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants;

4. Imminence of completion of facility and commencement of pari-mutuel horse racing;

5. Financial ability to develop, own and operate a pari-mutuel horse racing facility successfully, including:

a. Ownership and control structure;

b. Amounts and reliability of development costs;

c. Certainty of site acquisition or lease;

d. Current financial condition;

e. Sources of equity and debt funds, amounts, terms and conditions and certainty of commitment;

Proposed Regulations

f. Provision for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other financial adversity;

g. Feasibility of financial plan; and

h. Any other factors related to financial ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

6. Status of governmental actions required for the applicant's facility, including:

a. Necessary road improvements;

b. Necessary public utility improvements;

c. Required governmental approvals for development, ownership and operation of the facility;

d. Acceptance of any required environmental assessment and preparation of any required environmental impact statement; and

e. Any other factors related to status of governmental actions which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

7. Management ability of the applicant, including:

a. Qualifications of managers, consultants and other contractors to develop, own and operate a pari-mutuel horse racing facility;

b. Security plan;

c. Plans for human and animal health and safety;

d. Marketing, promotion and advertising plans;

e. Concessions plan;

f. Plan for training personnel;

g. Equal employment and affirmative action plans; and

h. Any other factors related to management ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

8. Compliance with applicable statutes, charters, ordinances or regulations;

9. Efforts to promote orderly growth of horse racing in Virginia and educate public with respect to horse racing and pari-mutuel wagering;

10. Impact of facility, including:

a. Economic impact, including employment created, purchases of goods and services, public and private investment and taxes generated;

b. Environmental impact;

c. Impact on energy conservation and development of alternative energy sources;

d. Social impact;

e. Costs of public improvements;

f. Impact on the highway network; and

g. Any other factors related to impact which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.

11. Extent of public support and opposition;

12. Effects on competition, including:

a. Number, nature and relative location of other licenses;

b. Minimum and optimum number of racing days sought by the applicant; and

c. Any other factors of the impact of competition which the commission deems crucial to decision making as long as the same factors are considered with regard to all applicants.

13. The commission shall also consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.

§ 2.18. Criteria for unlimited horse racing facilities.

A. Generally.

Every license to conduct a horse race meeting with pari-mutuel wagering privileges, of 15 days or more in any calendar year is granted by the commission upon the condition that the licensee will conduct horse racing at its facility or meeting for the promotion, sustenance, and growth of a native industry in a manner consistent with the health, safety, and welfare of the people. The adequacy and sufficiency with which the licensee meets the criteria for the procedures, facilities, and equipment for conducting a horse race meeting of such duration shall rest with the commission.

1. Each licensee shall accept, observe, and enforce all federal and state laws, regulations of the commission, and local ordinances.

Proposed Regulations

2. Each licensee shall at all time maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of the public, employees, other persons whose business requires their attendance, and for the health and safety of the horses there stabled.

3. Each licensee shall honor commission exclusions from the enclosure and eject immediately any person found within the enclosure who has been excluded by the commission and report the ejection to the commission. Whenever any licensee ejects a person from the enclosure, it shall furnish a written notice to the person ejected and shall report the ejection to the commission.

4. No later than 30 days before the first day of any race meeting, each licensee shall submit to the commission the most recent inspection reports issued by governmental authorities regarding the condition of facilities, sanitation, and fire prevention, detection, and suppression.

5. Each licensee shall provide the commission daily attendance reports showing a turnstile count of all persons admitted to the enclosure and the reports shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt admissions.

6. Each licensee shall furnish to the commission within three months of the closing of its fiscal year, three copies of its balance sheet and of its operating statement for the previous fiscal year with comparison to the prior fiscal year, the same duly sworn to by the treasurer of the association, and certified by an independent certified public accountant. The financial report shall be in the form as may be prescribed from time to time by the commission.

7. Each licensee shall maintain a separate bank account to be known as the "horsemen's account," with the amount of purse money statutorily mandated to be deposited in the account within 48 hours of the running of the race. Withdrawals from this account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of the account shall be bonded:

a. All portions of purse money shall be made available when the stewards have authorized payment to the earners; and

b. No portion of purse money other than jockey fees shall be deducted by the licensee for itself or for another, unless so requested in writing by the person to whom such purse moneys are payable, or his duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a

deposit, withdrawal, or transfer of funds affecting such owner's racing at the close of each race meeting.

8. Each licensee shall remit to the commission within five days of the day on which the revenue for pari-mutuel taxes, admission taxes, and breeders' funds were collected. The remittance shall be accomplished by a direct deposit in a financial institution designated by the commission. On those days when the fifth day is a holiday or a weekend day, the payment must be made by the succeeding business day. At the close of each month in which racing is conducted, the licensee must report to the commission all deposits of taxes and breeders' funds for that month.

9. On each day that deposits are made by the licensee, a report must be filed with the commission containing the following recapitulation: total retainage, pari-mutuel tax; state and local admissions taxes; purse moneys; total breakage; and breeders' fund taxes.

10. Each licensee shall provide areas within the enclosure where publications, other informational materials, and tip sheets, may be sold to the public. All persons holding a tip sheet concession at the facility must be licensed by the commission as vendors.

Each handicapper shall post in a conspicuous place the previous day's tip sheet and the outcome of the races. Each handicapper shall deliver one copy of the tip sheet to a commission representative at least one hour before post time.

11. Each licensee shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who are licensed and have access to the stabling area. No licensee by virtue of this regulation shall attempt to control or monopolize proper selling to owners, trainers, or stable employees; nor shall a licensee grant a sole concession to any vendor of feed, racing supplies, or racing services.

12. Each licensee shall provide to the commission copies of all subordinate contracts, in the amount of \$15,000 annual gross and above, entered into by the owner, owner-operator, or operator, and such contracts shall be subject to approval of the commission:

B. Facilities for conducting horse racing.

Each licensee shall provide all of the facilities for the conduct of horse racing so as to maintain horse racing of the highest quality and free of any corrupt, incompetent, or dishonest practices and to maintain in horse racing complete honesty and integrity.

Proposed Regulations

1. Each licensee shall provide for flat racing a main racing surface of at least one mile in circumference; for flat or jump racing on the turf a racing surface of at least seven-eighths of a mile in circumference; for harness racing a main racing surface of at least five-eighths of a mile in circumference; and for other types of racing a racing surface of generally accepted standards.

2. Each licensee shall provide a safety rail on the inside of each racing surface and such other fencing that is appropriate to safely enclose the racing surface for horses and riders.

3. Each licensee shall provide distance poles marking off the racing surface and the poles shall be painted in the following colors: quarter poles, red and white; eighth poles, green and white; and sixteenth poles, black and white.

4. Each licensee shall provide racing surfaces whose construction, elevation, and surfaces have received scientific approval as safe and humane, adequate and proper equipment to maintain the racing surface, and sufficient trained personnel to properly operate the equipment. Daily records of maintenance shall be open for inspection.

5. Each licensee shall provide stabling in a sufficient amount to conduct a successful horse race meeting. The horses shall be quartered in individual stalls with separate feeding and watering facilities.

6. Each licensee shall provide a stabling area that is maintained in approved sanitary condition with satisfactory drainage, manure, and other refuse kept in separate boxes or containers distant from living quarters, and the boxes or containers promptly and properly removed.

7. Each licensee shall provide a systematic and effective insect control program and programs to eliminate hazards to public health and comfort in the stabling area and throughout the enclosure.

8. Each licensee shall provide satisfactory living quarters for persons employed in the stabling area as well as satisfactory commissary, recreation, and lavatory facilities, and maintain the facilities in a clean and sanitary manner. No employee shall be permitted to sleep in any stall or barn loft.

9. Each licensee shall provide on every racing day satisfactory sanitary toilets and wash rooms, and furnish free drinking water for patrons and persons having business within the enclosure.

10. Each licensee shall provide satisfactory first aid facilities with not less than two beds and attendance of a competent physician and registered nurse during racing hours who will be available to treat both

patrons and permittees.

11. Each licensee shall provide a paddock where the horses are assembled prior to the post parade. Each licensee shall provide a public viewing area where patrons may watch the activities in the paddock. Each licensee shall also provide a sufficient number of roofed stalls so that horses may be housed during inclement weather.

12. Each licensee shall provide satisfactory facilities for jockeys or drivers who are participating in the day's program. The facilities shall include accommodations for rest and recreation, showers, toilets, wash basins, arrangements for safe keeping of apparel and personal effects, snack bar, and other accommodations as requested by the clerk of scales, during thoroughbred meetings.

13. Each licensee shall maintain an information desk where the public may make complaints regarding the facilities, operations of the licensee, or rulings of the commission. The licensee shall respond promptly to complaints, and inform the commission regarding any alleged violation of its regulations.

14. Each licensee shall maintain a detention barn for use by commission employees in securing from horses which have run a race, samples of urine, saliva, blood, or other bodily substances for chemical analysis. The detention barn shall include a wash rack, commission veterinarian office, a walking ring, and a sufficient number of stalls each equipped with a window sufficiently large to allow the taking of samples to be witnessed from outside the stall. The detention barn shall be located convenient to the racing surface and shall be enclosed by a fence so that unauthorized persons shall be excluded. Space shall be provided for signing in and signing out of permittees whose attendance is required in the detention barn.

15. Each licensee shall maintain a receiving barn conveniently located for use by horses arriving for races that are not quartered in the stabling area. The licensee shall have a sufficient number of stalls to accommodate the anticipated number of horses, hot and cold running water, and stall bedding. The licensee shall maintain the receiving barn in a clean and sanitary manner.

16. Each licensee shall provide and maintain lights so as to ensure adequate illumination in the stabling area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

17. Each licensee shall provide and maintain stands commanding an uninterrupted view of the entire racing surface for the stewards with the location to be approved by the commission. The licensee shall provide patrol judge stands so that the floor shall be

at least six feet higher than the track rail. For harness racing, each licensee shall provide space in the mobile starting gate which will accompany the horses during the race.

18. Each licensee shall furnish office space, approved by the commission, for the commission's use within the enclosure and an appropriate number of parking spaces so that its members and staff may carry out their duties.

19. Each licensee shall submit to the commission, at least 30 days prior to the opening day of a meeting, a complete list of its racing officials, as set forth elsewhere in these regulations, and department heads. No person shall hold any appointment for a horse race meeting unless approved by the commission after determination that the appointee is qualified for his duties, not prohibited by any law of the Commonwealth of Virginia or regulation of the commission, and eligible to be licensed by the commission.

20. Each licensee shall provide a condition book, or for harness racing, a condition sheet, listing the proposed races for the upcoming racing days and prepared by the racing secretary, to the commission at least one week prior to opening day. Additional condition books or condition sheets shall be provided to the commission as soon as published.

21. No licensee shall allow any person to exercise any horse within the enclosure unless that person is wearing a protective helmet of a type approved by the stewards and the chin strap is buckled. For flat racing, the term "exercising" is defined to include breezing, galloping, or ponying horses.

22. Each licensee shall employ at least two outriders for flat racing, at least four outriders for jump races, and at least one outrider for harness racing, to escort starters to the post and to assist in the returning of all horses to the unsaddling area for flat races. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse which might cause injury to a jockey or driver or others. During racing hours, outriders will wear traditional attire. For flat race meetings, outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times when the track is open for exercising.

23. Each licensee shall employ for flat meets a sufficient number of valets to attend each jockey on a day's program. Valets will be under the immediate supervision and control of the clerk of scales. No valet shall be assigned to the same jockey for more than two consecutive racing days. Valets shall be responsible for the care and cleaning up of his

assigned rider's apparel and equipment; shall ensure his rider has the proper equipment and attend the saddling of his rider's mount; and shall attend the weighing out of his rider. No valet or other jockey room attendant may place a wager for himself or another, directly or indirectly, on races run while he is serving as a valet. Each licensee shall provide uniform attire for valets who shall wear the uniform attire at all times while performing their duties within public view.

C. Equipment for conducting horse racing.

Each licensee shall provide all of the equipment for the conduct of horse racing so as to maintain horse racing of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled practices, and to maintain in horse racing complete honesty and integrity.

1. Each licensee shall maintain at least two operable starting gates for flat meetings and two operable mobile starting gates for harness racing. The licensee shall have in attendance one or more persons qualified to keep the starting gates in good working order and provide for periodic inspection. For flat meetings, the licensee shall also make at least one starting gate along with adequate personnel available for schooling for two hours each day during training hours, exclusive of nonrace days. For harness racing meetings, a mobile starting gate shall be made available for qualifying races and schooling.

2. Each licensee shall maintain photo-finish equipment to assist the stewards and placing judges, where employed for flat race meetings, in determining the order of finish of each race. The licensee shall provide at the finish line two photo-finish cameras for photographing the finish of races; one camera to be held in reserve. The standards and operations of the photo-finish camera as well as the methodology of the personnel shall be subject to the approval of the stewards:

a. The photo-finish photographer shall promptly furnish the stewards and placing judges prints as they are requested, and the photographer will promptly inform the stewards and placing judges of any malfunction of his equipment;

b. A print of a photo finish where the placing of horse is a half of length or less shall be displayed either by posting copies of the print or video means to the public promptly after the race has been declared "official"; and

c. Each licensee shall be responsible for maintaining a file of photo finishes of all races for one year after the closing of the horse race meeting.

3. Each licensee shall provide color video tape recordings of the running of each race clearly

Proposed Regulations

showing the position and actions of the horse and jockeys or drivers at close range. Each licensee shall provide at least three cameras to record panoramic and head-on views of the race. One camera shall be located on the finish line:

a. Promptly after a race has been declared "official," video tape recordings shall be replayed for the benefit of the public. In those races where there was a disqualification, video tapes of the head-on views may also be shown with an explanation by the public address announcer; and

b. The licensee shall safeguard the tapes of all videotapes for one year after the close of the horse race meeting and promptly deliver to the commission copies of videotapes of those races where there has been an objection, inquiry, protest, or disqualification.

4. Each licensee shall provide an electronic timing system. Each licensee shall also provide a qualified person to manually time each race, including splits of each quarter of a mile, in the event of a malfunction of the electronic system.

5. Each licensee shall provide an internal communication system which links the steward's stand, racing secretary's office, pari-mutuel department, jockeys' or drivers' room, paddock, detention barn, commission veterinarian's office, starting gate, film patrol office, ambulances, public address announcer, patrol judges, and any other personnel designated by the commission.

6. Each licensee shall provide a public address system whereby calls of the races and other pertinent information may be communicated to the public. This system shall be utilized by a qualified person, and the system shall have the capability of transmitting throughout the stabling area.

7. Each licensee shall restrict the use of all external communication devices for a period of time beginning 30 minutes before post time of the first race and ending when the last race is declared "official":

a. The licensee shall render inoperable each telephone or other instrument of communication located in the enclosure, other than those designated for the exclusive use of the commission;

b. The licensee may not permit an individual within the enclosure to receive a telephone call, telegram, or message from outside the enclosure without the approval of the stewards;

c. Each licensee shall confiscate until the end of the restricted time period a portable telephone, transmitter, or other instrument of external communication, including a car phone, located

within the enclosure; and

d. The licensee may have telephone or telegraph systems within the enclosure for the benefit of the media, but no information regarding the results shall be transmitted out of the enclosure until the results are official except for races that are broadcast or televised live.

8. Each licensee shall provide a totalizator and employ qualified personnel to operate the system, provide maintenance of the hardware, software, and ancillary wagering devices, and be able to perform emergency repairs in case of emergencies. The licensee shall also provide a mutuel board in the infield where approximate odds, amounts wagered in the win, place, and show pools on each betting interest, and other pertinent information may be prominently displayed to the public:

a. The totalizator shall maintain at least two independent sets of pool totals and compare them at least once every 60 seconds. The totalizator shall record in a system log file any difference in the final pool totals;

b. The totalizator shall have the capability of calculating the mutuel pools, approximate odds, probable payoffs and display them to the public at intervals of not more than 60 seconds;

c. The totalizator shall have the capability of being locked and wagering terminated automatically at the command of a steward. Any failure of the system to lock at the start of the race shall be reported immediately by the mutuel manager to the stewards;

d. The totalizator shall have the capability of displaying the probable payoffs on various combinations in the daily double, perfecta, and quinella wagering, and displaying the payoffs to the public;

e. The totalizator shall have the capability of recording the wagering by individual wagers, including the amount wagered, the betting interest, and the mutuel window where the wager was placed. The records of the wagering shall be promptly made available to the commission upon request. The licensee shall preserve the records of the wagering for 30 days after closing of the horse race meeting. The records shall not be destroyed without permission of the commission;

f. The personnel operating the totalizator shall report immediately to the stewards any malfunction in the system, or what they perceive to be any unusual patterns in the wagering;

g. The totalizator personnel shall make available to

the commission any special reports or requests that may assist the commission in carrying out its statutory duties and responsibilities for the conduct of horse racing; and

h. The commission may require an independent certified audit of the totalizator's software attesting to the accuracy of its calculations and the integrity of its accounting processes.

9. Each licensee shall provide at least one human ambulance and at least one horse ambulance within the enclosure at all times during those hours when the racing and training surface is open for racing and training. The ambulances shall be manned and equipped to render immediate assistance, and shall be stationed at a location approved by the stewards.

D. Provisions for safety, security and fire prevention.

Each licensee shall employ sufficient trained personnel to provide for the safety and security of the public and others who have business within the enclosure. Each licensee shall also take all measures to prevent the outbreak of fires within the enclosure and develop plans for the quick extinguishing of any fires that should occur.

1. Each licensee shall provide sufficient trained security personnel under the supervision of a qualified director of security. If the licensee contracts with a private security service, the security service must be bonded and meet all applicable licensing requirements. If the licensee establishes its own security force, then director of security shall forward to the commission detailed plans for the screening, hiring, and training of its own personnel.

2. The director of security of each licensee shall cooperate fully with the commission and its staff, federal and state law enforcement agencies, local police and fire departments, and industry security services to enforce all laws and regulations to ensure that horse racing in the Commonwealth of Virginia is of the highest integrity.

3. Each licensee shall develop a detailed security plan describing the equipment, i.e., fences, locks, alarms, and monitoring devices; the procedures to admit persons to restricted areas, i.e., stabling area, paddock, jockeys' or drivers' room, vault, mutuel lines, totalizator room, and post-race detention barn; and the trained personnel in sufficient numbers to provide for the safety and security of all persons during racing and nonracing hours.

4. Each licensee may provide a perimeter fence around the entire enclosure, but shall fence off the stabling area. The entrance to the stabling area shall be guarded on a 24-hour basis by uniformed security personnel so that unauthorized persons shall be denied access to the restricted stabling area. The

licensee shall also provide for routine patrolling by uniformed security personnel on a 24-hour basis within the stabling area.

5. During racing hours, the licensee shall provide uniformed security personnel to guard the entrances to the paddock, jockeys' or drivers' room, stewards' stand, and other restricted areas as may be deemed appropriate by the commission so that unauthorized persons shall be denied access to them.

6. The licensee's director of security shall submit to the commission and Virginia State Police a written report describing every arrest or completed incident of security investigation or rule violation including the person charged, the charges against the person, the present whereabouts of the person, and disposition of the charges, if any.

7. The licensee's director of security shall submit to the commission a detailed plan describing the procedures to be followed in case of fire or any other emergency within the enclosure. The plan shall contain the resources immediately available within the surrounding communities to cope with fire or other emergencies, route of evacuation for the public, controlling traffic, and those resources available from the surrounding communities for police, fire, ambulance, and rescue services.

8. Each licensee shall observe and enforce all state and local building codes and regulations pertaining to fire prevention, and shall prohibit the following:

a. Smoking in horse stalls, feed rooms, or under the shedrow;

b. Open fires and oil or gasoline burning lanterns or lamps in the stable area;

c. The unsafe use of electrical appliances or other devices which would pose a hazard to structures, horses, permittees, or the public; and

d. Keeping flammable materials including cleaning fluids or solvents in the stabling area.

§ 2.19. Request for racing days.

A. Generally.

A holder of an owner-operator's or operator's license has the privilege of conducting horse racing meetings at facilities, licensed by the commission, with pari-mutuel wagering for a period of 20 years, subject to annual review by the commission. A holder of an owner-operator's or operator's license shall submit an annual request to the commission for racing days.

B. Where to file request.

Proposed Regulations

The licensee shall submit the request in writing to the main office of the commission no later than September 1, excluding Saturdays, Sundays, or holidays, for the following calendar year. The commission may, in its discretion, extend the deadline as new horse racing facilities are licensed and completed.

1. A request to be sent by certified mail shall be addressed to:

Executive Secretary
Virginia Racing Commission
Post Office Box 1123
Richmond, VA 23208

2. A request to be hand-delivered shall be delivered to:

Executive Secretary
Virginia Racing Commission
700 East Franklin Street
11th Floor
Richmond, VA 23219

3. A request delivered by hand or by certified mail will be timely only if received at the main office of the commission by 5 p.m. on or before the date prescribed.

4. Delivery to other than the commission's main office or to commission personnel by hand or by mail is not acceptable.

5. The licensee assumes full responsibility for the method chosen to deliver the request.

C. Content of request.

The licensee's request in writing shall include a statement of how the request will provide for the promotion, sustenance, and growth of a native industry, in a manner consistent with the health, safety and welfare of the people, except that the commission, in its discretion, may waive the foregoing. The request shall include the following:

1. A request, signed by an officer of the licensee, for assignment of racing days;

2. A statement of the precise nature and extent of the assignment requested including the total number of racing days requested, the dates within which the racing days are to be conducted and the dark days, the breed or breeds to be utilized, the type or types of racing to be offered, the horse racing facility where the racing days are to be conducted, the hours of racing, and the projected purse structure.

3. A detailed statement of how the request meets the criteria established in § 2.21 C; and

4. Any other documentation the licensee deems material to ensure a complete understanding of the request.

D. Revision of request.

A licensee may at anytime request a revision of a properly submitted request for racing days for commission approval.

E. Rescission of racing days.

The commission may in its discretion rescind one or more racing days assigned to a licensee, if the commission finds that the licensee has not or will not meet the terms of its license. Any days rescinded may be reassigned to another licensee.

§ 2.20. Owner, owner-operator, or operator unlimited license application fee.

An applicant for an owner's, owner-operator's, or operator's license under § 375 of the Act must submit a nonrefundable application by a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of \$10,000 to cover the cost of the background investigations mandated by § 59.1-371 of the Code of Virginia. In the event the cost of the investigation exceeds the \$10,000 application fee, the applicant must remit the amount of the difference by certified check or bank draft within 10 days after receipt of a bill from the commission.

§ 2.21. Assignment of racing days.

A. Generally.

The commission shall promptly consider a request for racing days and assign racing days to a licensee.

B. Consideration of requests.

Upon receipt of a request for assignment or revision of racing days, the commission shall consider the request at its next regular meeting, which is scheduled 15 days after receipt of a request, and may, in its discretion, assign the racing days as requested, modify the request, deny the request, or hold a public hearing pursuant to the following procedures.

1. If the commission deems a hearing is appropriate, the commission shall send written notice to the licensee and give due notice of the public hearing. The notice must include a brief description of the request, a statement that persons wishing to participate may do so in writing, the time and place of any public hearing on the request, and the earliest and latest date which the commission may act.

2. The licensee will be afforded the opportunity to make an oral presentation, and the licensee or its

representative shall be available to answer inquiries by the commissioners.

3. Any affected parties, including horsemen, breeders, employees of the licensee, representatives of other state and local agencies will be afforded the opportunity to make oral presentations. The public may be afforded the opportunity to make oral presentations and shall be given the opportunity to submit written comments.

4. If, after a request is received, the commission determines that additional information from the licensee is necessary to fully understand the request, the commission shall direct the licensee to submit additional information.

5. If the commission further determines it is necessary for a full understanding of a request, the commission shall request the licensee or a person submitting comments to appear before the commission. The commission shall request the appearance in writing at least five days in advance.

6. If a licensee fails to comply with the foregoing, the commission may deny the request for racing days.

7. A record of the proceedings shall be kept, either by electronic means or by court reporter, and the record shall be maintained until any time limits for any subsequent court appeals have expired.

8. Three or more members of the commission are sufficient to hear the presentations. If the chairman of the commission is not present, the commissioners shall choose one from among them to preside over the hearing.

C. Criteria for assignment of racing days.

The commission, in making its determination, must consider the success and integrity of horse racing; the public health and safety, and welfare; public interest, necessity and convenience; as well as the following factors:

1. The integrity of the licensee;
2. The financial resources of the licensee;
3. The ability of the licensee to conduct horse racing, including the licensee's facilities, systems, managers, and personnel;
4. Past compliance of the licensee with statutes, regulations, and orders regarding horse racing with pari-mutuel wagering privileges;
5. The licensee's market, including area, population, and demographics;

6. The performance of the horse race meeting with previously assigned dates;

7. The impact of the assignment of racing days on the economic viability of the horse racing facility including attendance and pari-mutuel handle;

8. The quantity and quality of economic development and employment generated;

9. Commonwealth tax revenues from racing and related economic activity;

10. The entertainment and recreation opportunities for residents of the Commonwealth;

11. The breeds of horse racing;

12. The quality of racing;

13. The availability and quality of horses;

14. The development of horse racing;

15. The quality of the horse racing facility;

16. Security;

17. Purses;

18. Benefits to Virginia breeders and horse owners;

19. Stability in racing dates;

20. Competition among horse racing facilities, other racing days and with other providers of entertainment and recreation as well as its effects;

21. The social effects;

22. The environmental effects;

23. Community and government support;

24. Sentiment of horsemen; and

25. Any other factors related to the assignment of racing days which the commission deems crucial to its decision-making as long as the same factors are considered with regard to all requests.

D. Assigning racing days.

In assigning racing days to a licensee, the commission shall designate in writing the total number of racing days assigned, the dates within which the racing days are to be conducted and dark days, the breed or breeds to be utilized, the type or types of racing to be offered, the horse racing facility where the racing days will be conducted, and the hours of racing.

Proposed Regulations

1. The commission shall approve, deny or give its qualified approval to a request for racing days within 45 days after a public hearing, if a public hearing was held on the request.

2. The commission may, in its discretion, change at the beginning of any calendar year the assignment of racing days previously made.

3. The commission shall require a bond with surety or within the amount of \$1 million or a higher amount as the commission may require to cover any indebtedness, including but not limited to purses, awards to horsemen and moneys due the Commonwealth of Virginia, incurred by the licensee.

E. Denial of request final.

The denial of a request by the commission shall be final unless appealed by the licensee under the provisions of these regulations.

§ 2.22. Payment of owner and operator license fee.

An owner's or operator's license becomes effective upon the receipt by the commission of a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of license fees and is suspended if the license fee is not received on or before the specified dates:

1. Owner's license. A nonrefundable fee of \$5,000 per year due and payable within 10 days of the original license being issued and on or before January 1 of each succeeding year.

2. Operator number of racing days awarded in the annual application for racing days due and payable on or before January 1 of each year.

§ 2.23. Transfer or acquisition of interest in owner's, owner-operator's or operator's license.

A. Generally.

A licensee already holding a limited or unlimited owner's, owner-operator's or operator's license may apply to the commission to transfer its race meet or meetings to that of another horse racing facility already licensed by the commission.

B. Requirements for transfer of racing days.

The licensee shall apply to the commission in writing requesting the transfer of its racing days to that of another licensee stating:

1. The reason for the transfer;

2. Why the transfer will provide for the promotion, sustenance, and growth of horse racing and breeding, in a manner consistent with the health, safety, and

welfare of the Commonwealth of Virginia;

3. Why the transfer will maintain horse racing in the Commonwealth of the highest quality, and free of any corrupt, incompetent, dishonest, or unprincipled practices and maintain complete honesty and integrity;

4. Why the transfer will not adversely affect the operation of any other horse racing facility licensed by the commission;

5. That the transfer has been expressly consented to by the licensee to which the transfer is to be made;

6. That all licensees agree to be bound by the regulations and requirements placed upon it by the commission before the application for the transfer was submitted; and

7. That all licensees to whom racing days are to be transferred, have paid all and any applicable license fees for the conduct of horse racing, with pari-mutuel wagering privileges, at the particular facility or place for holding races on which the racing is to be conducted.

C. Consideration by commission.

The commission will take into account the statement submitted by the licensee and any other testimony or documentation that it deems material before approving or denying the request for transfer of a license. The commission shall act on the application within 60 days of receipt.

D. Acquiring an interest.

Any person desiring to become a partner, member or principal stockholder of any licensee shall apply to the commission for approval of acquiring an interest in the license.

1. The applicant shall meet all of the requirements imposed by the commission for licensure as owners or operators, as specified in §§ 2.1 through 2.17 of these regulations.

2. The commission shall consider the application and if the commission finds that acquisition would be detrimental to the public interest, to the honesty and integrity or racing, of its reputation, the application shall be denied.

3. The commission shall act on the application within 60 days of receipt.

§ 2.24. Appeals of denial, fine, suspension or revocation of license.

A. Generally.

An applicant who is denied a license may appeal the commission's decision by requesting a hearing on the licensing action. A licensee whose license is revoked, whose license is denied for renewal, whose request is denied for transfer, or who is fined or suspended, may appeal the commission's decision by requesting a hearing on the licensing action.

B. Hearings to conform to Administrative Process Act.

The conduct of license appeal hearings will conform to the provisions of Article 3 (9-6.14:11 et seq.) of Chapter 1.1:1 of Title 9 relating to Case Decisions.

1. An initial hearing consisting of an informal fact finding process will be conducted by the executive secretary in private to attempt to resolve the issue to the satisfaction of the parties involved.

2. If an appeal is not resolved through the informal fact finding process, a formal hearing will be conducted by the commission in public. The commission will then issue its decision on the case.

3. Upon receipt of the commission's decision on the case, the appellant may elect to pursue court action in accordance with the provisions of the Administrative Process Act (APA) relating to court review.

C. Form of appeal.

Upon receiving a notice that (i) an application for or the renewal of a license has been denied by the commission, or (ii) the commission intends to or has already taken action to fine, suspend, or revoke a current license, the applicant or licensee may appeal in writing for a hearing on the licensing action. The appeal shall be submitted within 30 days of receipt of the notice of the licensing action.

1. Receipt of said notice is presumed to have taken place not later than the third day following mailing of the notice to the last known address of the applicant or licensee. If the third day falls upon a day on which mail is not delivered by the United States Postal Service, the notice is presumed to have been received on the next business day. The "last known address" means the address shown on the application of an applicant or licensee.

D. Where to file appeal.

1. An appeal to be sent by certified mail shall be addressed to:

Executive Secretary
Virginia Racing Commission
Post Office Box 1123
Richmond, Virginia 23208

2. An appeal to be hand-delivered shall be delivered to:

Executive Secretary
Virginia Racing Commission
700 East Franklin Street
11th Floor
Richmond, Virginia 23219

3. An appeal delivered by hand or by certified mail will be timely only if received at the main office of the commission by 5 p.m. on or before the date prescribed.

4. Delivery to other Virginia Racing Commission offices or other commission or officials by hand or by mail is not effective.

5. The appellant assumes full responsibility for the method chosen to file the notice of appeal.

E. Content of appeal.

The appeal shall state:

1. The decision of the commission which is being appealed;

2. The basis for the appeal; and

3. Any additional information the appellant may wish to include concerning the appeal.

F. Procedures for conducting informal fact finding hearings.

The executive secretary will conduct an informal fact finding hearing with the appellant for the purpose of resolving the licensing action at issue.

1. The executive secretary will hold the hearing as soon as possible but not later than 30 days after the appeal is filed. A notice setting out the hearing date, time and location will be sent to the appellant at least 10 days before the day set for the hearing.

2. All informal hearings shall be held at the main office of the Virginia Racing Commission.

3. The hearings shall be informal. They shall not be open to the public.

a. The hearings may be electronically recorded. The recordings will be kept until any time limits for any subsequent appeals have expired.

b. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's

Proposed Regulations

records.

c. The appellant may appear in person or may be represented by counsel to present his facts, argument or proof in the matter to be heard and may request other parties to appear to present testimony.

d. The commission will present its facts in the case and may request other parties to appear to present testimony.

e. Questions may be asked by any of the parties at any time during the presentation of information subject to the executive secretary's prerogative to regulate the order of presentation in a manner which serves the interest of fairly developing the factual background of the appeal.

f. The executive secretary may exclude information at any time which he believes is not germane or which repeats information received.

g. The executive secretary shall declare the hearing completed when both parties have finished presenting their information.

h. Normally, the executive secretary shall issue his decision within 15 days after the conclusion of an informal hearing. However, for a hearing with a court reporter, the executive secretary shall issue his decision within 15 days after receipt of the transcript of the hearing. The decision will be in the form of a letter to the appellant summarizing the case and setting out his decision on the matter. The decision will be sent to the appellant by certified mail, return receipt requested.

G. Appeal to commission for hearing.

After receiving the executive secretary's decision on the informal hearing, the appellant may elect to appeal to the commission for a formal hearing on the licensing action. The appeal shall be:

1. Submitted in writing within 15 days of receipt of the executive secretary's decision on the informal hearing;

a. An appeal sent by certified mail shall be addressed to:

Executive Secretary
Virginia Racing Commission
Post Office Box 1123
Richmond, VA 23208

b. An appeal to be hand-delivered shall be delivered to:

Executive Secretary

Virginia Racing Commission
700 East Franklin Street
11th Floor
Richmond, VA 23219

2. The same procedures in § 2.24 D, for filing the original notice appeal govern the filing of the notice of appeal of the executive secretary's decision to the commission.

3. The appeal shall state:

a. The decision of the director which is being appealed;

b. The basis for the appeal; and

c. Any additional information the appellant may wish to include concerning the appeal.

H. Procedures for conducting formal licensing hearings.

The commission shall conduct a formal hearing within 45 days of receipt of an appeal on a licensing action.

1. Three or more members of the commission are sufficient to hear an appeal. If the chairman of the commission is not present, the members present shall choose one from among them to preside over the hearing.

2. The chairman of the commission, at his discretion, may designate an ad hoc committee of the commission to hear licensing appeals and act on its behalf. Such committee shall have at least three members who will hear the appeal on behalf of the commission. If the chairman of the commission is not present, the members of the ad hoc committee shall choose one from among them to preside over the hearing.

3. If any commissioner determines that he has a conflict of interest or potential conflict, that commission member shall not take part in the hearing. In the event of such a disqualification on a subcommittee, the commission chairman shall appoint an ad hoc substitute for the hearing.

4. A notice setting the hearing date, time, and location shall be sent to the appellant at least 10 days before the day set for the hearing. All hearings will be held at the main office of the Virginia Racing Commission, unless the commission decides otherwise.

5. The hearings shall be conducted in accordance with provisions of the Virginia Administrative Process Act (APA). The hearings shall be open to the public.

a. The hearings shall be electronically recorded and the recordings will be kept until any time limits for any subsequent court appeals have expired.

b. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

c. The provisions of §§ 9-6.14:12 through 9-6.14:14 of the Administrative Process Act shall apply with respect to the rights and responsibilities of the appellant and of the commission.

1. Decision by commission.

Normally, the commission will issue its written decision within 21 days of the conclusion of the hearing. However, for a hearing with a court reporter, the commission will issue its written decision within 21 days of receipt of the transcript of the hearing.

1. A copy of the commission's written decision will be sent to the appellant by certified mail, return receipt requested. The original written decision shall be retained by the commission and become a part of the case file.

2. The written decision will contain:

a. A statement of the facts to be called, "Finding of Facts";

b. A statement of conclusions to be called "conclusions" and to include as much detail as the board feels is necessary to set out the reasons and basis for its decisions; and

c. A statement, to be called "Decision and Order," which sets out the commission's decision and order in the case.

PART III. PARI-MUTUEL WAGERING.

§ 3.1. Generally.

All permitted wagering shall be under a pari-mutuel wagering system whereby the holders of winning tickets divide the total amount wagered, less retainage, in proportion to the sums they have wagered individually. All other systems of wagering other than pari-mutuel, e.g., bookmaking and auction-pool selling, are prohibited and any person participating or attempting to participate in prohibited wagering shall be excluded from the enclosure.

A. Persons under the age of 18 are prohibited from wagering.

No person under the age of 18 shall be permitted by any licensee to purchase or cash a pari-mutuel ticket. No employee of the licensee shall knowingly sell or cash any pari-mutuel ticket for a person under the age of 18.

B. Posted order of finish.

Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as posted on the infield results board and declared "official" by the stewards. Any subsequent change in the order of finish or award of purse money as may result from a ruling by the stewards or commission shall in no way affect the pari-mutuel payoff.

Payments will be made only on the first three horses passing the finish line according to the official order of finish, except in the case of a dead heat for show, in which case payments will be made on the horses involved in the dead heat.

C. Errors in payment.

The licensee shall be responsible for the correctness of all payouts posted as "official" on the infield results board. If an error is made in posting the payout figures on the infield results board, and discovered before any tickets are cashed, the error may be corrected accompanied by a public address announcement, and only the correct amounts shall be used in the payout, irrespective of the initial error on the infield results board.

1. The licensee shall compare the two independent final pool totals and payouts calculated by the totalizator prior to posting them on the infield results board. In the event of a discrepancy between the two sets of pool totals and payouts and the inability of the totalizator to determine which of the sets is correct, the highest pool total and payouts shall be used.

2. If an error is made in posting the payout figures on the infield results board and discovered after tickets have been cashed, where the public is underpaid, the amount of the underpayment shall be added to the same pool immediately following. Where the public is overpaid, the amount of the overpayment shall be absorbed by the licensee.

3. If any underpayment is discovered after the close of the horse race meeting or an opportunity does not exist to add the amount of the underpayment to the same pool, the total underpayment shall be paid to the Commonwealth of Virginia in a manner prescribed by the commission.

D. Minimum wagers.

The minimum wager for straight wagering shall be \$2.00. The minimum wager for multiple wagering shall be \$1.00.

E. Minimum payouts.

The licensee shall pay to the holder of any ticket entitling the holder to participate in the distribution of a

Proposed Regulations

pari-mutuel pool the amount wagered by the holder plus a minimum profit of 5.0%. If such a payout creates a deficiency in the pari-mutuel pool, the licensee shall make up the deficiency from its share of the pari-mutuel wagering.

The licensee, with the approval of the stewards, may bar a horse or entry from wagering in any or all pari-mutuel pools in a stakes race, handicap, futurity or other special event where the licensee has good and sufficient reason to believe that accepting wagers on the horse or entry may result in a deficiency or minus pool. The decision to bar wagering on a horse or entry shall be announced publicly before wagers are accepted on that race.

F. Posting of regulations.

Part III of these regulations shall be posted for the benefit of the public in not less than two places in the wagering areas of the enclosure and a general explanation shall be printed in the daily program.

The pari-mutuel regulations posted in the wagering areas or a general explanation printed in the daily program shall be preceded by the following statement:

"All payouts by the pari-mutuel departments of horse race meetings licensed by the Virginia Racing Commission are subject to the regulations of the United States Government, the Internal Revenue Service, and applicable statutes of the Commonwealth of Virginia."

G. Identification of holder.

The licensee shall require positive identification of a holder of a valid winning pari-mutuel ticket before the payment when, in the stewards' discretion, circumstances warrant this action.

§ 3.2. Request for types of pari-mutuel pools.

A. Generally.

Each licensee shall submit a request in writing to the commission for approval of the types of pari-mutuel wagering pools that are to be offered to the public during the horse race meeting. The request for approval of types of pari-mutuel wagering pools shall be submitted to the commission in writing no less than 90 days before the scheduled opening day of the horse race meeting.

B. Where to file request.

The licensee shall submit the request in writing to the main office of the commission.

1. A request to be sent by certified mail shall be addressed to:

*Executive Secretary
Virginia Racing Commission
Post Office Box 1123
Richmond, VA 23208*

2. A request to be hand-delivered shall be delivered to:

*Executive Secretary
Virginia Racing Commission
700 East Franklin Street
11th Floor
Richmond, VA 23219*

3. A request delivered by hand or by certified mail will be timely only if received at the main office of the commission by 5 p.m. on or before the date prescribed.

4. Delivery to other than the commission's main office or to commission personnel by hand or by mail is not acceptable.

5. The licensee assumes full responsibility for the method chosen to deliver the request.

C. Content of request.

The licensee's request in writing shall include a statement of how the request will provide for the promotion, sustenance and growth of a native industry, in a manner consistent with the health, safety and welfare of the people, except that the commission, in its discretion, may waive the foregoing. The request shall include the following:

1. A signed request for approval of pari-mutuel pools;

2. A statement of the precise nature and extent of pools requested, specifying the type of pari-mutuel wagering pools and their placement in the program;

3. A detailed statement of how the request meets each of the criteria in subsection C of § 3.3; and

4. Any other documentation the licensee deems necessary to ensure a complete understanding of the request.

D. Revision of request.

A licensee may make a revision of a properly submitted request for types of pari-mutuel wagering pools.

§ 3.3. Approval of types of pari-mutuel wagering pools.

A. Generally.

The commission shall promptly consider a request for types of pari-mutuel wagering pools.

B. Consideration of requests.

Upon receipt of a request for approval or modification of types of pari-mutuel wagering pools, the commission shall consider the request at its next regularly scheduled meeting, and may, in its discretion by a majority vote of the quorum present, approve the types of pari-mutuel wagering pools as requested, modify the request, deny the request, or hold a public hearing pursuant to the following procedures:

1. If the commission deems a public hearing is appropriate, the commission shall send written notice of the request to all persons interested in participating in the public hearing. The notice must include a brief description of the request, a statement that persons wishing to comment may do so in writing, the time, and place of any public hearing on the request, and the earliest and latest date which the commission may act.
2. The licensee will be afforded the opportunity to make an oral presentation, and the licensee or its representative shall be available to answer inquiries by the commissioners.
3. Any affected parties, including horsemen, breeders, employees of the licensee, representatives of other state and local agencies, and the public will be afforded the opportunity to make oral presentations.
4. If, after a request is received, the commission determines that additional information from the licensee is necessary to fully understand the request, the commission shall direct the applicant to submit the additional information.
5. If the commission further determines it is necessary for a full understanding of a request, the commission shall request the licensee or a person submitting comments to appear before the commission. The commission shall request the appearance in writing at least five days in advance.
6. If a licensee fails to comply with the foregoing, the commission may deny the request for the types of pari-mutuel wagering pools.
7. A record of the proceedings shall be kept, either by electronic means or by court reporter, and the record shall be maintained until any time limits for any subsequent court appeals have expired.
8. Three or more members of the commission are sufficient to hear the presentations. If the chairman of the commission is not present, the commissioners shall choose one from among them to preside over the meeting.

C. Criteria for approval of types of pari-mutuel wagering pools.

The commission, in making its determination, must consider the success and integrity of horse racing; the public health and safety, and welfare; public interest, necessity, and convenience; as well as the following factors:

1. The integrity of the licensee;
2. The financial strength of the licensee;
3. The ability of the licensee to operate a racetrack and conduct horse racing, including the licensee's facilities, systems, policymakers, managers, and personnel;
4. Past compliance of the licensee with statutes, regulations, and orders regarding pari-mutuel horse racing;
5. The licensee's market, including area, population, and demographics;
6. The performance of the horse racing facility with previously approved pari-mutuel pools;
7. The impact approving the pari-mutuel pool will have on the economic viability of the horse race meeting, including attendance and handle;
8. The quantity and quality of economic activity and employment generated;
9. Commonwealth of Virginia tax revenues from racing and related economic activity;
10. The entertainment and recreational opportunities for Virginia citizens;
11. The variety of racing;
12. The quality of racing;
13. The availability and quality of horses;
14. The development of horse racing;
15. The quality of the horse racing facility;
16. Security;
17. Purses;
18. Benefits to Virginia breeders and horse owners;
19. Competition among licensees and with other providers of entertainment and recreation as well as its effects;
20. Social effects;
21. Community and government support;

Proposed Regulations

22. Sentiment of horsemen; and

23. Any factors related to the types of pari-mutuel wagering pools which the commission deems crucial to its decision-making as long as the same factors are considered with regard to all horse race meetings.

D. Approving types of pari-mutuel pools.

The commission shall approve, deny or give its qualified approval to a request for types of pari-mutuel wagering pools within 45 days after a public hearing, if a public hearing is held.

E. Denial of request final.

The denial of a request by the commission shall be final unless appealed by the licensee under the provisions of these regulations.

§ 3.4. Pari-mutuel tickets.

A. Generally.

A valid pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the licensee and is evidence of the obligation of the licensee to pay to the holder the portion of the distributable amount of the pari-mutuel pool as is represented by the ticket. The licensee shall cash all valid unblemished winning tickets when they are presented for payment within 60 days of the date of their purchase.

B. Valid pari-mutuel tickets.

To be deemed a valid pari-mutuel ticket, the ticket must have been issued by a pari-mutuel ticket machine operated by the licensee and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

1. The name of the horse racing facility;
2. The date of the wagering transaction;
3. A unique identifying number or code;
4. The race number for which the pool is conducted;
5. The type or types of wager or wagers represented;
6. The number or numbers representing the wagering interests for which the wager is recorded;
7. The amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence; and
8. The place of issuance.

C. Incorrect ticket issuance.

Any claim by a person that he has been issued a ticket other than that which he requested, must be made before the person leaves the window and before the totalizator is locked.

E. Invalid claims.

After purchasing a ticket and after leaving a ticket window, a person shall not be entitled to make a claim for an incorrect ticket or claim refund or payment for tickets discarded, lost or destroyed or mutilated beyond identification.

F. Identification of tickets.

The responsibility for identifying valid pari-mutuel tickets rests with the licensee.

G. Limits on cashing tickets.

Payment on valid pari-mutuel tickets, including tickets where refunds are ordered, shall be made only upon presentation and surrender of valid pari-mutuel tickets to the licensee where the wager was made within 60 days after the purchase of the ticket. Failure to present any valid pari-mutuel ticket to the licensee within 60 days after the purchase of the ticket shall constitute a waiver of the right to payment.

§ 3.5. Operations of the mutuel department.

A. Generally.

Each licensee shall strive to keep the daily program of racing progressing as expeditiously as possible with due regard for the health, safety, and comfort of the public and participants. The licensee shall provide a sufficient number of mutuel windows and clerks so that the public will be conveniently accommodated.

B. Post time.

Post time for the first race on each racing day shall be approved by the commission upon written request by the licensee. Post time for subsequent races on the same program shall be fixed by the mutuel manager.

1. Where heat racing is utilized in harness racing, the time between separate heats of a single race shall not be less than 40 minutes.

C. Termination of wagering.

The pari-mutuel machines shall be locked by a steward immediately upon the start of the race through an electrical control in the stewards' stand or before the start of a race through a method subject to the approval of the commission.

D. Unwarranted delays.

If the start of the race is delayed two minutes or more beyond the official post time, as shown on the infield results board, for no good reason, the stewards may, in their discretion, lock the ticket-issuing machines.

E. Commencement of wagering.

Mutuel windows shall open no less than 30 minutes before the first race. Cashing of tickets shall begin, and selling shall resume, as soon as possible after the official results of a race have been posted on the infield results board.

F. Interruptions of wagering.

If, for any reason, including a malfunction of the totalizator, the ticket-issuing machines are locked during the wagering on a race before the start, they shall remain locked until after the race. Wagering shall cease on that race, and the payout for that race shall be computed on the sums then wagered in each pool. In the event the ticket-issuing machines are inadvertently locked through some human error, the ticket-issuing machines shall be opened only on the approval of the stewards.

G. Conclusion of wagering.

No pari-mutuel tickets may be sold after the totalizator has been locked, and the licensee shall not be responsible for pari-mutuel ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

H. Designated windows.

No pari-mutuel tickets shall be sold except by the licensee, and pari-mutuel tickets shall only be sold at regular windows properly designated by signs.

I. Compliance with tax regulations.

All payouts on winning tickets shall be subject to withholding of federal and state taxes when the amount of the payout exceeds the dollar threshold set by the U.S. Internal Revenue Service. In those cases where the payouts require identification and deduction of withholding taxes prior to cashing pari-mutuel tickets to holders, the licensee shall comply with the applicable regulations of the Internal Revenue Service and the statutes of the Commonwealth of Virginia requiring identification and deduction of withholding taxes.

J. Emergency situations.

If any emergency arises in connection with the operation of the mutuel department and the emergency is not covered by these regulations and an immediate decision is necessary, the mutuel manager shall make the decision, and make a prompt report of the facts to the stewards and the commission.

§ 3.6. Wagering interests.

A. Generally.

The licensee shall be responsible for the coupling of horses for wagering purposes in accordance with these regulations and shall provide wagering opportunities in accordance with the success and integrity of horse racing as well as the public interest.

B. Coupled entries.

When two more horses run in a race and are coupled for wagering purposes, a wager on one of the horses shall be a wager on all of them. The horses are called "an entry."

C. Mutuel field.

When the individual horses competing in a race exceed the numbering capacity of the infield results board, the highest numbered horses within the capacity of the infield results board and all horses of a higher number shall be grouped together and called the "mutuel field," and a wager on one of them shall be a wager on all of them.

D. Straight wagering opportunities.

Unless the commission approves a prior written request from a licensee to alter wagering opportunities for a specific race, the licensee shall offer:

1. Win, place, and show wagering on all scheduled races that include six or more wagering interests;
2. If horses representing five or fewer wagering interests are scheduled to start in a race, then the licensee may prohibit show wagering on that race; and
3. If horses representing four or fewer wagering interests are scheduled to start in a race, then the licensee may prohibit place wagering, show wagering, or both on that race.

E. Trifecta wagering opportunities.

Trifecta wagering shall not be scheduled on a race unless at least six wagering interests are programmed. In the event of a horse being excused by the stewards, trifecta wagering on a race in which five wagering interests remain is permissible. However, there shall be no trifecta wagering on any race with less than five wagering interests.

F. Perfecta or quinella wagering opportunities.

Perfecta or quinella wagering shall not be scheduled on a race unless at least five wagering interests are programmed. In the event of a horse being excused by the stewards, perfecta or quinella wagering on a race in

Proposed Regulations

which four wagering interests remain is permissible, if perfecta or quinella wagering on the race had begun before the stewards excused the horse. There shall be no perfecta or quinella wagering on any race with less than four wagering interests.

G. Extraordinary circumstances.

In extraordinary circumstances, discretion is vested in the stewards to cancel any trifecta, perfecta, quinella, or any other multiple wager pool, and assign multiple wagering pools to other races when the stewards believe it would best maintain in horse racing complete honesty and integrity.

H. Stake races and special events.

In the case of stake races, handicaps, futurities, and other special events, the licensee may offer any straight and multiple wagering pools regardless of the number of wagering interest upon submission of a request in writing to the commission and approval from the commission.

§ 3.7. Straight wagering.

A. Generally.

Win, place, and show pari-mutuel wagering pools shall be considered "straight wagering." In any race, the win, place, and show pools are treated separately, and the distribution of the profits are calculated independently of each other. The "net pool" to be distributed as profit shall be all sums wagered in the pool, less retainage and breakage, as defined elsewhere in these rules.

B. Win pools.

The amount wagered to win on the horse or wagering interest which finished first is deducted from the net pool and the balance which remains is profit. The profit is divided by the amount wagered on the horse or wagering interest finishing first, this quotient being the profit per dollar wagered to win. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to win pools:

1. If there is a dead heat for first involving two horses of two different wagering interests, the net win pool shall be distributed as if it were a place pool. If the dead heat involves horses of three wagering interests, the net win pool is distributed as if it were a show pool; and

2. If no win ticket is sold on the horse which finishes first, then the net win pool is distributed to the holders of win tickets on the horse or wagering interest finishing second.

C. Place pools.

The amounts wagered to place on the first two horses

to finish are deducted from the net place pool and the balance which remains is profit. The profit is divided into two equal amounts; one-half of the profit is divided by the amount wagered to place on the first finisher, this quotient being the profit per dollar wagered to place on the first finisher; and one-half of the profit is divided by the amount wagered to place on the second finisher, this quotient being the profit per dollar wagered to place on the second finisher. The return to the holder includes the amount wagered and the profit.

1. If there is a dead heat for first between horses representing the same wagering interest, the net place pool is distributed as if it were a win pool. If the dead heat is between horses representing two different wagering interests, the place pool is distributed as if one wagering interest finished first and the other finished second. If the dead heat is among horses representing three different wagering interests, the net place pool is distributed as if it were a show pool.

2. If there is a dead heat for second between horses representing the same wagering interest, the net place pool is distributed as if no dead heat occurred. If the dead heat for second is between horses representing two or more wagering interests, the net place pool is divided in half, with one-half allocated to the horse finishing first and the other one-half divided equally so as to allocate one-fourth of the net place pool for wagers to place on each of the two horses finishing in a dead heat for second, or one-sixth of the net place pool for wagers to place on each of three horses finishing in a dead heat for second.

3. If the first and second finishers comprise a single wagering interest, the net place pool is distributed as if it were a win pool.

4. If no place ticket is sold on a horse which finishes first or second, then the horse which finished third shall replace that horse in the distribution of wagers in the net place pool.

D. Show pools.

The amounts wagered to show on the first three horses to finish are deducted from the net pool to determine the profit. The profit is divided into three equal amounts. One-third of the net show pool is divided by the amount wagered to show on the first finisher, the quotient being the profit per dollar wagered to show on the first finisher; one-third of the net show pool is divided by the amount wagered to show on the second finisher, the quotient being the profit per dollar wagered to show on the second finisher; and one-third of the profit is divided by the amount wagered to show on the third finisher, the quotient being the profit per dollar wagered to show on the third finisher. The return to the holder includes the amount wagered and the profit.

1. If there is a dead heat for first between two horses involving different wagering interests, or three horses involving three different wagering interests, the show pool is distributed as if no dead heat occurred. If the dead heat for first is between two horses including the same wagering interest, two-thirds of the profit is allocated to wagers to show on the coupled wagering interest and one-third of the profit is allocated to wagers to show on the other horse among the first three finishers. If the dead heat for first is among three horses including one wagering interest, the show pool is distributed as if it were a win pool.

2. If there is a dead heat for second between two horses including different wagering interests, the show pool is distributed as if no dead heat occurred. If the dead heat for second is between horses including the same wagering interest, two-thirds of the net show pool shall be allocated to wagers to show on the coupled wagering interest and one-third of the profit shall be allocated to wagers to show on the horse finishing first. If the dead heat for second is among three horses involving two or three wagering interests, one-third of the net show pool is allocated to wagers to show on the horse finishing first and the remaining two-thirds of the net show pool is divided equally by the number of wagering interests finishing in a dead heat for second for proportionate distribution on wagers to show for each wagering interest finishing in a dead heat for second.

3. If there is a dead heat for third between horses involving the same wagering interests, the net show pool is distributed as if no dead heat occurred. If the dead heat for third is among horses involving two or more wagering interests, two-thirds of the net show pool shall be allocated to wagers to show on the first two finishers and the remaining one-third of the net show pool is divided equally by the number of wagering interests finishing in a dead heat for third for proportionate distribution on wagers to show for each wagering interest finishing in a dead heat for third.

4. If the first three horses to finish comprise one wagering interest, the net show pool shall be distributed as if it were a win pool. If two horses coupled as a single wagering interest finish first and second, or first and third, or second and third, two-thirds of the net show pool shall be allocated to wagers to show on the single wagering interest and one-third of the net show pool shall be allocated to wagers on the other horse among the first three finishers.

5. In the event one horse coupled in the wagering by reason of being in the mutuel field or part of a mutuel entry finishes first or second and another horse included in the same wagering interest finishes in a dead heat for third, the allocation of the net show pool shall be:

a. One-half of the net show pool shall be allocated to the wagers on the field or entry, one-third of the net show pool shall be allocated to the horse finishing first or second, and one-sixth of the net show pool allocated for the horse finishing in a dead heat for third. The remaining one-sixth of the net show pool shall be allocated to wagers on the horse, which was not a part of the mutuel field or entry, finishing in a dead heat for third.

6. In the event only two horses finish, the net show pool, if any, shall be distributed as if it were a place pool. If only one horse finishes, the net show and place pools, if any, shall be distributed as if it were a win pool.

7. If, in the event no show ticket is sold on a horse which finishes first, or second, or third, then, the horse which finished fourth shall replace that horse in the distribution of wagers in the show pool.

§ 3.8. Multiple wagering.

A. Generally.

Daily double, quinella, perfecta, trifecta, pick three, and pick six pari-mutuel wagering pools shall be considered "multiple wagering." In any race or races, the daily double, quinella, perfecta, trifecta, pick three, and pick six pools are treated separately and the distribution of the pools are calculated independently of each other. The "net pool" to be distributed shall be all sums wagered in the pool, less retainage and breakage, as defined elsewhere.

B. Daily double pools.

The daily double wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first in the two races specified as the daily double. If either of the selections fails to win, the pari-mutuel ticket is void, except as otherwise provided. The amount wagered on the winning combination, the horse or wagering interest which finishes first in the first race coupled with the horse or wagering interest finishing first in the second race of the daily double, is deducted from the net pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning daily double. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to daily double pools:

1. If there is a dead heat for first including two different wagering interests in one of the two daily double races, the daily double pool is distributed as if it were a place pool, with one-half of the net pool allocated to wagers combining the single winner of one daily double race and one of the wagering interests involved in the head heat in the other daily double race, and with the other one-half of the net pool allocated to the wagers combining the single

Proposed Regulations

winner of one daily double race and the other wagering interest involved in the dead heat in the other daily double race.

2. If there are dead heats for first involving different wagering interests in each of the daily double races which result in winning combinations, the net pool shall be allocated equally to the winning combinations after first deducting from the net pool the amount wagered on all winning combinations for proportionate allocation to the winning daily double combinations.

3. If no daily double ticket is sold combining the horse or wagering interest which finishes first in one of the daily double races, the daily double pool is distributed as if it were a win pool, with the net pool allocated to wagering combinations which include the horse or wagering interest which finished first in one of the daily double races.

4. If no daily double ticket is sold combining the horses or wagering interests which finish first in both the first and second race of the daily double, then the winning combinations for distribution of the daily double profit shall be that combining the horses or wagering interests which finished second in each of the daily double races.

5. If, after daily double wagering has begun, a horse not coupled with another as a wagering interest in the first race of the daily double is excused by the stewards or is prevented from obtaining a fair start, then daily double wagers combining the horse shall be deducted from the daily double pool and shall be promptly refunded.

6. If, after the first race of the daily double has been run, a horse not coupled with another as a wagering interest in the second race of the daily double is excused by the stewards or prevented from obtaining a fair start, then daily double wagers combining the winner of the first daily double race with the horse, which was excused or was prevented from obtaining a fair start, shall be allocated a consolation daily double.

7. Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or wagering interest scheduled to start in the second daily double race, the quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with the horse prevented from racing in the second daily double race. The return to the holder includes the amount wagered and the profit. The consolation payoff shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

8. If for any reason the first race of the daily double is cancelled and declared "no contest" a full and complete refund shall be promptly made of the daily double pool.

9. If for any reason the second race of the daily double is cancelled and declared "no contest," the net daily double pool shall be paid to the holders of daily double tickets which include the winner of the first race.

C. Quinella pools.

The quinella wager is the purchase of a pari-mutuel ticket to select the first two horses to finish in the race. The order in which the horses finish is immaterial. The amount wagered on the winning combination, the first two finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit. The net pool is divided by the amount wagered on the winning combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the quinella pools:

1. If there is a dead heat for first between horses including two different wagering interests, the net quinella pool is distributed as if no dead heat occurred. If there is a dead heat among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and the pool is allocated to wagers combining any of the three horses finishing in the dead heat for first.

2. If there is a dead heat for second between horses including two different wagering interests, the net quinella pool is distributed as if it were a place pool and it is allocated to wagers combining the first finisher with either horse finishing in a dead heat for second. If the dead heat is among horses involving three different wagering interests, the net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining the first horse with each of the three horses finishing in a dead heat for second.

3. If horses representing a single wagering interest finish first and second, the net quinella pool shall be allocated to wagers combining the single wagering interest with the horse or wagering interest with the horses or wagering interest which finishes third.

4. If no quinella ticket is sold combining the first finisher with one of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second.

5. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is

allocated to wagers combining the two horses which finished in the dead heat for second.

6. If no quinella ticket is sold combining the first finisher with either of the horses finishing in a dead heat for second, or combining the two horses which finished in a dead heat for second, the net quinella pool is distributed as if it were a show pool and it is allocated to wagers combining any of the first three finishers with any other horses.

7. If no quinella ticket is sold combining the first two finishers, then the net quinella pool shall be distributed as if it were a place pool and it is allocated to wagers combining the first finisher with any other horses and to wagers combining the second finisher with any other horse.

8. If no quinella ticket is sold combining horses or wagering interests as would require distribution, a full and complete refund shall be made of the entire quinella pool.

D. Perfecta pools.

The perfecta wager is the purchase of a pari-mutuel ticket to select the two horses that will finish first and second in a race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first and the horse finishing second, in exact order, is the amount to be deducted from the net perfecta pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning perfecta combination. The return to the holder includes the amount wagered and the profit. In addition, the following provisions apply to the perfecta pool:

1. If no ticket is sold on the winning combination of a perfecta pool, the net perfecta pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and holders of tickets selecting the second place horse to finish second.

2. If there is a dead heat between two horses for first place, the net perfecta pool shall be calculated and distributed as a place pool, one-half of the net perfecta pool being distributed to holders of tickets selecting each of the horses in the dead heat to finish first with the other horse to finish second.

In case of a dead heat between two horses for second place, the net perfecta pool shall be calculated as a place pool, one-half of the net perfecta pool being distributed to holders of tickets selecting the horse to finish first and one horse in the dead heat, and the other one-half being distributed to holders selecting the horse to finish first and the other horse in the dead heat.

3. If there is a dead heat for second place and if no ticket is sold on one of the two winning combinations, the entire net perfecta pool shall be calculated as a win pool and distributed to holders of the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the net perfecta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

4. If an entry finishes first and second, or mutual field horses finish first and second, the net pool shall be distributed to holders of tickets selecting the entry to win combined with the horses having finished third.

5. If no ticket is sold that would require distribution of a perfecta pool, the licensee shall make a complete and full refund of the perfecta pool.

6. If a horse is excused by the stewards, no further perfecta tickets shall be issued designating that horse, and all perfecta tickets previously issued designating that horse shall be refunded and deducted from the gross pool.

E. Trifecta pools.

The trifecta wager is purchase of a pari-mutuel ticket to select the three horses that will finish first, second, and third in a race. Payment of the ticket shall be made only to the holder who has selected the same order of finish as officially posted. The amount wagered on the winning combination, the horse finishing first, the horse finishing second, and the horse finishing third, in exact order, is deducted from the pool to determine the profit. The profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning combination. The return to the holder includes the amount wagered and the profit.

1. If no ticket is sold on the winning combination, the net trifecta pool shall be distributed equally among holders of tickets designating the first two horses in order.

2. If no ticket is sold designating, in order, the first two horses, the net trifecta pool shall be distributed equally among holders of tickets designating the horse to finish first.

3. If no ticket is sold designating the first horse to win, the net trifecta pool shall be distributed equally among holders of tickets designating the second and third horses in order.

4. If less than three horses finish, the payout shall be made on tickets selecting the actual finishing horses, in order, ignoring the balance of the selection.

5. If there is a dead heat, all trifecta tickets selecting

Proposed Regulations

the correct order of finish, counting a horse in a dead heat as finishing in either position involved in the dead heat, shall be winning tickets. The net trifecta pool shall be calculated as a place pool.

6. The uncoupling for betting purposes of horses having common ties is prohibited in races upon which trifecta wagering is conducted.

7. If a horse is excused by the stewards or prevented from obtaining a fair start, all trifecta tickets previously issued designating the horse shall be refunded and deducted from the gross pool.

F. Pick three pools.

The pick three wager is the purchase of a pari-mutuel ticket to select the winners of three races designated by the licensee for pick three wagering. Payment of the ticket shall be made to holder who has selected the winners of the three different races designated for pick three wagering, unless otherwise provided for in these regulations.

1. Those horses constituting an entry of coupled horses or those coupled to comprise the mutuel field in a race comprising the pick three wager shall race as a single wagering interest for the purpose of pool calculation and payment. However, if any part of a coupled entry or the mutuel field racing as a single wagering interest is a starter in a race, the entry or field selection shall remain as the designated wagering interest to win in that race for the pick three calculation, and the selection shall not be deemed a scratch.

2. The entire net pick three pool shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the three races comprising the pick three wager.

3. In the event there is no pari-mutuel ticket which correctly designates the official winner in each of the three races comprising the pick three wager, the major share (75%) shall not be distributed but shall be carried over to the next racing day and shall be added to the pick three pool for distribution among holders of pick three tickets which correctly designate the official winner in each of the three races comprising the pick three wager. The minor share (25%) will be distributed among holders of pick three tickets which correctly designate the most official winners, but fewer than three, of the races comprising the pick three wager.

4. In the event a pick three pari-mutuel ticket designates a selection in any one or more of the races comprising the pick three and that selection is excused by the stewards or is prevented from obtaining a fair start, the actual favorite(s) as evidenced by the amounts wagered in the win pool at

the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts to the holders.

5. In the event of a dead heat for win between two or more horses in any pick three race, all horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

6. No pick three ticket shall be refunded except when all three races are cancelled or declared "no contests." The refund shall apply to the pick three pool established on that racing card. Any "net pool" accrued from a carryover from a previous pick three shall further be carried over to the next pick three pool scheduled by the licensee conducting the race meeting.

7. In the event that any number of races less than three comprising the pick three are completed, 100% of the net pool for the pick three shall be distributed among holders of tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick three pool in which less than three races have been completed. Any net pool carryover from a previous pick three pool shall be further carried over to the next pick three scheduled by the licensee.

8. Should no distribution be made pursuant to these regulations on the last day of the horse race meeting in which pick three wagering is offered, then that portion of the distributable pool and all moneys accumulated shall be distributed to the holders of tickets correctly designating the most winning selections of the three races comprising the pick three that day.

9. In the event that a licensee is unable to distribute the retained distributable amount carried over from any prior pick three pool established pursuant to this rule by the end of its race meeting due to cancellation of the final program of racing or any other reason, the retained distributable amount shall be invested with interest, in a manner approved by the commission. The principal and interest shall be carried forward to the next race meeting having a pick three at the same location and of the same breed of horses that generated the retained distributable amount.

10. In the event a race meeting is not conducted at that location, with the same breed of horses that generated the net pick three pool with interest, the net pick three pool shall be remitted to the commission. A retained undistributed pick three carryover pool shall not for any purpose be considered as part of the unclaimed tickets pool.

11. No pari-mutuel ticket for pick three wagering

shall be sold, exchanged or cancelled after the time of closing of wagering in the first of the three races comprising the pick three, except for refunds on pick three tickets as required by these regulations. No person shall disclose the number of tickets sold in the pick three pool, or the number or amount of tickets selecting winners of the pick three races until the stewards have declared the last pick three race each day to be "official."

G. Pick six pools.

The pick six wager is the purchase of a pari-mutuel ticket to select the winners of six races designated by the licensee for pick-six wagering. Payment of the ticket shall be made to holder who has selected the winners of the six different races designated for pick six wagering, unless otherwise provided for in these regulations.

1. Those horses constituting an entry of coupled horses or those horses coupled to comprise the mutuel field in a race comprising the pick six wager shall race as a single wagering interest for the purpose of pool calculation and payment. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race, the entry or the field selection shall remain as the designated to win in that race for the pick six calculation, and the selection shall not be deemed a scratch.

2. The entire net pick six pool shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the pick six wager.

3. In the event there is no pari-mutuel ticket which correctly designates the official winner in each of the six races comprising the pick six, the major share (75%) shall not be distributed but shall be carried over to the next racing day and be added to the pick six pool for distribution among holders of pick six tickets which correctly designate the official winner in each of the six races comprising the pick six wager. The minor share (25%) shall be distributed among holders of pick six tickets which correctly designate the most official winners, but fewer than six, of the races comprising the pick six wager.

4. In the event a pick six pari-mutuel ticket designates a selection in any one or more of the races comprising the pick six and that selection is excused by the stewards or is prevented from obtaining a fair start, the actual favorite(s) as evidenced by the amounts wagered in the "win pool" at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payouts to the holders.

5. In the event of a dead heat for win between two

or more horses in any pick six race, all horses in the dead heat for win shall be considered as winning horses in the race for the purpose of calculating the pool.

6. No pick six ticket shall be refunded except when all six races are cancelled or declared "no contests." The refund shall apply to the pick six pool established on that racing card. Any "net pool" accrued from a carryover from a previous pick six shall further be carried over to the next pick six pool scheduled by the licensee conducting the race meeting.

7. In the event that any number of races less than six comprising the pick six are completed, 100% of the net pool for the pick six shall be distributed among holders of tickets that designate the most winners in the completed races. No carryover from a previous day shall be added to the pick six pool in which less than six races have been completed. Any net pool carryover from a previous pick six pool shall be further carried over to the next pick six scheduled by the licensee.

8. Should no distribution be made pursuant to these regulations on the last day of the horse race meeting in which pick six wagering is offered, then that portion of the distributable pool and all moneys accumulated shall be distributed to the holders of tickets correctly designating the most winning selections of the six races comprising the pick six that day.

9. In the event that a licensee is unable to distribute the retained distributable amount carried over from any prior pick six pool established pursuant to this rule by the end of its race meeting due to cancellation of the final program of racing or any other reason, the retained distributable amount shall be invested with interest, in a manner approved by the commission. The principle and interest shall be carried forward to the next race meeting having a pick six at the same location and of the same breed of horses that generated the retained distributable amount.

10. In the event a race meeting is not conducted at that location, with the same breed of horses that generated the net pick six pool with interest, the net pick six pool shall be remitted to the commission. A retained undistributed pick six carryover pool shall not for any purpose be considered as part of the unclaimed tickets pool.

11. No pari-mutuel ticket for pick six wagering shall be sold, exchanged or cancelled after the time of closing of wagering in the first of the six races comprising the pick six, except for refunds on pick six tickets as required by these regulations. No person shall disclose the number of tickets sold in the pick six pool or the number or amount of tickets selecting

Proposed Regulations

winners of the pick six races until the stewards have declared the last pick six race each day to be "official."

§ 3.9. Refunds.

A. Generally.

For all wagers other than the daily double, pick three or pick six, a refund at face value shall be made to all holders of pari-mutuel tickets on horses that have been excused by the stewards, participated in a race where no horse finished, or a race, where in the discretion of the stewards, was declared "no contest" for wagering purposes. Unless otherwise provided for in these regulations, no refund shall be made if the horse excused by the stewards is part of a coupled entry or the field.

B. Nonstarters in straight wagering.

If any horse is prevented from obtaining a fair start by failure of the starting gate or other untoward events, the entire amount in the win, place and show pools wagered on that horse shall be promptly refunded and the horse declared a nonstarter.

C. Nonstarters in multiple wagering.

In races on which multiple wagering is permitted, except on the second half of the daily double, pick three or pick six, if a horse is prevented from obtaining a fair start, the entire amount wagered on any combination including that horse shall be promptly refunded and the horse declared a nonstarter.

D. Cancelling pools due to nonstarters.

If any horse or horses are prevented from obtaining a fair start so that it would reduce the total number of starters below six, the following shall apply:

1. If horses representing five wagering interests obtain a fair start, the licensee may refund the entire amount wagered in the show pool;
2. If horses representing four or fewer wagering interests obtain a fair start, the licensee may refund the entire amount wagered in the show pool, place pool, or both; and
3. If horses representing fewer than two interests obtain a fair start, the race may be declared "no contest" and the entire amount wagered in the win, place and show pools shall be promptly refunded.

E. Cancelling pools due to late scratches.

After wagering has commenced on a race and prior to the race being run, should a horse or horses be excused by the stewards resulting in a field of less than six different wagering interests, the following apply:

1. If horses representing five wagering interests will start, the licensee may refund the entire amount wagered in the show pool;

2. If horses representing five or fewer wagering interests will start, the licensee may refund the entire amount wagered in the show pool, the place pool, or both;

3. If horses representing fewer than two interests will start, the race may be cancelled and the entire amount wagered in the win, place and show pools shall be promptly refunded. However, the horse or horses shall race for the purse as nonwagering event.

F. No refunds.

If a horse is left at the post at the start, or the rider or driver is unseated, there shall be no refund.

G. Scratches in entries.

If two or more horses in a race are coupled as a wagering interest or the field, there shall be no refund unless all of the horses so coupled are excused by the stewards or all of the horses so coupled are prevented from obtaining a fair start. Discretion, however, is vested in the stewards to order a refund where a part of an entry in a stake, handicap, futurity or other special event is excused by the stewards or prevented from obtaining a fair start, where it is in the public interest to do so. In this instance, the remaining part of the entry shall race for the purse only.

H. Postponed races.

In the case of a race postponed beyond the day originally scheduled, all money wagered on the race shall be refunded.

I. Cancelling turf races.

In the event conditions require a race to be moved from the turf to the main racing surface, any advance wager shall be refunded at the request of the holder of the pari-mutuel ticket up until post time of the race immediately preceding the scheduled turf race. This regulation does not apply to pick three or pick six wagering.

J. Announcement of refunds.

In those cases where a refund is due the public or a pari-mutuel pool is cancelled, the licensee shall promptly inform the public through the public address system and other appropriate means of communication.

PART IV. DISTRIBUTION OF PURSE MONEY.

§ 4.1. Purse amounts.

Pursuant to § 59.1-392 of the Code of Virginia, 8.0% of the pari-mutuel pools for straight wagering, and 9.0% of the pari-mutuel pools for multiple wagers shall be allocated for purse money to participants by the licensee. In making the distribution of purse money, the licensee shall, to the extent possible, maintain purse amounts in proper relationship to actual pari-mutuel handles.

§ 4.2. Adjustments to purses.

Should levels of pari-mutuel handle create overpayment or underpayment of purses paid during the course of the race meeting, the licensee shall make adjustments in each publication of its condition book to attempt to keep purses consistent with mutuel handles.

§ 4.3. Overpayments carried over.

If, at the end of the horse race meeting, an overpayment of purses has occurred, the overpayment shall be carried over to the next horse race meeting of the same breed and the overpayment may be recovered by the licensee. The licensee shall recover the overpayment on an even basis over the course of the horse race meeting to prevent serious inconsistencies in purse levels during the horse race meeting.

§ 4.4. Underpayments carried over.

If, at the end of a horse race meeting, an underpayment of purses has occurred, the underpayment shall be carried over to the next horse race meeting of the same breed. The underpayment must be paid to the horse owners by adding the underpayment to the purses. The licensee shall repay the underpayment on an even basis over the course of the horse race meeting to prevent serious inconsistencies in purse levels during the horse race meeting.

§ 4.5. Willful underpayment.

Should the commission determine that a licensee willfully failed to adjust purse levels in violation of these regulations for the purposes of retaining purse underpayments from one race meeting to the next, the licensee will be the subject of disciplinary action of the commission.

§ 4.6. Escrow accounts.

All money received by a licensee for races that require nominating, sustaining, entry, or starting fees must be placed in interest bearing escrow accounts, and all accrued interest must be added to these races if: (i) the total fees received for the race exceed \$15,000; or (ii) fees are due and payable for the race more than 180 days in advance of the advertised date of the running of the race.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

Statutory Authority: §§ 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

Effective Date: January 1, 1990

NOTICE FROM THE REGISTRAR OF REGULATIONS: The Virginia Gypsy Moth Quarantine is being revised pursuant to § 3.1-188.23 of the Code of Virginia, which provides authority for the Commissioner of the Virginia Department of Agriculture and Consumer Services to extend or reduce regulated areas described in the quarantine. The Commissioner's action must be reviewed by the Virginia Board of Agriculture and Consumer Services at its next regularly scheduled meeting and within 90 days of the Commissioner's action. The department will receive, consider and respond to petitions by any interested persons at any time for reconsideration or revision of the regulation.

Summary:

By the authority granted under § 3.1-188.23 of the Code of Virginia, the Commissioner of the Virginia Department of Agriculture and Consumer Services hereby extends the regulated areas under the Virginia Gypsy Moth Quarantine due to the detection of larvae and other life stages of the gypsy moth in areas not currently under regulation. The current regulated area is changed by the addition four entire counties (Amelia, Dinwiddie, Nelson, and Nottoway), the extension of the current regulated area in a portion of one county to now include the entire county (Augusta County will now be listed in subsection B of § 3 in the regulations as an entire county), portions of two counties (Amherst and Rockbridge), and two independent cities (Buena Vista and Staunton). All other parts of the Virginia Gypsy Moth Quarantine will remain unchanged.

VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Associated equipment" means articles associated with mobile homes and recreational vehicles such as, but not limited to: awnings, tents, outdoor furniture, trailer blocks, LP gas containers, and trailer skirts.

"Compliance agreement" means a written agreement between a person engaged in growing, handling, or moving regulated articles, and the VDACS, U.S. Department of Agriculture (USDA), or both, wherein the former agrees to comply with the requirements of the compliance agreement.

"Gypsy moth" means the insect *"Lymantria dispar"* (Linnaeus) in any living stage.

"Hazardous recreational vehicle site" means any site where a recreational vehicle is, or may be parked, which is determined by an inspector to harbor populations of gypsy moth that could be spread by movement of recreational vehicles or associated equipment.

"Inspector" means any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine and regulations.

"Mobile home" means any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

"Outdoor household articles" means articles associated with a household that have been kept outside the home, including but not limited to outdoor furniture, barbecue grills, building materials, children's play things, yard items, trash cans, dog houses, boats, hauling trailers, garden tools, tents, and awnings.

"Recreational vehicles" means highway vehicles, including pickup truck campers, one-piece motor homes, and camping or travel trailers, designed to serve as a temporary dwelling.

"Scientific permit" means a document issued by the Virginia Department of Agriculture and Consumer Services to authorize movement of regulated articles to a specified destination for scientific purposes.

"Virginia Pest Law" means that law set forth in Article 6 (§ 3.1-188.20 et seq.) of Chapter 13 of Title 3.1 of the Code of Virginia.

§ 2. Regulated articles.

Final Regulations

The following articles are regulated under the provisions of this quarantine, and shall not be moved into or within Virginia, except in compliance with the conditions prescribed in this quarantine:

1. Trees with roots, shrubs with roots, and persistent woody stems, except if greenhouse grown throughout the year.
2. Logs and pulpwood, except if moved to a mill operating under a compliance agreement.
3. Firewood.
4. Mobile homes and associated equipment.
5. Recreational vehicles and associated equipment, moving from hazardous recreational vehicle sites and the person in charge of the site has been notified.
6. Cut Christmas trees.
7. Any other products, articles (e.g., outdoor household articles), or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a risk of artificial spread of gypsy moth infestations and the person in possession thereof has been so notified.

§ 3. Regulated areas.

A. Any area of another state or the District of Columbia, whether designated high risk or low risk, in which gypsy moth is known to occur and is so geographically described and regulated by the United States Department of Agriculture under the Gypsy Moth and Brown-tail Moth Quarantine No. 45, or under a state gypsy moth quarantine or other state legislation.

B. The following areas in Virginia:

1. The entire counties of: Accomack, Albemarle, Amelia, Arlington, Augusta, Caroline, Charles City, Chesterfield, Clarke, Culpeper, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Gloucester, Goochland, Greene, Hanover, Henrico, Isle of Wight, James City, King George, King and Queen, King William, Lancaster, Loudoun, Louisa, Madison, Mathews, Middlesex, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Powhatan, Prince George, Prince William, Rappahannock, Richmond, Rockingham, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Westmoreland, and York.
2. The entire independent cities of: Alexandria, Buena Vista, Charlottesville, Chesapeake, Colonial Heights, Fairfax City, Falls Church, Franklin, Fredericksburg, Hampton, Harrisonburg, Hopewell, Manassas, Manassas Park, Newport News, Norfolk, Petersburg, Poquoson,

Portsmouth, Richmond, Staunton, Suffolk, Virginia Beach, Waynesboro, Williamsburg, and Winchester.

3. A portion of the following:

Augusta County - that portion of the county being east of Interstate 81 and north of Interstate 64.

Amherst County - that portion of the county being north of Route 60.

Rockbridge County - that portion of the county being north of Route 60 and east of Interstate 81.

§ 4. Conditions governing movement of regulated articles into or within Virginia.

A regulated article may not be moved into or within the state from a regulated area as described in § 3 unless a certificate or permit has been issued and attached to the regulated article in accordance with § 5.

§ 5. Conditions governing the issuance of certificates and permits.

A. Certificates.

Certificates may be issued by an authorized inspector for the movement of the regulated articles designated in § 2 under any of the following conditions when:

1. In the judgment of the inspector, they have not been exposed to infestations;
2. They have been examined by the inspector and found to be free of gypsy moth;
3. They have been treated to destroy gypsy moth under the direction of the inspector and according to methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied;
4. Grown, produced, manufactured, stored, or handled in such manner that, in the judgement of the inspector, gypsy moth would not be transmitted by movement of the article.

B. Permits.

Permits may be issued by an authorized inspector for the movement of noncertified regulated articles to specified destinations under conditions specified for limited handling, use, processing, or treatment.

C. Compliance agreement.

As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles may be

Final Regulations

required to sign a compliance agreement. The agreement shall stipulate that safeguards will be maintained against the establishment and spread of infestation, and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers.

D. Use of certificates or permits with shipments.

All regulated articles are required to have a certificate or permit attached when offered for movement. If a certificate or permit is attached to the invoice or waybill, the attachment of a certificate or limited permit to the regulated article will not be required. Certificates or permits attached to the invoice, waybill, or other shipping document, shall be given by the carrier to the consignee at the destination of the shipment, or to an inspector when requested.

E. Assembly of articles for inspection.

Persons intending to move any regulated articles shall apply for inspection as far in advance as possible. They shall safeguard the articles from infestation. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection.

§ 6. Cancellation of certificates or permits.

Any certificate or permit which has been issued or authorized will be withdrawn by the inspector if he determines that the holder has not complied with conditions for their use or with any applicable compliance agreement.

§ 7. Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and gypsy moths as provided in the Virginia Pest Law under which this quarantine is issued.

§ 8. Shipment for experimental or other scientific purposes.

Any living stage of gypsy moth may be moved intrastate only if such movement is made for scientific purposes under scientific permit from the Virginia Department of Agriculture and Consumer Services, and in accordance with any conditions which may be required in the permit. The permit shall be securely attached to the outside of the shipping container.

§ 9. Nonliability of the department.

The Virginia Department of Agriculture and Consumer Services shall not be liable for any costs incident to inspections required under the provisions of the quarantine and regulations, other than for the services of the

inspector.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

NOTICE: The State Board of Corrections has REPEALED the following regulation.

Title of Regulation: VR 230-01-002. Rules and Regulations for the Purposes of Services for Clients.

Statutory Authority: § 53.1-5 of the Code of Virginia

Effective Date: January 17, 1990

Summary:

This regulation provides instructions for purchasing services for clients when such services are not available within the Department of Corrections. During the department's two-year reevaluation of regulations, this regulation was determined to be unneeded, as such instructions are adequately provided in the Agency Procurement and Surplus Property Manual as well as in other publications. These instructions require the department's adherence to their procedures.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

Title of Regulation: VR 425-01-64 Standard for Boiler and Pressure Vessel Operator Certification.

Statutory Authority: § 15.1-11.6 of the Code of Virginia.

Effective Date: January 17, 1990

Summary:

The regulation provides a uniform standard to be used by the governing bodies of counties, cities and towns which have adopted ordinances requiring the certification of boiler and pressure vessel operators.

Operators are classified either as a Class 1 Operator with authorization to operate any steam plant or as a Class 2 Operator limited to high pressure steam plants of 500 boiler horsepower or less, heating plants having low pressure steam boilers with pump return, and hot water plants.

If an individual holds a valid license or certificate pursuant to Chapter 3.1 (§ 40.1-51.5 et. seq.) of Title 40.1 of the Virginia Code, i.e., the Boiler and Pressure Vessel Safety Act, or is currently certified under this standard by another local jurisdiction, certification

under this standard would not be required.

If an applicant presents a valid license or certificate from another state or local government outside the Commonwealth and provides documentation that the requirements for such license or certificate are equal or greater to those established under this standard, certification under this standard may be provided without examination.

The local jurisdiction shall establish an agent or board to whom applications for certification will be made. Such agent or board will also issue the certificates of competency. A written test is to be supplied and evaluated by the Chief Boiler Inspector for the Commonwealth or his designee. The locality shall set its own fee structure.

The regulation also provides for specific cases of exemption, a maximum penalty, a basis for revocation and lapse of certification and an appeals process.

The final regulation differs from the proposed regulation by the definition of additional terms; further clarification of terms, conditions and procedures; inclusion of additional acceptable items of education and training; addition of a three-year limitation on conditional certification; deletion of requirements for reexamination; provision that a certificate shall lapse if an individual has not been employed in the trade during the previous five years; and the correction of typographical errors.

VR 425-01-64. Standard for Boiler and Pressure Vessel Operator Certification.

§ 1. Definitions.

The following words and terms when used in these regulations shall have the following meaning unless the context clearly indicates otherwise:

"Accredited" means accredited by an accrediting body recognized by the U.S. Department of Education.

"Act" refers to § 15.1-11.6 of the Code of Virginia.

"Agent" means the agent established by a county, city or town, under local ordinance to examine and determine an applicant's qualifications for certification under the Act.

"Approved" means acceptable to the Commissioner of Labor and Industry.

"Board" means the board established by a county, city or town, under local ordinance to examine and determine an applicant's qualifications for certification under the Act.

"Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use

externally to itself by the direct application of heat. The term "boiler" shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

["Boiler horsepower" shall be defined as (i) the evaporation of 34.5 pounds of steam per hour from and at 212°F; or (ii) 33475 British Thermal Units (B.T.U.) per hour; or (iii) 140 square feet of steam radiation; or (iv) 224 square feet of water radiation at 160°F; or (v) 10 kilowatt per hour electrical input to boiler.]

"Boiler operator" means an individual who would normally be the senior operational and maintenance person at the site of the boiler who would be expected to react to changing operational and maintenance situations.

"Certificate of Competency" means a certificate issued to a person who has passed the prescribed examination as provided in subsection C of § 3 of these regulations.

"Commissioner" means the Commissioner of the Department of Labor and Industry.

"Department" means the Department of Labor and Industry.

["Heating plant" means a heating system containing a low pressure steam or hot water boiler used to generate energy for use in heating buildings, potable water or processing.]

"High pressure boiler" means a steam boiler where the safety valve(s) is (are) set to relieve at a pressure of more than 15 pounds per square inch.

"Horsepower rating of a boiler" for the purpose of this standard shall be the largest rating determined in accordance with each of the following (i) by dividing the square feet of boiler heating surface by 10; or (ii) the manufacturer's rated output in horsepower; or (iii) where the manufacturer's rated output is expressed in terms other than horsepower, such rating converted into horsepower by the use of one of the factors as defined in these standards.

"Hot water heating boiler" means any hot water boiler operated at pressures not exceeding 160 [pounds psi] or temperatures not exceeding 250°F.

"Jurisdiction" as referred to in this standard shall mean counties, cities and towns in the Commonwealth.

"Low pressure boiler" means a steam boiler where the safety valve(s) is (are) set to relieve at a pressure of 15 pounds per square inch or less and hot water heating boilers.

"Pressure vessel" as referred to in this standard shall be any vessel in which (i) the pressure is obtained from

Final Regulations

an external source, or by an internal or external application of heat; and (ii) is an auxiliary to a boiler plant.

["One boiler horsepower" shall be defined as (i) the evaporation of 34.5 pounds of water per hour from and at 212°F; or (ii) 33475 British Thermal Units (B.T.U.) per hour; or (iii) 140 square feet of steam radiation; or (iv) 224 square feet of water radiation at 150°F; or (v) 10 kilowatt per hour electrical input to boiler.]

["Steam plant" means a system containing a high pressure boiler to generate energy for use in heating, power generation or processing operations.]

§ 2. Authority and application.

A. This standard is established in accordance with § 15.1-11.6 of the Code of Virginia for use by counties, cities and towns for the certification of boiler and pressure vessel operators.

B. This standard shall apply to any person who engages in, or offers to engage in, for the general public for compensation, the operation or maintenance of a boiler or pressure vessel. All jurisdictions who choose to regulate the certification of boiler and pressure vessel operators shall utilize this standard for control of certification within the Commonwealth.

C. This standard shall not affect licensing or inspection under any other provision of the Code of Virginia.

D. Localities shall forward a copy of their certification ordinance upon adoption or amendment to the Office of Boiler and Pressure Vessel Safety in the Virginia Department of Labor and Industry.

E. The Department of Labor and Industry will provide advisory [~~interpretations~~ opinions] concerning [~~applications~~ interpretation and application] of this standard upon request.

F. This standard shall not apply to any person who, in his capacity as an employee, is engaged in the operation or maintenance of a boiler or pressure vessel owned by his employer.

§ 3. Certification.

A. Boiler operators and pressure vessel operators covered under this standard shall be duly certified in the proper class by the examining agent or board of the jurisdiction adopting a boiler certification ordinance.

B. The agent or board shall be appointed by the adopting jurisdiction. Any such agent or board shall provide for the examination of applicants for boiler and pressure vessel operator certification no less than 12 times per year.

C. The written examination for boiler operator certification shall be provided and evaluated by the Chief Boiler Inspector of the Commonwealth, or his designee, and be administered by the [~~agency agent~~] or board.

Such examination shall include questions, diagrams and practical tests of sufficient scope to demonstrate that the applicant has the necessary qualifications, experience and knowledge of the basic principles involved in operation, care and maintenance to operate safely the boiler and auxiliary pressure vessels of the class for which an application for certification has been made.

Specific competencies shall include, but not be limited to the following:

1. Principles of boiler design;
2. General operation practices;
3. Effects of water treatment;
4. Inspection requirements; and
5. Emergency shutdown procedures.

D. The class of certification and the training and experience requirements are as follows:

1. Class-1 Boiler Operator - To take charge of and operate [or maintain] any steam plant.

Requirements:

Two years experience as an operator of high pressure boiler beyond that experience which is required for a Class-2 Operator.

[Substitution of] a [~~baccalaureate~~] degree in mechanical engineering from an accredited college, university or school of technology or successful completion of an approved boiler operator apprenticeship program [or a U.S. military training course] may be [~~substituted~~ permitted] for one year of the required experience.

2. Class-2 Boiler Operator - To take charge of and operate any of the following:

- a. A high pressure steam plant where the total horsepower rating of the boiler is not in excess of 500 boiler horsepower, or a combination of high pressure boilers and heating boilers and auxiliary pressure vessels; or
- b. A heating plant having low pressure boilers with a pump return with no limitation on total capacity; or
- c. A heating plant having hot water heating boilers, with no limitation on total capacity.

Requirements:

At least two years experience [as a boiler operator or an assistant boiler operator, fireman or oiler,] in a high pressure steam plant of more than 75 boiler horsepower [as an assistant boiler operator, fireman or oiler] ; or

Four years [of such] experience in a plant of not less than 50 boiler horsepower [(7,000 square feet of steam radiation or 11,200 square feet of water radiation at 150°F)] .

[Substitution of] a [baccalaureate] degree in mechanical engineering from an accredited college, university or school of technology or successful completion of any approved boiler operator apprenticeship program [or a U.S. military training course] may be [substituted permitted] for one year of the required experience.

E. In cases where a boiler operator has been operating a plant for a period of at least one year prior to the effective date of implementation of these standards by the adopting jurisdiction, or where the classification of such a boiler operator has been changed by this standard, such an operator may be conditionally certified [for a three-year period] by the agent or board in order that the operator may continue operation of that plant and no other. A suitable endorsement should be noted on his certification documents.

F. Application for examination in the class of certification shall be made on an approved form provided by the agent or board of the adopting jurisdiction. A notarized statement of education, training and experience in operating steam boilers or low pressure boiler plants and auxiliary pressure vessels shall be provided with the application.

G. No certification shall be required of an individual holding a valid license or certificate, under Chapter 3.1 (§ 40.1-51.5 et. seq.) of Title 40.1 of the Code of Virginia, or certified under this standard by another jurisdiction. An applicant who holds a valid certificate or license from any [other] state or local government outside the Commonwealth may be certified without examination upon the presentation of the following to the agent or board:

1. A valid certificate or license from that authority; and
2. The certification or licensure requirements of that authority;

provided that the authority's requirements for certification or licensure are equal to or greater than those established under this standard.

H. Applicants must successfully complete an examination and the other requirements to be deemed certified, except

as indicated in subsection G above.

I. The agent or board shall receive and evaluate the applications and examinations and issue certificates of competency to applicants successfully completing the examination process.

J. The agent or board of the adopting jurisdiction may [certify permit] an applicant [to sit for a written examination] at a lower class than that for which the applicant [was examined has applied] , if it is determined that an applicant lacks either experience or requisite knowledge of the class applied for.

K. Applicants who fail to pass the required examination may not be reexamined until 90 days after the date of the last examination.

L. Applicants shall be notified in writing by the agent or board of the results of their application within 30 days [of the examination date following the receipt of examination results from the Chief Boiler Inspector of the Commonwealth or his designee] .

M. The certification fee shall be established by the adopting jurisdiction.

N. Certificates of competency shall be provided by the department and issued by the adopting jurisdiction at a frequency established by the adopting jurisdiction.

O. When a certificate of competency has been lost or destroyed, the owner shall present a notarized statement to that effect and pay [the fee a processing charge] established by that jurisdiction for issuance of a duplicate certificate.

[§ 4. Reexamination.

Reexamination will be required when certification has been allowed to lapse. Reexamination for a lapsed certificate is unnecessary where the following conditions apply:

1. That such certification was not revoked during the period for which it was issued, and was valid on the date of expiration; and
2. That application for renewal has been made in writing within 30 days from the date such certification expired; and
3. If a certificate expires while the holder is in service of the U.S. Armed Forces, the certificate may be renewed without examination upon presentation of the expired certificate to the examining agent or board within six months after discharge with proof that the holder was serving on active duty at the time of expiration. The established renewal fee shall be paid, and the new expiration date shall be established by the examining board.]

Final Regulations

[§ 5. § 4.] Exemptions from certification.

A. Exempt from certification are operators of:

1. Boilers and pressure vessels on boats or vessels operated under the regulations of the Marine Inspections, U.S. Coast Guard;
2. Steam driven vehicles used solely for traction or show purposes;
3. Hot water heating boilers having total boiler horsepower not exceeding 100 horsepower [~~(22,400 square feet of water radiation at 150°F.)~~] ;
4. Low pressure steam boilers having gravity or trap returns; and
5. Nuclear plant facilities under the control of the Nuclear Regulatory Commission.

B. Notwithstanding exemptions listed above, no provision herein shall be construed as authorizing or permitting operation of a boiler without a valid and unexpired certificate, where an ordinance requiring such a certification has been adopted.

[§ 6. § 5.] Penalties.

Section 15.1-11.6 of the Code of Virginia provides that penalties for noncompliance with this standard shall be set and levied by the governing body of a jurisdiction and may not exceed those penalties for a Class 3 misdemeanor.

[§ 7. § 6.] Revocation [or lapse] of certification.

The agent or board of the adopting jurisdiction may revoke a Certificate of Competency for either of the following:

1. Any misrepresentation in obtaining or renewing the certification; or
2. Negligence or incompetence in the practice of the profession.

[A Certificate of Competency shall lapse if an individual has not been employed in the trade during the last five years. In the event of revocation or lapse of certification, examination is necessary to obtain future certification.]

[§ 8. § 7.] Appeals.

A. An individual may appeal a determination of the agent or board of the adopting jurisdiction in regard to:

1. The application of these standards.
2. A decision of the agent or board.

B. Each local governing body shall establish a method of appeals.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 2 of the Code of Virginia, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Office of the Attorney General has determined that this action represents a clarification of agency policy rather than a substantive change. Its inclusion in the State Plan is for the purpose of public information. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

* * * * *

Due to its length, the Nursing Home Payment System Regulation (VR 460-03-4.1940) filed by the Department of Medical Assistance Services is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Medical Assistance Services.

Title of Regulation: State Plan for Medical Assistance Relating to Nursing Home Rent/Leases.
VR 460-03-4.1940. Nursing Home Payment System.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: January 18, 1990

Summary:

The Nursing Home Payment System (NHPS) limits a provider's allowable lease costs to the lesser of rental cost or the costs of ownership (the underlying historical straight-line depreciation, interest and property tax costs of the owner of the property). In the case of leases approved before August 18, 1975, a provider is entitled to claim as an allowable cost its lease cost during the life of the pre-1975 lease and any renewals or extensions, so long as the renewal or extension lease cost does not exceed the amount in effect at the termination date of the existing lease.

In reimbursing rental costs arising from a number of pre-1975 leases, the department identified the need to clarify language in the NHPS. Accordingly, this amendment expressly states that renewals or extensions referenced in § 2.13 B of the NHPS can be

negotiated by any provider which is lawfully in possession of the premises, and reimbursement of the rental costs is limited to the lesser of actual rental payments or the amount appropriately reimbursable by DMAS. In no event shall escalation clauses be permitted, and there is no guarantee that reimbursement of rental costs will continue in any future revisions to the NHPS.

This amendment clarifies existing policy concerning how long-term care facilities are reimbursed for rental costs they incur pursuant to leases approved before August 18, 1975.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

REGISTRAR'S NOTICE: Due to its length, the Virginia Hazardous Waste Management Regulations filed by the Department of Waste Management are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Waste Management.

Title of Regulation: VR 672-10-1. Virginia Hazardous Waste Management Regulations.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Effective Date: February 1, 1990

Summary:

Aside from an editorial change made in § 3.1 B 7 b which inserted a missing word, no changes to the proposed text of Amendment 10 were made.

The majority of the modifications and additions contained in Amendment 10 to the Virginia Hazardous Waste Management Regulations are being made in response to the changes made by the United States Environmental Protection Agency (EPA) in the federal regulations implementing the Resource Recovery and Conservation Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984. In order to maintain its authorization to conduct the hazardous waste program in Virginia, the department is required to update its regulations and conform them to the federal requirements on an annual basis.

Reductions of the regulatory burdens.

Virginia Hazardous Waste Management Regulations, as presently constituted, are not very specific on the procedures associated with the permit modifications requested voluntarily by the permittee. Amendment 10 will restructure drastically the department's procedures to simplify them and bring them in line with the

federal changes promulgated on December 1, 1987, and September 28, 1988.

At present time, laboratories and consulting firms offering their services for studying treatability of hazardous waste in conjunction with the land disposal restrictions must have a permit or possess interim status as a TSD facility to be able to receive manifested shipments of large quantities of wastes needed for such studies. Amendment 10 removes this requirement.

The availability of financial assurance has been a problem and a substantial cost item for the regulated community since the inception of the program. Following the federal lead, Amendment 10 expands the choices of acceptable mechanisms.

On October 11, 1988, EPA removed the requirement that the results of the groundwater monitoring be statistically analyzed by using the t-test and allowed a variety of statistical tests provided they meet certain performance standards. Amendment 10 follows the federal regulations.

Adoption of more stringent federal regulations.

In response to the requirements under the Hazardous and Solid Waste Amendments of 1984, EPA promulgated on August 17, 1988, regulations addressing the land disposal restrictions for the first third of the hazardous waste listed. As the result of these regulations, certain hazardous wastes will require extensive treatment prior to the land disposal in hazardous waste sites. Amendment 10 mirrors the federal land disposal restrictions.

On September 13, 1988, EPA listed as hazardous wastes certain primary metal production wastes previously exempted under the mining exclusion. To retain the equivalency with the federal program, Amendment 10 contains these newly listed wastes. It is not expected that these listings will affect any existing businesses in Virginia.

Other changes.

Numerous corrections are required to eliminate typographical and editorial errors found in the previous editions of the regulations. Amendment 10 lists these changes along with other minor technical clarifications and corrections.

EMERGENCY REGULATIONS

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulation: VR 320-01-2. Preneed Emergency Regulations.

Statutory Authority: § 54.1-2803 of the Code of Virginia.

Effective Dates: November 27, 1989 through November 26, 1990

I recommend approval of the proposed emergency regulation of the Board of Funeral Directors as cited. The regulation is required to begin implementation of legislation enacted by the 1989 General Assembly (Acts of Assembly Chapter 684, attached) related to preneed funeral contracts. If the emergency regulation is approved, the Board of Funeral Directors and Embalmers will commence promulgation of these provisions along with additional rules required for implementation of the new statutes in accordance with the standard provisions of the Administrative Process Act.

The emergency regulation will expire one year from the effective date, or upon the promulgation of revised regulations, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: November 8, 1989

/s/ Eva S. Teig
Secretary of Health and Human Resources
Date: November 9, 1989

/s/ Gerald L. Bailes
Governor
Date: November 24, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: November 27, 1989

Preamble:

The 1989 session of the Virginia General Assembly, enacted House Bill 2565 which amends and reenacts §§ 8.01-512.4; 37.1-142; 38.2-4021; 54.1-2800; and 54.1-2803 through 54.1-2807 of the Code of Virginia effective July 1, 1989. This Act establishes requirements relating to preneed funeral contracts.

The new law requires the Board of Funeral Directors and Embalmers to:

1. Prescribe preneed contract forms.
2. Prescribe preneed disclosure requirements and disclosure forms.
3. Approve forms for compliance with the Code of

Virginia and these regulations.

The sale of preneed contracts is an active and viable business in the Commonwealth of Virginia. Licensed funeral directors and funeral service licensees currently use a variety of forms lacking consistency for general consumer protection and not in compliance with the new law because of absent regulations of the Board,

These regulations will allow the rendering of services in compliance with law. The Board of Funeral Directors and Embalmers will promulgate permanent regulations through the Administrative Process Act to implement remaining mandates of the Act. The Board of Funeral Directors and Embalmers will receive, consider and respond to petitions by any interested persons at any time with respect to reconsideration or revision of these emergency regulations.

These Emergency Regulations are designated as VR320-01-2 of the Virginia Board of Funeral Directors and Embalmers.

/s/ Meredyth P. Partridge
Executive Director
Board of Funeral Directors and Embalmers
Date: November 8, 1989

VR 320-01-2. Preneed Emergency Regulations.

PRENEED CONTRACTS AND DISCLOSURE STATEMENTS PRESCRIBED BY THE BOARD

§ 1.1. This preneed funeral contract implements the following minimum requirements prescribed by the 1989 Acts of the Assembly, Chapter 684, Code of Virginia. Additional contractual terms pursuant to Virginia Code § 54.1-2820 (a) (1) may be included where not in conflict with these provisions.

Date:
Contract #:

XYZ Funeral Home
123 Main Street
Anytown, Virginia

PRENEED FUNERAL CONTRACT
for

(Name of Recipient of Services)

(Zip)

I. SUPPLIES AND SERVICES PURCHASED

The prices of goods and services below MAY BE GUARANTEED provided the total is paid in full and all interest earned is allowed to accumulate in your account. If any of the prices are guaranteed, no additional cost will incur for your family or estate even though the actual prices of goods and services may increase between the

Emergency Regulations

date of this contract and the time of need. (Please see the disclosure document).

<u>Services Purchased</u>	
Minimum services of staff	\$.....
Additional staff services	\$.....
Additional limited services	\$.....
Basic facilities	\$.....
Facilities for viewing	\$.....
Facilities for ceremony	\$.....
Other facilities/equipment	\$.....
Embalming	\$.....
Other preparation of body	\$.....
Alternate care	\$.....
Transfer of remains	\$.....
Funeral coach	\$.....
Flower car	\$.....
Lead/service car	\$.....
Mileage @ \$..... (Outside service area)	
Other	\$.....

Sub-Total Cost of (Guaranteed) Services Purchased: \$.....

Supplies Purchases

Casket (Describe)	\$.....
Outer burial container (Describe)	\$.....
Alternative container	\$.....
Cremation urn	\$.....
Shipping container	\$.....
Clothing	\$.....
Temporary marker	\$.....
Acknowledgment cards @	\$.....
Register/attendance books	\$.....

@	
Memorial folders	\$.....
@	
Other	\$.....

Sub-Total Cost of (Guarantee) Supplies Purchased: \$

The actual prices of goods and services below are NOT GUARANTEED. These items may include, but not be limited to, obituary notices; death certificates; cemetery fees; flowers; sales tax; etc. The prices are estimated and the estimates will be included in the Grand Total Contract Price. The differences between the estimated prices below and the actual cost will be settled with your family or estate at the time of need:

.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....

Sub-Total estimated cost of Non-guaranteed items \$

GRAND TOTAL FOR PRENEED ARRANGEMENTS

1. Total cost of (Guaranteed) Services Purchased (Total taken from pp 1-2)	\$.....
2. Total cost of (Guaranteed) Supplies Purchased (Total taken from p 2)	\$.....
3. Total Estimated cost of non-guaranteed Items (Total taken from p 3)	\$.....
GRAND TOTAL	\$.....

The only warranties, express or implied, granted in connection with the goods sold in this preneed funeral contract, are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE are extended by the (funeral home)

II. GENERAL INFORMATION

In order that the Buyer may understand the relationship of all parties involved in this preneed arrangement and

Emergency Regulations

contract, the following is provided:

Suite 200
 Richmond, Virginia 23229-5005
 Telephone Number 804-662-9907
 Toll Free Number 1-800-533-1560

- A. Buyer:
- B. Funeral Home Providing Services:
- C. Preneed Arranger:

Employed by: (Funeral Home)

Licensed Funeral Director in Virginia:
yesno

Funeral Director License Number: #

The following information will be given if an insurance policy or annuity contract is used to fund this agreement:

- A. Buyer:
- B. Insurance Company:
- C. Insurance Agent:

Employed by: (Insurance Company)

Licensed Funeral Director in Virginia:
yes no

Funeral Director License Number
 (If Applicable): #

Employed by (If Applicable):
 (Funeral Home)

Method of Funding

- A. Insurance
- B. Trust
- 1. Amount to be trusted:
- 2. Name of trustee:
- 3. Disposition of Interest:
- 4. Fees, expenses, taxes deducted from earned interest:
- 5. Buyer's responsibility for taxes owned on interest: .

III. CONSUMER INFORMATION

The Board of Funeral Directors and Embalmers is authorized by § 54.1-2800 et. seq. of the Code of Virginia to regulate the practice of preneed funeral planning. Consumer complaints should be directed to:

The Board of Funeral Directors and Embalmers
 1601 Rolling Hills Drive

IV. DISCLOSURES

The Disclosure statements will be available for your review. The General Price List shall be furnished to you by the preneed arranger. These contain information that you must receive by law and/or the authority of the Board of Funeral Directors and Embalmers. You are entitled to receive all information in clear and simple language including the language of the funding agreement for this preneed arrangement.

If any law, cemetery, or crematory requires the purchase of any of those items listed in Part I, the requirements will be explained in writing.

By signing this contract, buyer acknowledges availability of and opportunity to read a copy of all of the required documents.

V. TERMINATION OF CONTRACT

This person who funds this contract through a trust agreement may terminate this preneed contract at any time prior to the furnishing of the services or supplies contracted for:

Within 30 days

If you terminate this preneed contract within thirty days of the date of this contract, you will be refunded all payments of whatever type you have made, plus any interest or income you may have earned.

More than 30 days

If you terminate this preneed contract more than thirty days after the date on this contract, you will be refunded whatever amount was required to be placed in a revocable trust fund, plus any interest or income it has earned.

Any person who funds this contract through a trust fund which is irrevocable or through an insurance/annuity policy or through the transfer of real estate/personal property may not be eligible for a refund.

VI. STATEMENT OF GUARANTEE

By signing this contract, (Funeral Home) agrees to the statement checked below (check one):

..... Pre-financing guarantees that no additional payment will be required from the family or estate for guaranteed services and supplies provided the Grand Total of these arrangements is paid in full and

the interest is allowed to accumulate in your account (see page 4 for Grand Total amount). Payment of the difference will be required for the non-guaranteed estimated items if they increase in price.

..... The prices for items under supplies and services are not guaranteed.

VII. AGREEMENT

In witness whereof, the Buyer and the Funeral Home have executed this contract, intending its terms to be in accordance with the Code of Virginia and any regulations implementing the Code. By signing this contract you acknowledge that you have been provided access to and the opportunity to read the Disclosure Statements.

..... (Designee of Funeral Home) (Buyer)
..... (Funeral Home) (Contract Date)

VIII. PENALTIES OR RESTRICTIONS

The (funeral home), has the following penalties or restrictions on the provisions of this contract.

- 1. (Insert geographic restrictions);
2. (Insert an explanation of the Funeral Home's inability to perform the request(s) of the Buyer);
3. (Insert a description of any other circumstances which apply).
4. (Insert information that if particular goods and services specified in the contract are unavailable at the time of need):

A. The funeral home shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship and

B. The representative of the deceased shall have the right to choose the supplies or services to be substituted.

§ 1.2. In the event that the preneed contract designates a person other than the buyer or recipient of services to make arrangements for disposition of remains, an addendum as follows shall be attached to the preneed contract:

DESIGNEE AGREEMENT

I designate of (address) to assist with the preneed arrangements in my behalf. This individual is also authorized to work with the funeral home after my death to ensure that these arrangements are fulfilled. The relationship of my designee to me is

.....
Buyer: Date:

I accept the request of (buyer) to assist with his/her preneed arrangements and to work with the funeral home after his/her death to ensure that these arrangements are fulfilled.

Designee: Date:

The foregoing was acknowledged before me this day of, 19....

Notary:

Date Commission Expires:

§ 1.3. A preneed disclosure statement shall include the following minimum disclosure requirements prescribed by the Board pursuant to the 1989 Acts of the Assembly, Chapter 684, Code of Virginia. (See § 1.5 and § 1.7)

DISCLOSURES

We are required by law and/or the Virginia Board of Funeral Directors and Embalmers to provide access to and the opportunity for you to read the following information to assist you in preplanning. A question and answer format is used for clarity and includes the most commonly asked questions.

PRENEED CONTRACTS

- Is there more than one type of preneed agreement?

Yes.

Guaranteed contracts mean that the costs of certain individual items or the cost of the total package will never be more to your family or estate. Non-guaranteed means just the opposite. (See the section entitled "General Funding Information" for more information on guaranteed and non-guaranteed costs.)

Contracts may be funded by insurance/annuity policies, trusts, or transfer of real estate/personal property.

- What are my protections?

You should take your completed preneed contract home before you sign it and review it with your family or your legal advisor. You have a right to this review before you sign the contract or pay any money.

You should also read carefully the information in this disclosure statement. If you have any questions, contact the seller for more information or contact your legal advisor.

CANCELLATION

Emergency Regulations

– Can I cancel my preneed agreement if I change my mind? Will I get my money back?

You may cancel payment for supplies or services within 30 days after signing the agreement. If you funded your preneed arrangement through a trust, the preneed arranger will refund all the money you have paid plus any interest or income you have earned.

If you funded your preneed arrangement through a revocable trust and you cancel the preneed contract AFTER the 30 day deadline, you will be refunded all of your money on the items that are not guaranteed and 90% of all your money on the items that are guaranteed. You will also receive any interest or income on that amount. A revocable trust is a trust that you can cancel.

There may be a penalty to withdraw money from a revocable trust account which has already been established in your name. If there is, your contract will give you this information. (See the first question under the section entitled "Payment" below.)

If you have funded your preneed arrangement through an irrevocable trust you will not be able to cancel the trust agreement or receive a refund. An irrevocable trust is one that cannot be cancelled.

If you funded your preneed arrangement through an insurance policy/annuity contract which will be used at the time of your death to purchase the supplies and services you have selected, you will need to pay careful attention to the cancellation terms and conditions of the policy. You may not be eligible for a refund.

PAYMENT

– What happens to my money after the contract is signed?

Your money will be handled in one of several ways. It may be deposited in a separate trust account in your name. The trust account will list a trustee who will be responsible for handling your account. The funeral home you have selected as your beneficiary will also be listed. You have the right to change the funeral home and the trustee of your account prior to receiving the supplies and services under the preneed contract.

Your money may be used to purchase a preneed life insurance policy which may be used to pay for your arrangements upon your death. The proceeds of the policy will be assigned to the funeral home of your choice. You may change the funeral home assignment at any time prior to receiving the supplies and services under the preneed contract.

You may decide to choose a life insurance policy or a trust account that requires regular premium payments and not have to make an up-front, lump sum payment.

– May I pay for goods and services with real estate or personal property?

Yes. When you pay for these supplies and services in whole or in part with any real estate you may own, the preneed contract that you sign will be attached to the deed on the real estate and the deed will be recorded in the clerk's office of the circuit court in the city or county where the real estate is located.

If you pay for goods and services with personal property other than cash or real estate, the preneed arranger, will declare in writing that the property will be placed in a trust until the time of your death and will give you written information on all the terms, conditions, and considerations surrounding the trust. The preneed arranger will confirm in writing that he has received property.

You may decide not to transfer the title of the personal property to the preneed arranger of your preneed contract. In this situation, you will have to submit information to the preneed arranger in writing that you are giving him the property without a title, and describe the property and where it will be kept until the time of your death.

In either case, the written statements will be recorded in the clerk's office of the circuit court of the city or county in which you live. The written statement does not have to be separate document.

GENERAL FUNDING INFORMATION

– If the prices of the goods and services are affected by inflation between now and my death, will the funding I choose be adjusted accordingly?

There is a possibility that the funding may fail to keep up with inflation. This could mean that the funding you choose could have insufficient value to cover all expenses.

– What happens if my funding is not enough to cover the full cost of these arrangements?

If the entire funeral or specific items in the agreement are guaranteed by the preneed arranger, you family or estate will not have to pay any more for those items provided that you have paid the Grand Total in full and all interest earned is allowed to accumulate in your account. However, if you have not paid the account in full and have not allowed the interest to accumulate in the account, and any items increase in price, your family or estate would be responsible for the extra amount if the funds are not sufficient. In some situations where you pay toward your funding with regular premiums rather than in one lump sum, your account may not be enough at the time of your death to cover everything.

– What happens to the extra money if my funding is more than what is needed to pay for these arrangements?

Sometimes, as explained in the answer above, your funding account may not have had the time to grow sufficiently before your death to cover items which are guaranteed in price to you, yet have increased in price for the funeral home.

Sometimes after funeral expenses are paid, there may be money left over. Because of the on-going risk that a funeral home takes in guaranteeing prices for you, the funeral home may not be required to return this excess money.

Some funding agreements and funeral homes, however, require that extra money be returned to the estate or family. Others do not. You should obtain information concerning this in writing before signing the preneed contract.

The answers to the following questions will depend upon the terms and conditions of the individual's funding and preneed agreements. Please review your preneed contract and/or funding agreement for answers to these questions.

– What happens to my preneed contract if I change my assignment from one funeral home to another?
(Place answer here)

– What happens to my preneed contract if I change the beneficiary of my funding or the use of my proceeds from the funding.

If you make such changes, it could void your contract. You should request specific information from the preneed arranger and the funding arrangement.

– What will happen to my preneed contract if I fail to make agreed to premium payments to my funding source?
(Place answer here)

– Do I get any money back if I surrender or cancel my funding arrangements?
(Place answer here)

TRUST ACCOUNT

– If my money goes into a trust account, what information will I receive about that account?

If you want your money to go into a trust fund, the trust agreement must furnish you with information about the amount to be deposited into the account; the name of the trustee; information about what happens to the interest your trust account will earn; and information about your responsibility to file and pay taxes on that interest.

If there are filing expenses connected with your trust account, you will be notified as to what the expenses are and whether you or the preneed arranger is the responsible party for paying those.

– What happens to the interest earned by the trust?

You should be aware that the interest earned by the trust may be handled in different ways by different trust arrangements. The interest may have to go back into your account if items on your contract are guaranteed. You may be responsible for reporting that interest to the Internal Revenue Service and paying taxes on it. You will be responsible to pay any taxes on the interest earned even if you cancel your trust account. Some trust accounts cannot be cancelled.

There may be special fees deducted from your interest. However, you may still be responsible for paying taxes on the entire amount of interest earned before the fees were deducted. Please ask your preneed arranger for a written list of any fees so you will have a clear understanding about them before you sign the contract.

– If I pay my trust in premium payments, what happens if I die before the Grand Total of the funeral has been placed in trust?
(Place answer here)

LIFE INSURANCE POLICY OR ANNUITY CONTRACT

The following question applicable to your policy will be answered in writing. The answer will depend upon the terms and conditions of the individual's policy and/or preneed contract.

– If I die during the period of time when my insurance policy only guarantees to pay back my premiums plus the interest, will that amount be considered payment in full for my preneed contract?
(Place answer here)

CLAIMS AGAINST THIS CONTRACT

– Can someone to whom I owe money make a claim against the money, personal property, or real estate that I have used to pay for this contract?

No. This money or property cannot be used to settle a debt, a bankruptcy, or resolve a claim. These funds cannot be garnished.

– Can the money or property be taxed?

No. Currently, interest earned on the money you deposit in a trust, savings account, or the value of the property you used for payment can be taxed but not the original amount which you invested. Interest earned on annuities is generally deferred until withdrawal.

GENERAL GOODS AND SERVICES

– If I choose goods and services that might not be available at the time of my death, what is the provider required to do?

Emergency Regulations

The funeral home which you selected is required to furnish supplies and services that are similar in style and equal in value and quality if what you choose is no longer made or is not available at the time of your death. Your representative or next-of-kin will have the right to choose the supplies or services to be substituted. However, if the substitute is more expensive than the item originally selected by you, your designee or next-of-kin would be responsible for paying the difference. Under no circumstances will the funeral establishment be allowed to substitute lesser goods and services than the ones you chose.

If, before your death, the funeral home were to go out of business or were otherwise unable to fulfill their obligation to you under the preneed contract, you have the right to use the proceeds at the funeral home of your choice.

If the inability to provide services does not become apparent until the time of your death, the individual that you named as your designee could use the funds for services at another funeral home.

– May I choose the exact item I want now and have the funeral home store it until my death?

If the funeral home or supplier has a storage policy you may ask for this service. If the funeral home or preneed arranger agrees to store these items, the risk of loss or damage shall be upon the funeral home during the storage period.

For example, what would happen if you select a casket which is in-stock at the time you make these arrangements and the funeral home or supplier agrees to store it for you in their warehouse and: (1) damage occurs, (2) the funeral home or supplier goes out of business (3) the funeral home or supplier is sold, etc? You need to be assured in writing of protection in these types of situations.

– What happens if I choose to have a unique service that is not customary or routine in my community? Must the funeral home comply with my wishes?

The funeral home which you have chosen to conduct your service may be able to only provide certain types of services. They may not be able to fulfill your request. If there is a restriction on what they can provide, you will be notified in writing before you sign the preneed contract.

If the funeral home agrees in writing before you sign the contract to perform such services, the funeral home shall provide you a written, itemized statement of penalties (fees) which you will be charged.

– Will the funeral home agree to transport my body to another area for burial?

Again, the funeral home may have restrictions on the distance they are willing to travel to conduct a burial. If restrictions apply, you will be notified in writing.

If the funeral home agrees in writing before you sign the contract to honor your wishes, the funeral home shall provide you a written, itemized statement of any penalties (fees) which you will be charged.

– I may die and be buried in a city other than one where the funeral home that I select for my goods and services is located. Will the funeral home that I select under this contract deliver my merchandise to the city where I die and am to be buried?

This is entirely up to the funeral home to decide. If the funeral home has restrictions on this, they will notify you in writing. If they agree to ship merchandise to another area for your funeral, you will be notified before signing this contract of the penalties (fees) involved if they can be determined and guaranteed at this time.

However, the preneed contract arrangements and funding may be considered portable. This means that they are usually available for transfer from one locality to another. It is unusual for actual goods and merchandise to be transferred.

PRICING

– How will I know that the prices of items which I select are the same for everyone?

The funeral home maintains a general price list and a casket and outer burial container price list. Your preneed arranger will give this to you before you begin talking about arrangements. After your discussion is finished, you will be given a copy of your preneed contract on which charges will be listed. Charges will only be made for the items you select. If there are any legal or other requirements that mandate that you must buy any items you did not specifically ask for, the preneed arranger will explain the reason for the charges to you in writing.

You may ask a funeral home to purchase certain items or make special arrangements for you. If the funeral home charges you for these services, you will receive an explanation in writing. The charges to you for these services may be higher than if you or your family purchased them directly.

At the time of your death, your family or estate will be given an itemized statement which will list all of the specific charges. This is a requirement of the Federal Trade Commission. Although not required to do so, some funeral homes may also choose to give you an itemized statement when you make these arrangements.

– What is meant by guaranteed and non-guaranteed prices?

Emergency Regulations

Some preneed arrangers may agree that certain prices are guaranteed. Some may guarantee the price of the total package. Other funeral homes may not guarantee any prices.

Guaranteed prices are those that will not increase for your family or estate at the time of your death. Basically, this means that your funeral arrangement for those items will be covered by and will not exceed your funding and the interest it earns. Non-guaranteed prices are those which might increase or decrease. The non-guaranteed prices may be written in at the time of this contract with your understanding that the price is an estimate only and may increase or decrease. A settlement to that effect may have to be made with your family or representative after your death.

- Can the preneed arranger and I negotiate a projected charge for the non-guaranteed items based on the rate of inflation?

It is entirely up to the preneed arranger to inform you of the funeral home policy in that regard.

CASKETS AND CONTAINERS

- Do I have to buy a vault or a container to surround the casket in the grave?

In most areas of the country, state and local laws do not require that you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container to support the earth above the grave. Either a burial vault or a grave liner will satisfy if such requirements exist.

- Is a casket required?

A casket is not required for direct cremation. If you want to arrange a direct cremation, you may use an unfinished wood box or an alternative container made of heavy cardboard or composition materials. You may choose a canvas pouch.

- Do certain cemeteries and crematoriums have special requirements?

Particular cemeteries and crematoriums may have policies requiring that certain goods and services be purchased. If you decide not to purchase goods and services required by a particular cemetery or crematorium, you have the right to select another location that has no such policy.

EMBLAMING

- Is emblaming always required?

Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements such as viewing

or visitation with an open casket. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If the funeral home must charge to conduct an embalming, your designee will be notified of the reasons in writing.

ASSISTANCE

- This is all very confusing to me. May I pick someone close to me to help with all of this? May this person also work with the funeral home to ensure that my wishes as written in the preneed contract are carried out?

You may designate in writing a person of your choice to work with the funeral home and preneed arranger either before or after your death to ensure that your wishes are fulfilled. You must sign the statement and have it notarized. The person that you designate must agree to this in writing. Under the laws governing preneed contracts, the individual whom you designate has final authority at the time of your death.

- Where can I complain if I have a problem concerning my preneed contract, the preneed arranger, or the funeral home?

You may direct your complaints or concerns to:

The Board of Funeral Directors and Embalmers
Department of Health Professions
1601 Rolling Hills Drive, Suite 200
Richmond, Virginia 23229-5005
Telephone Number (804) 662-9941
Toll Free Number 1-800-533-1560

§ 1.4. All information on a preneed contract shall be printed in an Helvetica type-style not smaller than 10 points.

§ 1.5. Prior to use, contracts or disclosures which are not identical in format, wording, and content to those prescribed in §§ 1.1, 1.2, and 1.3 must be submitted to the Board of Funeral Directors and Embalmers for determination of compliance with § 54.1-2820 of the Code of Virginia and these provisions.

§ 1.6. Contracts or disclosure forms described in § 1.5 must be received in the Board office no later than 10 days prior to a regularly scheduled meeting of the Board to be considered for approval by the Board at that meeting.

§ 1.7. The Board will approve for use alternative contracts or disclosure statements that comply with minimum content requirements of § 54.1-2820 of the Code of Virginia, simplicity of language requirements and these provisions.

I

Emergency Regulations

DEPARTMENT OF PERSONNEL AND TRAINING

Title of Regulation: VR 525-01-01. Guidelines for Public Participation in Regulation Development and Promulgation.

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

Effective Dates: November 30, 1989 through November 29, 1990

Preface:

The Department of Personnel and Training (DPT) is responsible for implementing a statewide health benefits program for local governments, school boards and Constitutional officers. The program was established pursuant to House Bill 1116 which was passed by the 1989 General Assembly. The program must be implemented by July 1, 1990.

As required by the provisions of HB 1116, DPT must promulgate program regulations. Draft regulations are ready to publish for public comment. However, because DPT has not needed to issue regulations through the Administrative Process Act (APA) before, the agency has not established Public Participation Guidelines.

In order to meet the July 1 deadline, the regulations must be published for public comment beginning in December. Therefore, emergency action is requested for processing the attached DPT Public Participation Guidelines through the APA.

VR 525-01-01. Guidelines for Public Participation in Regulation Development and Promulgation.

A. Generally.

In developing any regulation which it proposes, the Department of Personnel and Training ("department") is committed to soliciting input and comment from interested parties (individuals, associations, organizations, and appropriate advisory councils and committees). Such input and participation shall be actively solicited by the department.

Any interested party that wants to participate in the regulation development process should immediately notify the department in writing. Such notification of interest should be sent to Legislative Liaison, Director's Office, Department of Personnel and Training, 101 North 14th Street, Richmond, Virginia 23219.

B. Identification of Needed Regulations.

1. Anyone may identify the need for a new regulation or for an amendment, or addition to, or a repeal of any existing regulation. The request for a new

regulation or suggested change to a current regulation should be made in writing and addressed to: Legislative Liaison, Director's Office, Department of Personnel and Training, 101 North 14th Street, Richmond, Virginia 23219.

2. The Department, in its discretion, may consider any regulatory request or change.

C. Identification of Interested Parties.

Prior to the development of any regulation, the Department shall identify interested parties. The methods for identifying interested parties shall include but may not be limited to the following:

Brief all department advisory councils and committees on the proposal to determine if they or the various groups and interests they represent would want to participate in the regulation development process.

Utilize recent department subject matter files to identify interested parties which have previously raised questions or expressed an interest in the subject matter under consideration through requests for information, during previous meetings or through other means.

Utilize a standing list, compiled by the department, of interested parties which have previously participated in public proceedings relative to similar subject matters or who have expressed an interest in all department regulations.

D. Notification of Interested Parties.

1. Generally: When the department, in its sole discretion, believes it has been unable to identify interested parties as stated in section B, the department shall prepare a Notice of Intent to Develop Regulation ("Notice") prior to the development of any regulation. The department's rationale for preparing or declining to prepare the Notice shall be stated in writing. If prepared, the Notice, as defined in the regulations governing the Virginia Register, shall identify the subject matter and purpose for the development of the new regulation(s) and shall specify a time deadline for receipt of responses from persons interested in participating in the development process.

2. Dissemination of Notice: The methods for disseminating the Notice to the public shall include, but may not be limited to the following:

a. Send Notice to all persons identified (pursuant to section B above) as having a potential interest in the regulation.

b. Publish Notice in at least three major newspapers which circulate in Virginia;

c. *Publish Notice in Virginia Register.*

3. *Other Means of Notification:* Should the department determine that such Notice is not required, the department shall communicate with interested parties by means of meetings, briefings, letters, draft position papers and any other appropriate means.

E. *Public Participation.*

1. *Regulation Development.*

a. *Initial Comment:* The department will analyze the level of interest in participating in the regulation development process. If sufficient level exists, the department may schedule informal meetings prior to the development of any regulation to determine the specific areas of interest and to gather factual information relative to the subject matter of the regulation. Alternatively, the department may elect to request that interested parties make written submittals of comments, concerns and suggestions relative to the proposed regulations. The department may decide that the Notice resulted in receipt of enough information so that it can develop the regulation without an informal meeting or additional comments.

b. *Preparation of Working Draft:* Subsequent to the initial public input on the development of any regulation, the department shall develop a Working Draft of the proposed regulation. In certain instances, the department may request a designee to develop the Working Draft. Upon request, a copy of this draft will be furnished to those parties which indicated an interest in the regulation or responded to the Notice and to those persons participating in the initial comment phase of the development process. Persons to whom a copy of the Working Draft is furnished will be invited to submit written comments on the Draft. If the response warrants, additional informal meetings may be held to discuss the Draft.

2. *Submission of Regulation under the Administrative Process Act.*

Upon conclusion of the development process, the department shall prepare the regulation for submission to the Registrar of Regulations under the Administrative Process Act ("APA"). Upon request, the department shall furnish to all persons identified as having a potential interest in the subject matter, a copy of the regulation as submitted to the Registrar together with a copy of the General Public Notice of Informational Proceeding. A cover letter accompanying these documents shall explain the deadlines for submitting formal public comments under the APA. If public comment will be restricted to written submittals, the date and place to which submittals must be made shall be clearly specified. If

determined to be of significant value to the department, public proceeding(s) may be conducted. If a public proceeding is to be held, the date, time and place shall be clearly specified. Additionally, the cover letter shall identify the date by which persons must notify the department, if they wish to participate in the proceeding. Persons who will participate will be encouraged to submit written copies of their comments in advance or at the public proceeding in order to ensure that all comments are accurately reflected in the formal transcript of the proceeding.

3. *Adoption Period.*

Upon issuing an order adopting a regulation, the department, at its discretion, may summarize its response to comments made during the public proceeding or written submittal period for interested parties.

4. *Publication of Final Regulation.*

When any regulation is published, the department shall print and distribute such regulation. The distribution of any regulation shall be made with a goal of increasing the knowledge, understanding and compliance of those persons affected by the regulation.

/s/ Karen F. Washabau, Acting Director
Department of Personnel and Training
Date: November 28, 1989

/s/ The Honorable Carolyn J. Moss
Secretary of Administration
Date: November 28, 1989

/s/ Gerald L. Baliles
Governor of Virginia
Date: November 30, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: November 30, 1989

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

November 8, 1989

Administrative Letter 1989 - 11

Any questions you have concerning this matter should be communicated to the Bureau in writing.

/s/ Steven T. Foster
Commissioner of Insurance

TO: All Companies Licensed to Write Liability Other Than Automobile Insurance In Virginia.

RE: Reporting Of Medical Malpractice Claims Pursuant to Virginia Code Section 38.2-2228

Effective July 1, 1989, § 38.2-2228 of the Code of Virginia was amended to require that all medical malpractice claims opened, settled, or adjudicated to final judgment against a person, corporation, firm, or entity providing health care and any such claim closed without payment during each calendar year shall be reported annually to the Commissioner of Insurance. These claims must be reported by the insurer of the health care provider or, if there is no insurer, by the health care provider. The reports shall not identify the parties.

The report shall include a statistical summary of the information collected in addition to an individual report on each claim. Each statistical summary and each individual closed claim report shall be a matter of public record. Individual open claim reports are not public records.

We are enclosing two revised forms, which should be reproduced, for use by each company. Beginning July 1, 1989, revised form VMM2 (10/89) must be completed for each individual medical malpractice claim opened, settled, or adjudicated to final judgment or closed without payment. Revised form VMM1 (10/89) is the statistical summary report to be completed by each company aggregating the information from the VMM2 (10/89) individual reports. VMM2 (10/89) now has a Provider Specialty Code List on the back of the form which should be used for question number 4.

All claims reported to or closed by the company on or after July 1, 1989 should be reported to the Bureau on the new form VMM2 (10/89).

All claims closed by the company before July 1, 1989 should be reported to the Commission on the old form VMM2 (11/85). For calendar year 1989, the statistical summary report, VMM1 (10/89), should include all claims reported on the old form and the new form. These should be received by the Commission no later than March 1, 1990. Subsequent reports should be on a calendar year basis and received by the Bureau of Insurance no later than March 1 of each ensuing year.

Please include the company's NAIC number in the space provided on each form. Do not use group numbers. Also please separate the individual closed claim reports from the individual open claim reports.

SUMMARY REPORT OF VIRGINIA MEDICAL MALPRACTICE CLAIMS
PURSUANT TO SECTION 38.2-2228

TO: COMMISSIONER OF INSURANCE
COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
BOX 1157
RICHMOND, VIRGINIA 23209

DATE: _____
INSURER: _____
ADDRESS: _____

NAIC #: _____
(NO GROUP #'S)

SUMMARY REPORT FOR CALENDAR YEAR : _____

1. a. Total number of OPEN claims as of 12/31 of the current report year. _____
- b. Total amount of damages asserted on these claims. \$ _____
- c. Total amount of attorney's fees and expenses reserved as of 12/31 for these claims. \$ _____
- d. Total amount of indemnity reserves valued as of 12/31 for these claims. \$ _____
- e. Total amount of attorney's fees and expenses paid as of 12/31 for these claims. \$ _____
- f. Total amount of indemnity paid as of 12/31 for these claims. \$ _____
2. a. Total number of claims CLOSED WITH INDEMNITY PAYMENT. _____
- b. Total amount of damages asserted on these claims. \$ _____
- c. Total amount of settlements and judgements for these claims. \$ _____
- d. If different from 2(c), total amount of indemnity losses paid on these claims. \$ _____
- e. Total amount of attorney's fees and expenses paid on these claims. \$ _____
3. a. Total number of claims CLOSED WITHOUT INDEMNITY PAYMENT. _____
- b. Total amount of damages asserted on these claims. \$ _____
- c. Total amount of attorney's fees and expenses paid on these claims. \$ _____

REPORT SUBMITTED BY: _____
Signed: _____
Print Name: _____
Title: _____
Phone No. : () _____

VMM1 (10/89)

INDIVIDUAL REPORT OF VIRGINIA MEDICAL MALPRACTICE CLAIMS
PURSUANT TO SECTION 38.2-2228

TO: COMMISSIONER OF INSURANCE
COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
BOX 1157
RICHMOND, VIRGINIA 23209

DATE: _____
INSURER: _____
ADDRESS: _____

STATUS OF CLAIM: _____
(OPEN/CLOSED)
STATUS OF REPORT: _____
FIRST REPORT
REVISION OF PREVIOUS REPORT
NAIC #: _____
(NO GROUP #'S)

COMPANY CLAIM FILE NUMBER: _____

1. NATURE OF CLAIM: _____

2. DOLLAR AMOUNT OF DAMAGES ASSERTED AND ALLEGED INJURY: _____

3. PRINCIPAL MEDICAL AND LEGAL ISSUES: _____

4. SPECIALTY CODE OF HEALTH CARE PROVIDER: (USE LIST ON BACK): _____
5. DATE REPORTED TO COMPANY: _____ 6. DATE LOSS OCCURRED: _____
7. DATE THE INITIAL RESERVE WAS ESTABLISHED: _____
8. AMOUNT OF INITIAL RESERVE: INDEMNITY _____ ATTORNEY'S FEES & CLAIM EXPENSE _____
9. RESERVE VALUED AS OF 12/31 OF THE CURRENT REPORT YEAR:
INDEMNITY: _____ ATTORNEY'S FEES & CLAIM EXPENSE: _____
10. CUMULATIVE PAYMENTS VALUED AS OF 12/31 OF THE CURRENT REPORT YEAR:
INDEMNITY: _____ ATTORNEY'S FEES & CLAIM EXPENSE: _____
11. IF THE CLAIM IS CLOSED, DATE CLAIM WAS CLOSED: _____
THE AMOUNT OF SETTLEMENT OR JUDGEMENT AWARDED TO THE CLAIMANT: _____
THE AMOUNT OF INDEMNITY LOSS THE INSURER HAS PAID IF DIFFERENT FROM THE SETTLEMENT OR JUDGEMENT AWARDED TO CLAIMANT: _____

VMM2 (10/89)

PROVIDER SPECIALTY CODE LIST

050	Aerospace Medicine	015	Ophthalmologist
001	Allergist	068	Optician
002	Anesthesiologist	034	Optometrist
055	Broncho-Esophagologist	057	Oral Surgeon
003	Cardiologist	058	Orthodontist
128	Cardiovascular Surgeon	528	Orthopedic Surgeon
041	Chiropractor	033	Orthopedist
064	Clinic	047	Osteopathic Medicine
228	Colon and Rectal Surgeon	016	Otologist
059	Dental Student	017	Otorhinolaryngologist
030	Dentist	018	Pathologist
004	Dermatologist	019	Pediatrician
052	Diabetes Specialist	060	Periodontist
005	Emergency Room Physician	031	Pharmacist
006	Endocrinologist	020	Pharmacologist
007	Family or General Practitioner	039	Phlebotomist
107	Family Practitioner (Claim Involves OB/GYN Care)	044	Physical Medicine and Rehabilitation Specialist
053	Forensic Medicine	021	Physical Therapist
008	Gastroenterologist	728	Plastic Surgeon
328	General Surgeon	032	Podiatrist
042	Geriatrician	072	Preventive Medicine
070	Group Practice	069	Psychiatric Institution
009	Gynecologist/Obstetrician	022	Psychiatrist
010	Hematologist	036	Psychologist
029	Hospital	073	Public Health
071	Immunology	023	Pulmonary Disease Specialist
048	Infectious Disease Specialist	024	Radiologist
011	Internist	037	Resident, Intern, or Medical Student
012	Laryngologist	025	Rheumatologist
054	Legal Medicine	026	Rhinologist
066	Medical Facility Not Otherwise Specified	028	Surgeon not otherwise specified
051	Medical Technician/Laboratory	828	Thoracic Surgeon
049	Neoplastic Disease Specialist	067	Urological Surgeon
013	Nephrologist	027	Urologist
428	Neurological Surgeon	043	Other (not specified above)
014	Neurologist		
046	Nuclear Medicine		
035	Nurse		
061	Nurse Anesthetist		
062	Nurse Midwife		
063	Nurse Practitioner		
065	Nursing Home		
040	Nursing Student		
056	Nutritionist		
628	OB/GYN Surgeon		
045	Occupational Medicine		
038	Oncologist		

STATE LOTTERY DEPARTMENT

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-01-2. Administration Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: January 17, 1990

Summary:

The Administration Regulations establish the general operational parameters for the department and board. They include industry-related definitions, requirements for approval of banks and depositories, board procedures for the conduct of business and promulgation of regulations, procedures for appeals on licensing actions, standards for agency procurement action, and procedures for procurement appeals and disputes.

These final regulations have been revised to incorporate an amendment to § 4.8, "Procedures for small purchases." This regulation will conform to the new provisions of the Public Procurement Act and will be consistent with the Governor's comments.

VR 447-01-2. Administration Regulations.

PART I. GENERAL PARAMETERS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Award" means a decision to contract with a specific vendor for a specific contract.

"Bank" means and includes any commercial bank, savings bank, savings and loan association, credit union, trust company, and any other type or form of banking institution organized under the authority of the Commonwealth of Virginia or of the United States of America whose principal place of business is within the Commonwealth of Virginia and which is designated by the State Treasurer to perform functions, activities or services in connection with the operations of the lottery for the deposit and handling of lottery funds, the accounting of those funds and the safekeeping of records.

"Bearer instrument" means a lottery ticket which has not been signed by or on behalf of a person or a legal entity. Any prize won on an unsigned ticket is payable to the holder, or bearer, of that ticket.

"Bid" means a competitively priced offer made by an intended seller, usually in reply to an invitation for bids.

"Bid bond" means an insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event a specific bidder fails to accept the contract as bid.

"Board" means the State Lottery Board established by the state lottery law.

"Book," "ticket book," or "pack" generally means a set quantity of individually wrapped unbroken, consecutively numbered, fanfolded instant game tickets which all bear an identical book or pack number which is unique to that book or pack among all the tickets printed for a particular game.

"Competitive bidding" means the offer of firm bids by individuals or firms competing for a contract, privilege, or right to supply specified services or goods.

"Competitive negotiation" means a method for purchasing goods and services, usually of a highly complex and technical nature where qualified individuals or firms are solicited by using a Request For Proposal. Discussions are held with selected vendors and the best offer, as judged against criteria contained in the Request For Proposal, is accepted.

"Consideration" means something of value given for a promise to make the promise binding. It is one of the essentials of a legal contract.

"Contract" means an agreement, enforceable by law, between two or more competent parties. It includes any type of agreement or order for the procurement of goods or services.

"Department" means the State Lottery Department created by the state lottery law.

"Depository" means any person, including a bonded courier service, armored car service, bank, central or regional offices of the department, or state agency, which performs any or all of the following activities or services for the lottery:

1. The safekeeping and distribution of tickets to retailers,
2. The handling of lottery funds,
3. The deposit of lottery funds, or
4. The accounting for lottery funds.

"Director" means the Director of the State Lottery Department or his designee.

"Electronic funds transfer (EFT)" means a computerized transaction that withdraws or deposits money against a bank account on a set day based on the balance owed by the bank account holder to the lottery department or due

State Lottery Department

to the bank account holder from the lottery department.

"Erroneous ticket" means an instant lottery ticket which has been forged, counterfeited or altered.

"Game" means any individual or particular type of lottery authorized by the board.

"Goods" means any material, equipment, supplies, printing, and automated data processing hardware and software.

"Household" means members of a group who live together as a family unit. It includes, but is not limited to, members who may be claimed as dependents for income tax purposes.

"Informalities" means defects or variations of a bid from the exact requirements of the Invitation for Bid which do not affect the price, quality, quantity, or delivery schedule for the goods or services being purchased.

"Instant game" means a game that uses preprinted tickets with a latex covering over a portion of the ticket. The covering is scratched off by the player to reveal immediately whether the player has won a prize or entry into a prize drawing.

"Instant ticket" means a ticket for an instant game.

"Invitation for Bids (IFB)" means a document used to solicit bids for buying goods or services. It contains or references the specifications or scope of work and all contractual terms and conditions.

"Kickbacks" means gifts, favors or payments to improperly influence procurement decisions.

"Legal entity" means an entity, other than a natural person, which has sufficient existence in legal contemplation that it can function legally, sue or be sued and make decisions through agents, as in the case of a corporation.

"License approval notice" means the form sent to the retailer by the lottery department notifying him that his application for a license has been approved and giving him instructions for obtaining the required surety bond and setting up his lottery bank account.

"Lottery" or *"state lottery"* means the lottery or lotteries established and operated in response to the provisions of the state lottery law.

"Lottery retailer" or *"lottery sales retailer"* or *"retailer"* means a person licensed by the director to sell and dispense lottery tickets, materials or lottery games for instant or on-line lottery games, or both.

"Lottery license" or *"retailer license"* means the official document issued by the department to a person

authorizing him to sell or dispense lottery tickets, materials or lottery games at a specified location in accordance with all regulations, terms and conditions, and instructions and directives issued by the board and the director.

"Low-tier winner" or *"low-tier winning ticket"* means an instant game ticket which carries a cash prize of \$25 or less or a prize of additional unplayed instant tickets.

"Negotiation" means a bargaining process between two or more parties, each with its own viewpoints and objectives, seeking to reach a mutually satisfactory agreement on, or settlement of, a matter of common concern.

"Notice of Award" means a written notification to a vendor stating that the vendor has received a contract with the department.

"Notice of Intent to Award" means a written notice which is publicly displayed, prior to signing of a contract, that shows the selection of a vendor for a contract.

"Pack" means the same thing as "book."

"Performance bond" means a contract of guarantee executed in the full sum of the contract amount subsequent to award by a successful bidder to protect the department from loss due to his inability to complete the contract in accordance with its terms and conditions.

"Person" means a natural person and may extend and be applied to bodies politic and corporate unless the context indicates otherwise.

"Prize" means any cash or noncash award to holders of winning tickets.

"Procurement" means the procedures for obtaining goods or services. It includes all activities from the planning steps and preparation and processing of a request through the processing of a final invoice for payment.

"Protest" means a complaint about an administrative action or decision brought by a vendor to the department with the intention of receiving a remedial result.

"Request for Information (RFI)" means a document used to get information from the general public or potential vendors on a good or service. The department may act upon the information received to enter into a contract without issuing an IFB or an RFP.

"Request for Proposals (RFP)" means a document used to solicit offers from vendors for buying goods or services. It permits negotiation with vendors (to include prices) as compared to competitive bidding used in the invitation for bids.

"Responsible vendor" means a person or firm who has

the capability in all respects to fully satisfy the requirements of a contract as well as the business integrity and reliability to assure good faith performance. In determining a responsible vendor, a number of factors including but not limited to the following are considered. The vendor should:

1. Be a regular dealer or supplier of the goods or services offered;
2. Have the ability to comply with the required delivery or performance schedule, taking into consideration other business commitments;
3. Have a satisfactory record of performance; and
4. Have the necessary facilities, organization, experience, technical skills, and financial resources to fulfill the terms of the contract.

"Sales," "gross sales," "annual sales" and similar terms mean total ticket sales including any discount allowed to a retailer for his commission and, in the case of instant game sales, any discount or adjustment allowed for the retailer's payment of prizes of less than \$600.

"Services" means any work performed by a vendor where the work is primarily labor or duties and is other than providing equipment, materials, supplies or printing.

"Sole source" means a product or service which is practicable.

"Solicitation" means an Invitation for Bids (IFB), a Request for Proposals (RFP), a Request for Information (RFI) or any other document issued by the department or telephone calls by the department to obtain bids or proposals or information for the purpose of entering into a contract.

"Surety bond" means an insurance agreement in which a third party agrees to be liable to pay a specified amount of money to the department in the event the retailer fails to meet his obligations to the department.

"Ticket number" means the preprinted unique number or combination of letters and numbers which identifies that particular ticket as one of a series of tickets.

"Validation code" means the multi-letter or multi-number code which appears among the play symbols under the latex covering on an instant ticket. The validation code is used to verify prize winning tickets.

"Validation number" means the unique number or number-and-letter code printed on the front of an instant ticket sometimes under a latex covering bearing the words "Do not remove," "Void if removed" or similarly worded label.

"Vendor" means one who can sell, supply or install

goods or services for the department.

§ 1.2. Generally.

The purpose of the state lottery is to produce revenue consistent with the integrity of the Commonwealth and the general welfare of its people. The operations of the State Lottery Board and the State Lottery Department will be conducted efficiently, honestly and economically.

§ 1.3. State Lottery Board.

A. Monthly meetings.

The board will hold monthly public meetings to receive information and recommendations from the director on the operation and administration of the lottery and to take official action. It may also request information from the public. The board may have additional meetings as needed. (See Part III, Board Procedures.)

B. Inspection of department records.

At the board's request, the department shall produce for review and inspection the department's books, records, files and other information and documents.

§ 1.4. Director.

The director shall administer the operations of the State Lottery Department following the authority of the Code of Virginia and these regulations.

§ 1.5. Ineligible players of the lottery.

Board members, officers or employees of the lottery, or any board member, officer or employee of any vendor to the lottery of lottery on-line or instant ticket goods or services working directly with the department on a contract for such goods or services, or any person residing in the same household as any such board member, officer or employee may not purchase tickets or receive prizes of the lottery.

§ 1.6. Advertising.

A. Generally.

Advertising may include but is not limited to print advertisements, radio and television advertisements, billboards, point of purchase and point of sale display materials. The department will not use funds for advertising which is for the primary purpose of inducing people to play the lottery.

B. Lottery retailer advertising.

Any lottery retailer may use his own advertising materials if the department has approved its use in writing before it is shown to the public. The department shall develop written guidelines for giving such approval.

State Lottery Department

C. The department may provide information displays or other material to the retailer. The retailer shall position the material so it can be seen easily by the general public.

D. The department may produce special posters, brochures or flyers describing various aspects of the lottery and provide these to lottery retailers to post or distribute.

E. The department may use interviews, pictures or statements from people who have won lottery prizes to show that prizes are won and awarded; however, in no case shall the use of interviews, pictures or statements be for the primary purpose of inducing persons to participate in the lottery.

F. The department may use other informational and advertising items which may include any materials deemed appropriate advertising, informational, and educational media which are not for the primary purpose of inducing people to play the lottery.

§ 1.7. Operations of the department.

A. Generally.

The department shall be operated in a manner which considers the needs of the Commonwealth, the public-at-large, the convenience of the ticket purchasers, and winners of lottery prizes.

B. Employment.

The department shall hire people without regard to race, sex, color, national origin, religion, age, handicap, or political affiliation.

1. All employees shall be recruited and selected in a manner consistent with the policies which apply to classified positions.

2. Sales and marketing employees are exempt from the Virginia Personnel Act.

C. Internal operations.

The department will operate under the internal administrative, accounting and financial controls specifically developed for the State Lottery Department under the applicable policies required by the Departments of Accounts, Planning and Budget, Treasury, State Internal Auditor and by the Auditor of Public Accounts.

1. Internal operations include, but are not limited to, ticket controls, money receipts and payouts, payroll and leave, budgeting, accounting, revenue forecasting, purchasing and leasing, petty cash, bank account reconciliation and fiscal report preparation.

2. Internal operations apply to automated and manual

systems.

D. External operations.

The department will conduct business with the public, lottery retailers, vendors and others with integrity and honesty.

E. Apportionment of lottery revenue.

Moneys received from lottery sales will be divided approximately as follows:

50 percent	Prizes
45 percent	State Lottery Fund Account (On and after July 1, 1989, administrative costs of the lottery shall not exceed 10 percent of gross sales.)
5 percent	Lottery retailer discounts

F. State Lottery Fund Account.

The State Lottery Fund will be established as an account in the Commonwealth's accounting system. The account will be established following usual procedures and will be under regulations and controls as other state accounts. Prior to the start of the first lottery game, the account will be funded from the proceeds of a Department of Treasury loan or loans (treasury loan). Thereafter, funding will be from gross sales.

1. Within the State Lottery Fund, there shall be established a "Special Reserve Fund" which shall contain the following subaccounts:

a. An "Operations Special Reserve Fund" subaccount for administrative and operations costs will be created in the State Lottery Fund account. At all times on and after July 1, 1989, the amount of the Operations Special Reserve Fund will be not less than 2.5% of the total annual estimated gross lottery revenue to be generated from sales. Commencing with lottery operations, but prior to initial sales, all funds derived from the start-up treasury loan(s) shall be deposited to the Operations Special Reserve Fund. Except as otherwise provided in these regulations, start-up treasury loan fund balances shall remain in the Operations Special Reserve Fund until exhausted, until transferred to the Lottery Start-up Payback Special Reserve Fund or until 12 months after initial lottery sales at which time any fund balance from the start-up treasury loan(s) shall revert to the General Fund.

a. An "Operations Special Reserve Fund" subaccount for administrative and operations costs will be created in the State Lottery Fund account. On June 30, 1989, \$1 million dollars shall be transferred into the Operations Special Reserve

Fund. Thereafter, 1.7% of gross monthly revenues from sales shall be transferred to the Operations Special Reserve Fund until the Operations Special Reserve equals not less than 1.7% of estimated annual gross lottery revenues from sales. Commencing with lottery operations, but prior to initial sales, all funds derived from the start-up treasury loan(s) shall be deposited to the Operations Special Reserve Fund. Except as otherwise provided in these regulations, start-up treasury loan fund balances shall remain in the Operations Special Reserve Fund until exhausted, until transferred to the Lottery Start-up Payback Special Reserve Fund or until 12 months after initial lottery sales at which time any fund balance from the start-up treasury loan(s) shall revert to the General Fund.

b. A "Lottery Prize Special Reserve Fund" subaccount will be created in the State Lottery Fund account and will be used when lottery prize pay-outs exceed department cash on hand. Immediately prior to initial lottery sales, \$500,000 shall be transferred to the Lottery Prize Special Reserve Fund from start-up treasury loan funds in the State Lottery Fund. Thereafter, 5.0% of monthly gross sales shall be transferred to the Lottery Prize Special Reserve Fund until the amount of the Lottery Prize Special Reserve Fund reaches 5.0% of the gross lottery revenue from the previous year's annual sales or \$5 million dollars, whichever is less.

(1) The calculation of the 5.0% will be made for each instant or on-line game.

(2) The funding of this subaccount may be adjusted at any time by the board.

2. Until July 1, 1989, or when start-up funds are totally repaid, a special subaccount titled "Lottery Start-up Payback Special Reserve Fund" will be established to retire the start-up treasury loan(s).

a. Five percent of the state lottery fund balance, excluding funds derived from start-up treasury loan(s), at the beginning of each month will be placed in this subaccount. The director may increase this percentage when, in his judgment, sufficient funds remain in the State Lottery Fund to meet other needs and shall increase the percentage when necessary to retire the treasury loan(s) within the first 12 months from initial lottery sales.

b. The director may, at any time, direct the transfer from the State Lottery Fund balance to the "Lottery Start-up Payback Special Reserve Fund" of all or any portion of any funds derived from the start-up treasury loan(s) which, in his judgment are no longer required to fund lottery operations.

c. The director may, from time to time, direct the transfer of all or a portion of the Lottery Start-up

Payback Special Reserve Fund to the General Fund of the Treasury to retire all or a portion of the start-up treasury loan(s). The director shall ensure that the entire amount of the start-up treasury loan(s) is repaid within the first 12 months of lottery sales.

3. Other subaccounts may be established in the State Lottery Fund account as needed at the direction of the board upon the request of the director or the internal auditor with concurrence of the State Comptroller, State Treasurer and the Auditor of Public Accounts.

G. Administrative and operations costs.

Lottery expenses include, but are not limited to, ticket costs, vendor fees, consultant fees, advertising costs, salaries, rents, utilities, and telecommunications costs.

H. Audit of lottery revenues.

The cost of any audit shall be paid from the State Lottery Fund.

1. The Auditor of Public Accounts or his designee shall conduct a monthly post-audit of all accounts and transactions of the department. When, in the opinion of the Auditor of Public Accounts, monthly post-audits are no longer necessary to ensure the integrity of the lottery, the Auditor of Public Accounts shall notify the board in writing of his opinion and fix a schedule of less frequent post-audits. The schedule of post-audits may, in turn, be further adjusted by the same procedure to require either more or less frequent audits in the future.

2. Annually, the Auditor of Public Accounts shall conduct a fiscal and compliance audit of the department's accounts and transactions.

I. Other matters.

The board and director may address other matters not mentioned in these regulations which are needed or desired for the efficient and economical operation and administration of the lottery.

PART II. BANKS AND DEPOSITORIES.

§ 2.1. Approval of banks.

The State Treasurer, with the concurrence of the director, and in accordance with applicable Treasury directives, shall approve a bank or banks to provide services to the department.

A. A bank or banks shall serve as agents for electronic funds transfers between the department and lottery retailers as required by these regulations and by contracts

State Lottery Department

between the department, the State Treasury, retailers, and the banks.

B. In selecting the bank or banks to provide these services, the State Treasurer and the director shall consider quality of services offered, the ability of the banks to guarantee the safekeeping of department accounts and related materials, the cost of services provided and the sophistication of bank systems and products.

C. There shall be no limit on the number of banks approved under this section.

§ 2.2. Approval of depositories.

The director may contract with depositories to distribute lottery tickets and materials from the department's central warehouse to the department's regional offices and from the department to retailers, and to collect funds, lottery tickets and lottery materials from retailers.

§ 2.3. Compensation.

A. The contract between each bank or depository and the department shall fix the compensation for services rendered to the department.

B. Compensation of banks will be in the form of compensating balances, direct fees, or some combination of these methods, at the discretion of the department.

C. Depositories will be compensated based on vouchers for services rendered.

§ 2.4. Depository for transfer of tickets.

A. The department may designate one or more depositories to transfer lottery tickets, lottery materials, and related documents between the department and lottery retailers.

B. In instances where a retailer wishes delivery of tickets or other materials sooner than scheduled by a lottery depository, the retailer may use his own depository or transfer agent. However, use of a retailer's depository or transfer agency shall have the department's advance approval.

C. In determining whether to use depositories for transferring tickets, materials and documents between the department and lottery retailers, the department may consider any relevant factor including, but not limited to, cost, security, timeliness of delivery, marketing concerns, sales objectives and privatization of governmental services.

PART III. LOTTERY BOARD PROCEDURES.

Article 1. Board Procedures for the Conduct of Business.

§ 3.1. Officers of the board.

A. Chairman and vice-chairman.

The board shall have a chairman and a vice-chairman who shall be elected by the board members.

B. Term of officers.

The board will elect its officers annually at its January meeting to serve for the calendar year.

§ 3.2. Board meetings.

A. Monthly meetings.

The board will hold monthly public meetings to receive information and recommendations from the director on the operation and administration of the lottery and to take official action. The board may also request information from the public.

B. Special meetings.

The board may hold additional meetings as may be necessary to carry out its work. The chairman may call a special meeting at any time and shall call a special meeting when requested to do so by at least two board members or at the request of the director. Notice of special meetings shall be given to all board members at least two calendar days before the meeting. Written notice is preferred but telephonic notice may be accepted by any board member in lieu of written notice.

C. Quorum.

Three or more board members shall constitute a quorum for the conduct of business at both regular and special meetings of the board. A simple majority vote at a regular meeting is sufficient to take official action but official action at a special meeting requires three affirmative votes. The chairman is eligible to vote at all meetings.

D. Conflict of Interest.

If any board member determines that he has a conflict of interest or potential conflict relating to a matter to be considered, that board member shall not take part in such deliberations.

§ 3.3. Committees of the board.

A. Ad hoc committees.

The board chairman may at his discretion appoint such ad hoc committees as he deems necessary to assist the board in its work.

B. Purpose of committees.

State Lottery Department

An ad hoc committee may be established to advise the board on a matter referred to it or to act on a matter on behalf of the board if so designated.

1. A committee established to act on a matter on behalf of the board shall be composed entirely of board members and shall have at least three members.

a. Three members shall constitute a quorum.

b. Official action of such a committee shall require not fewer than three affirmative votes with each member including the chairman having one vote.

c. If a committee's vote results in an affirmative vote of only two members, the committee shall present a recommendation to the board and the board shall then take action on the matter.

2. A committee established to act in an advisory capacity to the board may include members of the general public. At least two members shall be board members and the chairman shall be a board member appointed by the board chairman.

a. A majority of the members appointed to an advisory committee constitutes a quorum.

b. Recommendations of an advisory committee may be adopted by a majority vote of those present and voting. The chairman of an advisory committee shall be eligible to vote on all recommendations.

c. All actions of advisory committees shall be presented to the board in the form of recommendations.

Article 2.

Procedures for Appeals on Licensing Actions.

§ 3.4. Hearings on denial, suspension or revocation of a retailer's license.

A. Generally.

An applicant who is denied a license or a retailer whose license is denied for renewal or is suspended or revoked may appeal the licensing decision and request a hearing on the licensing action.

B. Hearings to conform to Administrative Process Act provisions.

The conduct of license appeal hearings will conform to the provisions of Article 3 (§ 9-6.14:11 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia relating to Case Decisions.

1. An initial hearing consisting of an informal fact finding process will be conducted by the director in

private to attempt to resolve the issue to the satisfaction of the parties involved.

2. If an appeal is not resolved through the informal fact finding process, a formal hearing will be conducted by the board in public. The board will then issue its decision on the case.

3. Upon receipt of the board's decision on the case, the appellant may elect to pursue court action in accordance with the provisions of the Administrative Process Act (APA) relating to Court Review.

§ 3.5. Procedure for appealing a licensing decision.

A. Form for appeal.

Upon receiving a notice that (i) an application for or the renewal of a license has been denied by the director, or (ii) the director intends to or has already taken action to suspend or revoke a current license, the applicant or licensed retailer may appeal in writing for a hearing on the licensing action. The appeal shall be submitted within 30 days of receipt of the notice of the licensing action.

1. Receipt is presumed to have taken place not later than the third day following mailing of the notice to the last known address of the applicant or licensed retailer. If the third day falls upon a day on which mail is not delivered by the United States Postal Service, the notice is presumed to have been received on the next business day. The "last known address" means the address shown on the application of an applicant or licensed retailer.

2. The appeal will be timely if it bears a United States Postal Service postmark showing mailing on or before the 30th day prescribed in § 3.5.A.

B. Where to file appeal.

An appeal to be mailed shall be addressed to:

State Lottery Director
State Lottery Department
Post Office Box 4689
Richmond, Virginia 23220

An appeal to be hand delivered shall be delivered to:

State Lottery Director
State Lottery Department
Bookbindery Building
2201 West Broad Street
Richmond, Virginia 23220

1. An appeal delivered by hand will be timely only if received at the headquarters of the State Lottery Department within the time allowed by § 3.5.A.

2. Delivery to State Lottery Department regional

State Lottery Department

offices or to lottery sales personnel by hand or by mail is not effective.

3. The appellant assumes full responsibility for the method chosen to file the notice of appeal.

C. Content of appeal.

The appeal shall state:

1. The decision of the director which is being appealed;
2. The basis for the appeal;
3. The retailer's license number or the Retailer License Application Control Number; and
4. Any additional information the appellant may wish to include concerning the appeal.

§ 3.6. Procedures for conducting informal fact finding licensing hearings.

A. Director to conduct informal hearing.

The director will conduct an informal fact finding hearing with the appellant for the purpose of resolving the licensing action at issue.

B. Hearing date and notice.

The director will hold the hearing as soon as possible but not later than 30 days after the appeal is filed. A notice setting out the hearing date, time and location will be sent to the appellant at least 10 days before the day set for the hearing.

C. Place of hearings.

All informal hearings shall be held in Richmond, Virginia, unless the director decides otherwise.

D. Conduct of hearings.

The hearings shall be informal. They shall not be open to the public.

1. The hearings will be electronically recorded. The recordings will be kept until any time limits for any subsequent appeals have expired.
2. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the department. The transcript shall become part of the department's records.
3. The appellant may appear in person or may be represented by counsel to present his facts, argument or proof in the matter to be heard and may request

other parties to appear to present testimony.

4. The department will present its facts in the case and may request other parties to appear to present testimony.

5. Questions may be asked by any of the parties at any time during the presentation of information subject to the director's prerogative to regulate the order of presentation in a manner which serves the interest of fairly developing the factual background of the appeal.

6. The director may exclude information at any time which he believes is not germane or which repeats information already received.

7. The director shall declare the hearing completed when both parties have finished presenting their information.

E. Director to issue written decision.

Normally, the director shall issue his decision within 15 days after the conclusion of an informal hearing. However, for a hearing with a court reporter, the director shall issue his decision within 15 days after receipt of the transcript of the hearing. The decision will be in the form of a letter to the appellant summarizing the case and setting out his decision on the matter. The decision will be sent to the appellant by certified mail, return receipt requested.

F. Appeal to board for hearing.

After receiving the director's decision on the informal hearing, the appellant may elect to appeal to the board for a formal hearing on the licensing action. The appeal shall be:

1. Submitted in writing within 15 days of receipt of the director's decision on the informal hearing;
2. Mailed to:

Chairman, State Lottery Board
State Lottery Department
Post Office Box 4689
Richmond, Virginia 23220

OR

Hand delivered to:

Chairman, State Lottery Board
State Lottery Department
Bookbindery Building
2201 West Broad Street
Richmond, Virginia 23220

3. The same procedures in § 3.5 B for filing the

original notice of appeal govern the filing of the notice of appeal of the director's decision to the board.

4. The appeal shall state:

- a. The decision of the director which is being appealed;
- b. The basis for the appeal;
- c. The retailer's license number or the Retailer License Application Control Number; and
- d. Any additional information the appellant may wish to include concerning the appeal.

§ 3.7. Procedures for conducting formal licensing hearings.

A. Board to conduct formal hearing.

The board will conduct a formal hearing within 45 days of receipt of an appeal on a licensing action.

B. Number of board members hearing appeal.

Three or more members of the board are sufficient to hear an appeal. If the chairman of the board is not present, the members present shall choose one from among them to preside over the hearing.

C. Board chairman may designate an ad hoc committee to hear appeals.

The board chairman at his discretion may designate an ad hoc committee of the board to hear licensing appeals and act on its behalf. Such committee shall have at least three members who will hear the appeal on behalf of the board. If the chairman of the board is not present, the members of the ad hoc committee shall choose one from among them to preside over the hearing.

D. Conflict of interest.

If any board member determines that he has a conflict of interest or potential conflict, that board member shall not take part in the hearing. In the event of such a disqualification on a subcommittee, the board chairman shall appoint an ad hoc substitute for the hearing.

E. Notice, time and place of hearing.

A notice setting the hearing date, time and location will be sent to the appellant at least 10 days before the day set for the hearing. All hearings will be held in Richmond, Virginia, unless the board decides otherwise.

F. Conduct of hearings.

The hearings shall be conducted in accordance with the provisions of the Virginia Administrative Process Act

(APA). The hearings shall be open to the public.

1. The hearings will be electronically recorded and the recordings will be kept until any time limits for any subsequent court appeals have expired.

2. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the department. The transcript shall become part of the department's records.

3. The provisions of §§ 9-6.14:12 through 9-1.14:14 of the APA shall apply with respect to the rights and responsibilities of the appellant and of the department.

G. Board's decision.

Normally, the board will issue its written decision within 21 days of the conclusion of the hearing. However, for a hearing with a court reporter, the board will issue its written decision within 21 days of receipt of the transcript of the hearing.

1. A copy of the board's written decision will be sent to the appellant by certified mail, return receipt requested. The original written decision shall be retained in the department and become a part of the case file.

2. The written decision will contain:

a. A statement of the facts to be called "Findings of Facts";

b. A statement of conclusions to be called "Conclusions" and to include as much detail as the board feels is necessary to set out the reasons and basis for its decision; and

c. A statement, to be called "Decision and Order," which sets out the board's decision and order in the case.

H. Court review.

After receiving the board's decision on the case, the appellant may elect to pursue court review as provided for in the Administrative Process Act.

Article 3.

Procedures for Promulgating Regulations.

§ 3.8. Board procedures for promulgating regulations.

A. Generally.

Except for temporary regulations issued under the exemption provided by the Virginia Lottery Law, the board shall promulgate regulations, in consultation with the director, in accordance with the provisions of the

State Lottery Department

Administrative Process Act (Chapter 1.1:1 of Title 9 of the Code of Virginia).

1. The board will provide for a public participation process to be set out in "Guidelines for Public Participation in Regulation Development and Promulgation."

2. Public hearings may be held if the subject matter of a proposed regulation and the level of interest generated through the public participation process warrant them.

B. Temporary regulations.

Temporary regulations to be issued under the exemption provided by law will be adopted by the board at public meetings. The public may provide written comments on newly adopted temporary regulations. The board will consider these comments for later revisions to the regulations.

PART IV. PROCUREMENT.

§ 4.1. Procurement in general.

A. To promote the free enterprise system in Virginia, the State Lottery Department will purchase goods or services by obtaining competitive bids whenever possible. In its operations and to ensure efficiency, effectiveness and economy, the department will consider using goods and services offered by private enterprise.

B. The director may request other state agencies to review contracts before the department signs them.

C. The department may purchase goods or services which are under state term contracts established by the Department of General Services, Division of Purchases and Supply, when in the best interest of the State Lottery Department.

D. When time permits, the department may publish notice of procurement actions in "Virginia Business Opportunities."

§ 4.2. Exemption and restrictions.

A. Purchase of goods and services may be exempted from the competitive bidding procedure when the director determines in writing that the best interests of the Commonwealth will be served. An exemption may also be declared by the director when an immediate or emergency need exists for goods or services.

B. All purchases shall be made in compliance with the standards of ethics in § 5.19 of these regulations.

C. The department shall not take any procurement action which discriminates on the basis of the race,

religion, color, sex, or national origin of any vendor.

D. It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in state procurement activities. Towards that end, the State Lottery Department encourages these firms to compete and encourages nonminority firms to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities.

§ 4.3. Requests for information.

A. A Request for Information (RFI) may be used by the department to determine available sources for goods or services.

B. The RFI shall set out a description of the good or service needed, its purpose and the date by which the department needs the information.

C. The RFI may be mailed to interested parties or published by summary notice in general circulation newspapers or other publications.

1. Additional RFI's may be published for a good or a service, as determined on a case-by-case basis.

2. To help ensure competition, the department will ask for information from as many private sector vendors as it determines are necessary.

D. All costs of developing and presenting the information furnished will be paid for by the vendor.

E. The department shall have unlimited use of the information furnished in the reply to an RFI. The department accepts no responsibility for protection of the information furnished unless the vendor requests that proprietary information be protected in the manner prescribed by § 11-52 D of the Code of Virginia. The department shall have no further obligation to any vendor who furnishes information.

F. The department may, at its option, use the responses to the RFI as a basis for entering directly into negotiation with one or more vendors for the purpose of entering into a contract.

§ 4.4. Request for Proposals.

A. A written Request for Proposal (RFP) may be used by the department to describe in general terms the goods or services to be purchased. An RFP may result in a negotiated contract.

B. The RFP will set forth the due date and list the requirements to be used by the vendors in writing the proposal. It may contain other terms and conditions and

essential vendor characteristics.

C. The department shall publish or post a public notice of the RFP.

1. All solicitations shall be posted on a bulletin board at the State Lottery Department. The notice may also be: mailed to vendors who responded to a Request for Information; published in general circulation newspapers in areas where the contract will be performed; if time permits and at the option of the department, reported to the "Virginia Business Opportunities" at the Department of General Services, Division of Purchases and Supply; and given to any other interested vendor.

2. The department shall decide the method of giving public notice on a case-by-case basis. The decision will consider the means which will best serve competition in the private sector.

D. Public openings of the RFP's are not required. If the RFP's are opened in public, only the names of the vendors who submitted proposals will be available to the public.

E. The department will evaluate each vendor proposal.

1. The evaluation will consider the vendor's response to the factors in the RFP.

2. The evaluation will consider whether the vendor is qualified, responsive and responsible for the contract.

F. The department may conduct contract negotiations with one or more qualified vendors. The department may also determine, in its sole discretion, that only one vendor is fully qualified or that one vendor is clearly more highly qualified than the others and negotiate and award a contract to that vendor.

G. Award of RFP Contract.

1. The vendor selected shall be qualified and best suited on the basis of the proposal and contract negotiations.

2. Price will be considered but need not be the only determining factor.

3. The award document shall be a contract. It shall include requirements, terms and conditions of the RFP and the final contract terms agreed upon.

§ 4.5. Invitations for Bids.

A. A written Invitation for Bid (IFB) may be used by the department to describe in detail the specifications, contractual terms and conditions which apply to a purchase of goods or services.

B. The IFB will list special qualifications needed by a vendor. It will describe the contract requirements and set the due date for bid responses.

1. The IFB may contain inspection, testing, quality, and other terms essential to the contract.

2. It may contain other optional data.

C. Public notice of the IFB shall be given.

1. The IFB may be mailed to potential bidders. In addition, it may be published in summary form stating where a full copy may be obtained in general circulation newspapers in areas where the contract will be performed. The IFB shall be posted at the department's central office in a public area used to post purchase notices, and shall be given to any other interested vendor.

2. The publication of the IFB notice will consider the means which will best serve competition in the private sector.

D. Receiving IFB's.

1. Bids shall be received until the date and time set forth in the IFB.

2. Late bids shall not be considered.

E. Opening IFB's.

Bids shall be publicly opened and the following items shall be read aloud:

1. Name of bidder;

2. Unit or lot price, as applicable; and

3. Terms: discount terms offered, if applicable, and brand name and model number, if requested by attendees.

F. Evaluating IFB's.

The department shall evaluate each vendor bid.

1. The evaluation shall consider whether the bid responds to the factors in the IFB.

2. All bids which respond completely to the IFB shall be evaluated to determine which bid presents the lowest dollar price.

3. The vendor presenting the lowest price bid shall be evaluated to determine whether he is a responsible bidder.

G. Award of IFB contract.

State Lottery Department

The department shall award the contract to the lowest responsible bidder.

§ 4.6. Sole source contracts.

A. A sole source contract shall be made when there is only one source available for goods or services.

B. The director will state in writing for the file that only one source was determined to be available, the vendor selected, the goods or services contracted for and the date of the contract.

C. If the contract is over \$10,000, on the day the director awards the contract, he will post the written statement in a public area used to post purchase notices at the department's central office.

§ 4.7. Emergency purchase contract.

A. An emergency purchase contract shall be made when an unexpected, sudden, serious, or urgent situation demands immediate action.

B. The department will state in writing the nature of the emergency, the vendor selected, the goods or services contracted for and the date of the contract.

C. If the contract is over \$10,000, on the day the director awards the contract, he will post the written statement in a public area used to post purchase notices at the department's central office.

§ 4.8. Procedures for small purchases.

A. Generally.

Small purchases are those where the estimated one-time or annual contract for cost of goods or services does not exceed \$10,000 [~~\$ 25,000~~ \$15,000].

B. Price quotations.

Price quotations may be obtained through oral quotations in person or by telephone.

C. Written confirmation.

If the contract is \$2,000 or less, no written confirmation is needed. Written price confirmation from the vendor is needed for small purchases over \$2,000.

D. Except in the case of an emergency under § 4.7, the department will attempt to obtain at least three quotations.

E. In letting small purchase contracts, the department may consider factors in addition to price.

§ 4.9. Time to submit and accept RFI's, RFP's or IFB's.

A. All vendors shall submit requests for information,

proposals or bids in time to reach the department before the set time and due date.

1. All vendors shall take responsibility for their chosen method of delivery to the department.

2. The department will date stamp the vendors' answers to RFI's, RFP's and IFB's when received. The department's stamped date shall be considered the official date received.

3. Any information which the department did not request or is received after the due date may be disregarded or returned to the vendor.

4. All vendors who received solicitations will be notified of any changes in the process times and dates or if a solicitation is cancelled.

B. Any proposal or bid quotation submitted by a vendor to the department shall remain valid for at least 45 days after the submission due date and will remain in effect thereafter unless the bidder retracts his bid in writing at the end of that period. The vendor must agree to accept a contract if offered within the 45-day time period. The department may require a longer or shorter period for specific goods or services.

§ 4.10. Questions on bids.

Questions on contents of other bidders' bids or offerors' proposals will not be answered until after decisions are made.

§ 4.11. How to modify or withdraw proposals or bids.

A. A vendor may modify or withdraw a proposal or bid before the due time and date set out in the request without any formalities except that the modification or withdrawal shall be in writing.

B. A request to modify or withdraw a bid or proposal after the due date may be given special review by the director.

1. A vendor shall put in writing and deliver to the department a statement which details how the proposal would be modified or why it should be permitted to be withdrawn.

2. A proposal or bid may be withdrawn after opening if the director receives prompt notice and sufficient information to show that an honest error will cause undue financial loss.

§ 4.12. Rejection of bids.

The department reserves the right to reject any or all bids. The decision may be made that a vendor is ineligible, disqualified, not responsive or responsible, or involved in fraud, or that the best interest of the

Commonwealth will not be served. Vendors so identified shall be notified in writing by the department. New bids may be requested at a time which meets the needs of the department.

§ 4.13. Testing of product.

Various items or services may require testing either before or after the final award of a contract. The vendor shall guarantee price and quality before and after testing.

§ 4.14. Proposal bid or performance security.

A. The department may require performance security on proposals or bids. The security is to protect the interests of the Commonwealth.

1. When required, security must be in the form of a certified check, certificate of deposit or letter of credit made payable to the State Lottery Department, or on a form issued by a surety company authorized to do business in Virginia.

2. When required, security will not be waived.

B. Security provided by vendors to whom a contract is awarded will be kept by the department until all provisions of the contract have been completed.

§ 4.15. Assignment of contracts.

A vendor may not assign any contract to another party without permission of the director.

§ 4.16. Strikes, lockouts or acts of God.

Whenever a vendor's place of business, mode of delivery or source of supply has been disrupted by a strike, lockout or act of God, the vendor will promptly advise the department by telephone and in writing. The department may cancel all orders on file with the vendor and place an order with another vendor.

§ 4.17. Remedies for the department on goods and services which do not meet the contract.

A. In any case where the vendor fails to deliver, or has delivered goods or services which do not meet the contract standards, the department will send a written "Notice to Cure" to the vendor for correction of the problem.

B. If the vendor does not respond adequately to the "Notice to Cure," the department may cancel the contract and buy goods or services from another vendor. Any increase between the contract price and market price will be paid by the vendor who failed to follow the contract. This remedy shall be in addition to any other remedy provided by law.

§ 4.18. Administration of contracts.

A. Generally.

The department will follow procedures in administering its contracts that will ensure that the vendor is complying with all terms and conditions of the contract.

B. Records.

The department shall keep all records relating to a contract for three years after the end of a contract.

1. The records shall include the requirements, a list of the vendors bidding, methods of evaluation, a signed copy of the contract, comments on vendor performance, and any other information necessary.

2. Records shall be open to the public except for proprietary information for which protection has been properly requested.

C. Change orders.

1. Contracts may need to be adjusted for minor changes. The department may change the contract to correct errors, to add or delete small quantities of goods, or to make other minor changes.

2. The department shall send the changes in writing to the vendor. Vendors who deviate from the contract without receiving the written changes from the department do so at their own risk.

D. Cancellation orders.

The department shall cancel orders in writing. Contracts may be cancelled if the vendor fails to fulfill his obligations as provided in § 4.17 A and B.

E. Overshipments and overruns.

The department may refuse to accept goods which exceed the number ordered. The goods may be returned to the vendor at the vendor's expense.

F. Inspection, acceptance and rejection of goods or services.

1. The department shall be responsible for inspecting, accepting or rejecting goods or services under contract.

2. In rejecting goods or services, the department will notify the vendor as soon as possible.

3. The department will state the reasons for rejecting the goods or services and request prompt replacement.

4. Replacement goods or services shall be made available at a date acceptable to the department.

G. Complaints.

State Lottery Department

The department will report complaints in writing to the vendor as they occur. The reports will be part of the department's purchase records.

H. Invoice processing.

To maintain good vendor relations and a competitive environment, the department will process invoices promptly. The department shall follow the requirements for prompt payment found in Title 11, Chapter 7, Article 2.1 of the Code of Virginia. The department will use rules and regulations issued by the Department of Accounts to process invoices.

I. Default actions.

Before the department finds a vendor in default of a contract, it will consider the specific reasons the vendor failed and the time needed to get goods or services from other vendors.

J. Termination for convenience of the department.

1. A purchase order or contract may be terminated for the convenience of the department by delivering to the vendor a notice of termination specifying the extent to which performance under the purchase order or contract is terminated, and the date of termination. After receipt of a notice of termination, the contractor must stop all work or deliveries under the purchase order or contract on the date and to the extent specified.

2. If the purchase order or contract is for commercial items sold in substantial quantities to the general public and no specific identifiable inventories were maintained exclusively for the department's use, no claims will be accepted by the department. Payment will be made for items shipped prior to receipt of the termination notice.

3. If the purchase order or contract is for items being produced exclusively for the use of the department, and raw materials or services must be secured by the vendor from other sources, the vendor shall order no additional materials or services except as may be necessary for completion of any portion of the work which was not terminated. The department may direct the delivery of the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of the work, or direct the vendor to sell the same, subject to the department's approval as to price. The vendor may, with the approval of the department retain the same, and apply a credit to the claim. The vendor must complete performance on any part of the purchase order or contract which was not terminated.

4. Within 120 days after receipt of the notice of termination, or such longer period as the department

for good cause may allow, the vendor must submit any termination claims. This claim will be in a form and with certifications prescribed by the purchasing office that issued the purchase order. The claim will be reviewed and forwarded with appropriate recommendations to the requisitioning agency or the appropriate assistant attorney general, or both, for disposition in accordance with § 2.1-127 of the Code of Virginia.

§ 4.19. Vendor background. not:

A. A vendor shall allow the department to check his background. The background check may extend to any on-line or instant ticket vendor employee working directly on a contract with the department, any parent or subsidiary corporation of the vendor and shareholders of 5.0% or more of the vendor, parent or subsidiary corporation. The check may include officers and directors of the vendor or parent or subsidiary corporation.

B. Before contracting with the department, the vendor shall sign an agreement with the department to allow a criminal investigation of the entities and persons named in § 4.18 A § 4.19 .

C. The vendor shall allow the department to audit, inspect, examine or photocopy the vendor's records related to the State Lottery Department business during normal business hours.

§ 4.20. Ethics in contracting.

Generally.

Except for more stringent requirements set forth in this section, the department will follow the ethics in public contracting requirements of the Virginia Public Procurement Act, Title 11, Chapter 7, Article 4 of the Code of Virginia.

B. Employee role with vendors prohibited.

A department employee who has responsibility to buy from vendors may not:

1. Be employed by a vendor at the same time;

2. Have a business associate or a member of his household be an officer, director, trustee, partner or hold a similar position with a vendor and play a role in soliciting contracts for vendors;

3. Himself or his business associate or a member of his household own or control an interest in a vendor of at least 5.0%;

4. Himself or his business associate or a member of his household have a financial interest in a contract procured for the department;

State Lottery Department

5. Himself or his business associate or a member of his household negotiate or have an arrangement about prospective employment with a vendor.

C. Offers, requests, or acceptance of gifts.

No vendor or employee of the department involved in purchasing will offer, request or accept, at the present or in the future, any payment, loan, advance, deposit of money, services or anything of more than nominal value for which nothing of comparable value is exchanged.

D. Kickbacks.

No vendor will demand or receive from any of his suppliers or subcontractors, as an incentive for a contract, any kickback.

E. Vendors to give certified statement on ethics in contracting.

Each vendor shall give the department a certified statement that the proposal, bid, or contract or any claim is not the result of, or affected by, collusion with another vendor. The statement will also state that no act of fraud has been involved in negotiating, signing and meeting the contract.

F. Department employees to give notice of subsequent employment with vendors.

Any department employee or former employee who dealt in an official capacity with vendors on procurement actions who intends to accept employment from any such vendor within one year of terminating his employment with the department shall give notice to the director of his intention prior to his first day of employment with the vendor.

G. Any contract which violates the contracting ethics in the Code of Virginia and these regulations may be voided and rescinded immediately by the department.

PART V. PROCUREMENT APPEALS AND DISPUTES.

§ 5.1. Generally.

The State Lottery Department is not subject to the Virginia Public Procurement Act or its procedures. In lieu thereof, this regulation applies to all vendors. In the event of a protest on a procurement action, the vendor shall follow the remedies available in this regulation. The vendor assumes whatever risks are involved in the selected method of delivery to the director. The director will conduct a hearing on each appeal or he shall designate a hearing officer to preside over the hearing.

§ 5.2. Appeals, protests, time frames and remedies related to solicitation and award of contracts.

A. If a vendor is considered ineligible or disqualified.

1. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.

2. If appealed and the department's decision is reversed, the sole relief will be to consider the vendor eligible for the particular contract.

B. If a vendor is not allowed to withdraw a bid in certain circumstances.

1. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.

2. If no bond has been posted by the vendor, then before appealing the department's decision the vendor shall provide to the department a certified check or cash bond for the amount of the difference between the bid sought to be withdrawn and the next lowest bid.

a. The certified check shall be payable to the State Lottery Department.

b. The cash bond shall name the State Lottery Department as obligor.

c. The security shall be released if the vendor is allowed to withdraw the bid or if the vendor withdraws the appeal and agrees to accept the bid or if the department's decision is reversed.

d. The security shall go to the State Lottery Department if the vendor loses all appeals and fails to accept the contract.

3. If appealed and the department's decision is reversed, the sole relief shall be to allow the vendor to withdraw the bid.

C. If a vendor is considered not responsible for certain contracts.

1. Any vendor, despite being the low bidder, may be determined not to be responsible for a particular contract. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.

2. If appealed and the department's decision is reversed, the sole relief shall be that the vendor is a responsible vendor for the particular contract under appeal.

3. A vendor protesting the department's decision that he is not responsible, shall appeal under this section and shall not protest the award or proposed award

State Lottery Department

under subsection D.

4. Nothing contained in this subsection shall be construed to require the department to furnish a statement of the reasons why a particular proposal was not deemed acceptable.

D. If a vendor protests an award or decision.

1. Any vendor or potential vendor may protest the award or the department's decision to award a contract. The written protest shall be filed within 10 days after the award on the announcement of the decision to award is posted or published, whichever occurs first.

2. If the protest depends upon information contained in public records pertaining to the purchase, then a 10 day time limit for a protest begins to run after the records are made available to the vendor for inspection, so long as the vendor's request to inspect the records is made within 10 days after the award or the announcement of the decision to award is posted or published, whichever occurs first.

3. No protest can be made that the selected vendor is not a responsible vendor. The only grounds for filing a protest are (i) that a procurement action was not based upon competitive principles, or (ii) that a procurement action violated the standards of ethics promulgated by the board.

4. If, prior to an award, it is determined by the director that the department's decision to award the contract is erroneous, the only relief will be that the director will cancel the proposed award or revise it.

5. No protest shall delay the award of a contract.

6. Where the award has been made, but the work has not begun, the director may stop the contract. Where the award has been made and the work begun, the director may decide that the contract is void if voiding the contract is in the best interest of the public. Where a contract is declared void, the performing vendor will be paid for the cost of work up to the time when the contract was voided. In no event shall the performing vendor be paid for lost profits.

§ 5.3. Appeals, time frames and remedies related to contract disputes and claims.

A. Generally.

In the event a vendor has a dispute with the department over a contract awarded to him, he may file a written claim with the director.

B. Contract claims.

Claims for money or other relief, shall be submitted in writing to the director, and shall state the reasons for the action.

1. All vendor's claims shall be filed no later than 30 days after final payment is made by the department.

2. If a claim arises while a contract is still being fulfilled, a vendor shall give a written notice of the vendor's intention to file a claim. The notice shall be given to the director at the time the vendor begins the disputed work or within 10 days after the dispute occurs.

3. Nothing in this regulation shall keep a vendor from submitting an invoice to the department for final payment after the work is completed and accepted.

4. Pending claims shall not delay payment from the department to the vendor for undisputed amounts.

5. The director's decision will state the reasons for the action.

C. Claims relief.

Relief from administrative procedures, liquidated damages, or informalities may be given by the director. The circumstances allowing relief usually result from acts of God, sabotage, and accidents, fire or explosion not caused by negligence.

§ 5.4. Form and content of appeal to the director.

A. Form for appeal.

The vendor shall make the appeal to the director in writing. The appeal shall be mailed to the State Lottery Director, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220 or hand delivered to the department's central office at the Bookbindery Building, 2201 West Broad Street, Richmond, Virginia 23220.

B. Content of appeal.

The appeal shall state the:

1. Decision of the department which is being appealed;
2. Basis for the appeal;
3. Contract number;
4. Other information which identifies the contract; and
5. Reasons for the action.

C. Vendor notification.

The director's decision on an appeal will be sent to the

vendor by registered mail, return receipt requested.

1. The director shall follow the time limits in the regulations and shall not make exceptions to the filing periods for the vendor's appeal and rendering the director's decision.

2. The director's decision will state the reasons for the action.

§ 5.5. State Lottery Department appeal hearing procedures.

A. Generally.

The director or the appointed hearing officer will conduct a hearing on every appeal within 45 days after the appeal is filed with the director. The hearings before the State Lottery Department are not trials and shall not be conducted like a trial.

1. The Administrative Process Act does not apply to the hearings.

2. The hearings shall be informal. The vendor and the department will be given a reasonable time to present their position.

3. Legal counsel may represent the vendor or the department. Counsel is not required.

4. The director may exclude evidence which he determines is repetitive or not relevant to the dispute under consideration.

5. The director may limit the number of witnesses, testimony and oral presentation in order to hear the appeal in a reasonable amount of time.

6. Witnesses may be asked to testify. The director does not have subpoena power. No oath will be given.

7. The director may ask questions at any time. The director may not question the vendor in closed session.

B. Public hearings for appeals.

1. Hearings shall be open to the public. The director may adjourn the public hearing to discuss and reach his decision in private.

2. The hearings shall be electronically recorded. The department will keep the recordings for 60 days.

3. A court reporter may be used. The court reporter shall be paid by the person who requested him.

- a. The court reporter's transcript shall be given to the director at no expense, unless the director requests the use of a court reporter.

- b. The transcript shall become part of the department's records.

C. Order during the hearing.

Unless the director determines otherwise, hearings will be in the following order:

1. The vendor will explain his reasons for appealing and the desired relief.

2. The vendor will present his witnesses and evidence. The director and the department will be able to ask questions of each witness.

3. The department will present its witnesses and evidence. The appellant may ask questions of each party and witness.

4. After all evidence has been presented, the director shall reach his decision in private.

§ 5.6. Notice, time and place of hearings.

A. Notice and setting the time.

All people involved in the hearing will be given at least 10 days notice of the time and place of the appeal hearing.

1. Appeals may be heard sooner if everyone agrees.

2. In scheduling hearings, the director may consider the desires of the people involved in the hearing.

B. Place of hearings.

All hearings shall be held in Richmond, Virginia, unless the director decides otherwise.

§ 5.7. Who may take part in the appeal hearing.

A. Generally.

The director may request specific people to take part in the hearing.

- B. Hearings on ineligibility, disqualification, responsibility or denial of a request to withdraw a bid.

The protesting vendor and the department shall participate.

C. Hearings on claims or disputes.

The protesting vendor and the department shall participate.

§ 5.8. Director's decision.

A. Generally.

State Lottery Department

The director will issue a written decision within 30 days after the hearing date except for hearings with a court reporter.

B. Hearings with court reporter.

For hearings with a court reporter, the director's decision will be issued within 30 days after a transcript of the hearing is received by the director if a transcript is prepared. There is no requirement that a transcript be made, even if services of a court reporter are used for the hearing.

C. Format of decision.

1. The director's decision will include a brief statement of the facts. This will be called "Findings of Fact."
2. The director will give his decision. The decision will include as much detail as the director feels is necessary to set out reasons for his decision.
3. The decision will be signed by the director.

D. Copies of the decision.

Copies will be mailed to the appealing vendor, all other vendors who participated in the appeal and the department. The director will give copies of the decision to other people who request it.

§ 5.9. Appeal to courts.

A. The department is not subject to the Virginia Public Procurement Act. Thus, a vendor has no automatic right of appeal of a decision to award, an award, a contract dispute, or a claim with the department.

B. Nothing in these regulations shall prevent the director from taking legal action against a vendor.

INFORMAL ADMINISTRATIVE HEARING REQUEST

TO: Kenneth W. Thorson, Director
Virginia State Lottery
P.O. Box 4689
Richmond, Virginia 23220

I am requesting that an informal hearing be held to appeal the:

- Denial of my license application for instant games.
Denial of selection as an on-line retailer.
Denial of my participation as an on-line retailer due to investigative findings.
Removal of my on-line terminal.
Suspension or revocation of my license.

The basis for the appeal is as follows:

[Blank lines for basis of appeal]

(check here if applicable) I have attached additional information to support my appeal.

I understand that this appeal must be mailed to the Director within thirty (30) days from the receipt of the Department's decision in order to have my situation reviewed. I also understand that I may have legal counsel present to represent me.

Signature of Owner, Partner or Corporate Officer

Business Name Retailer Number

Date Received by Lottery Director

[This form will accompany written notices of denial, suspension or revocation.]

FORMAL ADMINISTRATIVE HEARING REQUEST

TO: State Lottery Board
Virginia State Lottery
P.O. Box 4689
Richmond, Virginia 23220

I am requesting that a formal hearing be held to appeal the Director's decision resulting from the informal hearing.

The basis for the appeal is as follows:

[Blank lines for basis of appeal]

(check here if applicable) I have attached additional information to support my appeal.

I understand that this appeal must be mailed to the Board within fifteen (15) days from the receipt of the Director's decision in order to have my situation reviewed. I also understand that I may have legal counsel present to represent me.

Signature of Owner, Partner or Corporate Officer

Business Name Retailer Number

Date Received at Lottery or by Chairman

[This form will accompany all written decisions of the Director which deny any change in the decision appealed.]

* * * * *

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: January 17, 1990

Summary:

The Instant Game Regulations describe procedures specifically related to instant lottery games. They include standards and requirements for licensing retailers for instant games, specific operational parameters for the conduct of instant games, instant ticket validation requirements, and payment of prizes for instant games.

These final regulations have been revised to incorporate an amendment to § 3.2, "Unclaimed prizes," that will clarify the 180-day time limit that a prize winner may redeem his winning ticket.

VR 447-02-1. Instant Game Regulations.

PART I.
LICENSING OF RETAILERS FOR INSTANT GAMES.

§ 1.1. Licensing.

Generally.

The director may license as lottery retailers for instant games persons who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 1.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may submit an application for licensure, except no person may submit an application for licensure:

1. Who will be engaged solely in the business of selling lottery tickets; or
2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same

household as a board member, officer or employee of the department; or

3. Who is a vendor of lottery tickets or material or data processing services, or whose business is owned by, controlled by, or affiliated with a vendor of lottery tickets or materials or data processing services.

B. Application not an entitlement to license.

The submission of an application for licensure does not in any way entitle any person to receive a license to act as a lottery retailer.

§ 1.3. Application procedure.

Filing of forms with the department.

Any eligible person shall first file an application with the department on forms supplied for that purpose, along with the required fees as specified elsewhere in these regulations. The applicant shall complete all information on the application forms in order to be considered for licensing. The forms to be submitted include:

1. Retailer License Application;
2. Personal Data Form(s); and
3. Preliminary Marketing Evaluation Form.

State Lottery Law makes falsification, concealment or misrepresentation of a material fact, or making a false, fictitious or fraudulent statement or representation in an application for a license a misdemeanor.

§ 1.4. General standards for licensing.

A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing or renewing a license:

1. The financial responsibility and security of the applicant, to include:
 - a. A credit and criminal background investigation;
 - b. Outstanding state tax liability;
 - c. Required business licenses, tax and business permits;
 - d. Physical security at the place of business, including insurance coverage.
2. The accessibility of his place of business to the public, to include:

State Lottery Department

- a. The hours of operation;
 - b. The availability of parking and transit routes, where applicable;
 - c. The location in relation to major employers, schools, or retail centers;
 - d. The population level and rate of growth in the market area;
 - e. The traffic density, including levels of congestion in the market area.
3. The sufficiency of existing lottery retailers to serve the public convenience, to include:
- a. The number of and proximity to other lottery retailers in the market area;
 - b. The expected sales volume and profitability of potentially competing lottery retailers;
 - c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers.
4. The volume of expected lottery ticket sales, to include:
- a. Type and volume of the products and services sold by the retailer;
 - b. Dollar sales volume of business;
 - c. Sales history of business and market area;
 - d. Volume of customer traffic in place of business.

B. Additional factors for selection.

The director may develop and, by administrative order, publish additional criteria which, in his judgment, are necessary to serve the public interest and public trust in the lottery.

§ 1.5. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond from a surety company entitled to do business in Virginia. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$5,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.

2. Within 15 calendar days of receipt of the "License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "License Approval Notice" to the State Lottery Department to be filed with his record.

B. Continuation of surety bond on renewal of license.

A lottery retailer applying for renewal of a license shall:

1. Obtain a letter or certificate from the surety company to verify that the surety bond is being continued for the license renewal period; and
2. Submit the surety company's letter or certificate with the required license renewal fee to the State Lottery Department.

C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded.

D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next renewal action.

§ 1.6. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the Automatic Clearing House (ACH) system.

B. Retailer's use of lottery account.

The lottery account will be used by the retailer to make funds available to permit withdrawals and deposits initiated by the department through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed or due from the purchase of tickets and the payment of prizes. All retailers shall make payments to the department through the electronic funds transfer (EFT) process unless the director designates another form of payment and settlement under terms and conditions he deems appropriate.

C. Retailer responsible for bank charges.

The retailer shall be responsible for payment of any

fees or service charges assessed by the bank for maintaining the required account.

D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "License Approval Notice," the lottery retailer shall return the properly executed "Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department to record establishment of his account.

E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank account from one bank to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

F. Director to establish EFT account settlement schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

§ 1.7. License term and renewal.

A. License term.

A general license for an approved lottery retailer shall be issued for a one-year period.

B. License renewal.

A general license shall be renewed annually at least 30 days before its expiration date and shall be accompanied by the appropriate fee(s) as specified elsewhere in these regulations. The director may implement a staggered, monthly basis for annual license renewals and allow for the proration of annual license fees to credit licensees for the time remaining on their current license when the staggered renewal requirement is imposed. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Temporary license.

No temporary licenses shall be issued after November 30, 1988.

1. All temporary licenses expire not later than December 1, 1988.

2. Upon expiration of a temporary license, the applicant shall stop the sale of tickets and surrender to a department representative his temporary license

and department property and make settlement of his lottery account.

D. Amended license term.

An amended license issued under the requirements of § 1.9 C shall be valid for the remainder of the period of the license it replaces.

E. Special license.

The director may issue special licenses to persons for specific events and activities. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest.

§ 1.8. License fees.

A. License application fee.

The fee for a license application for a lottery retailer general license to sell instant game tickets shall be \$25. The general license fee to sell instant game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License renewal fee.

The annual fee for renewal of a lottery retailer general license to sell instant game tickets shall be an amount fixed by the board at its November meeting for all renewals occurring in the next calendar year. The renewal fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The renewal fee shall be paid for each location for which a license is renewed. This fee is nonrefundable. The renewal fee shall be submitted at least 30 days before a retailer's general license expires.

C. Amended license application fee.

The fee for processing an amended license application for a lottery retailer general license shall be an amount as approved by the board at its November meeting for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license application shall be submitted in cases where a business change occurs as specified in § 1.9 B.

§ 1.9. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

B. License invalidated.

State Lottery Department

A license shall become invalid for any of the following reasons:

1. Change in business location;
2. Change in business structure (e.g., from a partnership to a sole proprietorship);
3. Change in the business owners listed in the original application form for which submission of a Personal Data Form is required under the license application procedure.

C. Amended application required.

A licensed lottery retailer who anticipates a change as listed in subsection B shall notify the department of the anticipated change at least 15 calendar days before it takes place and submit an amended application. The director shall review the changed factors in the same manner that would be required for a review of an original application.

§ 1.10. Display of license.

License displayed in general view.

Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 1.11. Denial, suspension, revocation or nonrenewal of license.

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person has been:

1. Convicted of a felony;
2. Convicted of a crime involving moral turpitude;
3. Convicted of any fraud or misrepresentation in any connection;
4. Convicted of bookmaking or other forms of illegal gambling.

B. Grounds for refusal to license partnership or corporation.

The director may refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A.

C. Grounds for suspension, revocation or refusal to renew license.

After notice and a hearing, the director may suspend, revoke, or refuse to renew a license for any of the following reasons:

1. Failure to properly account for lottery tickets received, for prizes claimed and paid or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms and conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;
4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;
5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules and regulations of the department;
6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;
7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers;
8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the licensing application process;
9. Failure to comply with lottery game rules;
10. Failure to meet minimum point of sale standards.

D. Notice of intent to suspend, revoke or deny renewal of license.

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny renewal of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

E. Temporary suspension without notice.

If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, he may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any

prosecution, hearing or investigation into possible violations is concluded.

F. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final lottery accounting of his lottery activities by the date specified by the director.

§ 1.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 1.13. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any retailer's lottery material that has not been approved for use by the department.

§ 1.14. Inspection of premises.

Access to premises by department.

Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

§ 1.15. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records

pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

§ 1.16. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 1.17. Reporting requirements and settlement procedures.

Instructions for purchasing tickets, reporting transactions and settling accounts.

Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the procedures for (i) ordering tickets; (ii) paying for tickets purchased; (iii) reporting receipts, transactions and disbursements pertaining to lottery ticket sales; and (iv) settling the retailer's account with the department.

§ 1.18. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Forms of payment for tickets; deposit of lottery receipts.

Each lottery retailer shall purchase the tickets distributed to him. The moneys for payment of these tickets shall be deposited to the credit of the State Lottery Fund by the department. The retailer shall make payments to the department by Electronic Funds Transfers (EFT); however, the director reserves the right to specify one or more of the following alternative forms of payment under such conditions as he deems appropriate:

1. Cash;
2. Cashier's check;
3. Certified check;
4. Money order; or
5. Business check.

B. Payment due date.

Payments shall be due as specified by the director in

State Lottery Department

the instructions to retailers regarding the purchasing and payment of tickets and the settlement of accounts.

C. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will be assessed an interest charge on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

D. Service charge for dishonored EFT transfer or bad check.

The director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

E. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt that are incurred by the department and the agencies to which the debt is referred.

§ 1.19. Training of retailers and their employees.

Retailer training.

Each retailer or his designated representative or representatives is required to participate in training given by the department in the operation of each game. The director may consider nonparticipation as grounds for suspending or revoking the retailer's license.

§ 1.20. License termination by retailer.

Voluntary termination of license.

The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 15 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART II. INSTANT GAMES.

§ 2.1. Development of instant games.

The director shall select, operate, and contract for the operation of instant games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each instant game after consultation with the director. These details include, but are not limited to:

1. Prize amounts and prize structure,
2. Types of noncash prizes, if any, and
3. The amount and type of any jackpot or grand prize which may be awarded.

§ 2.2. Prize structure.

The prize structure for any instant game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each instant game shall be approved in advance by the board.

B. Prizes may be cash or noncash awards, including instant game tickets.

§ 2.3. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board and will be between \$.25 and \$15. Lottery retailers may not discount the sale price of instant game tickets or offer free tickets as a promotion with the sale of instant tickets. This section shall not prevent a retailer from giving away *providing* free instant tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery.

B. This section shall not apply to the redemption of a winning instant ticket the prize for which is another free ticket.

C. Lottery tickets purchased by nonlottery retailers from deceased lottery retailers may be given away and used as promotional items.

§ 2.4. Sales, gift of tickets to minors prohibited.

An instant game ticket shall not be sold to, purchased by, or given as a gift to any individual under 18 years old.

§ 2.5. Odds of winning.

The director shall publicize the overall odds of winning a prize in each instant game. The odds may be printed on the ticket or contained in informational materials, or both.

§ 2.6. End of game.

State Lottery Department

Each instant game will end when all tickets have been sold or on a date announced in advance by the director. The director may suspend or terminate an instant game without advance notice if he finds that this action will serve and protect the public interest.

§ 2.7. Sale of tickets from expired games prohibited.

No instant game tickets shall be sold after that game ends.

§ 2.8. Licensed retailers' ~~commissions~~ compensation .

A. Licensed retailers shall receive a 5.0% ~~discount~~ *compensation* on all instant game tickets purchased from the department for resale by the retailer.

B. The director may award cash bonuses or other incentives to retailers. The board shall approve any bonus or incentive system. The director will publicize any such system in rules of the game(s) to which it applies.

§ 2.9. Price for ticket packs.

For each pack, retailers shall pay the retail value, less the 5.0% retailer discount and less the value of the low-tier winning tickets in the pack. For example, for a pack of tickets with a retail value of \$500, and guaranteed low end prize structure of \$165, the retailer would pay \$310: \$500 (the pack value) minus \$165 for low-tier winners, less the retailer's \$25 discount.

§ 2.10. Purchase of instant tickets.

A. Retailers shall purchase books of tickets directly from the department or through designated depositories.

B. Retailers shall pay for tickets via an electronic funds transfer (EFT) initiated by the department.

1. The department will initiate the EFT after tickets are delivered to the retailer. The schedule will be determined by the director.

2. If, for any reason, an electronic funds transfer is refused, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations.

3. The director may approve another form of payment for designated retailers under conditions to be determined by the director.

4. If the director permits payment by check and if payment on any check is denied, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations.

C. Once tickets are accepted by a retailer, the department will not replace mutilated or damaged tickets, unless specifically authorized by the director.

D. Ticket sales to retailers are final.

1. The Department will not accept returned tickets except as provided for elsewhere in these regulations or with the director's advance approval.

2. The retailer is responsible for lost, stolen or destroyed tickets unless otherwise approved by the director.

§ 2.11. Retailers' conduct.

A. Retailers shall sell instant tickets at the price fixed by regulation, unless the board allows reduced prices or ticket give-aways.

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies or with the department's specific approval.

D. Tickets shall be sold during all normal business hours unless the director approves otherwise.

E. Tickets shall be sold only at the location listed on each retailer's license from the department.

F. Retailers shall not sell instant tickets after the announced end of an instant game.

G. Retailers shall not break apart ticket packs to sell instant tickets except to sell tickets from the same pack at separate selling stations within the same business establishment.

H. Retailers shall not exchange ticket books or tickets with one another or sell ticket books or tickets to one another.

I. On the back of each instant ticket sold by a retailer, the retailer shall print or stamp the retailer's name, address and retailer number. This shall be done in a manner that does not conceal any of the preprinted material.

J. No retailer or his employee or agent shall try to determine the numbers or symbols appearing under the removable latex coverings or otherwise attempt to identify unsold winning tickets. However, this shall not prevent the removal of the covering over the validation code or validation number after the ticket is sold and a prize is claimed.

K. *Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of*

State Lottery Department

age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by a person 18 years of age or older.

§ 2.12. Returns of unsold tickets.

A. After the date announced by the director as the end of an instant game, each retailer may return all unbroken ticket books and one partly-sold book per cash register on the retailer's premises.

B. Retailers shall return unsold tickets to the department or to the depository which services the retailer for the department within 21 calendar days after the end of each instant game or after any final prize drawing.

C. The department will show the value of each retailer's unsold tickets in the department's accounting records. However, no funds will be returned to the retailer until after the settlement procedures are completed.

§ 2.13. Settlement of accounts after game ends. (See Part III of these regulations for payment of prizes before the game ends.) *Reserved.*

Because players may redeem low-tier prize-winning tickets directly through the department instead of through the retailer where the ticket was purchased, and because the retailer already has been granted an allowance for such low-tier winning tickets sold through his establishment, it is necessary to reconcile each retailer's account against returned, unsold tickets after the instant game ends.

A. Within 30 calendar days after an instant game ends, the department will calculate the amount of low-tier prizes paid by the department on winning tickets sold by each retailer.

B. If a retailer's credit for returned unsold tickets is less than the dollar amount of low-tier prizes paid by the department on tickets sold by that retailer, the department will give the retailer written notice of the amount owed to the department by the retailer.

C. If a retailer's credit for returned unsold tickets exceeds the dollar amount of low-tier prizes paid by the department on tickets sold by that retailer, the retailer will receive written notice of the amount owed by the department to the retailer.

D. A retailer shall inform the department of any discrepancies between its records and the department's records as stated in the notice within seven calendar days after the notice is received.

E. After a discrepancy, if any, is corrected, the department will use electronic funds transfers to collect moneys due to the department or to pay moneys owed to the retailer. However, the director may specify another form of payment to settle these accounts.

§ 2.14. If low-tier prizes paid by department after game account settled. (See Part III of these regulations for payment of prizes before settlement.) *Reserved*

Retailers shall reimburse the department for low-tier prizes paid by the department on tickets sold by the retailer. Reimbursement shall be made even if the retailer's account for that game has been settled.

A. The department will provide the retailer with an invoice and supporting documentation on prizes paid.

B. Any discrepancies between the department's invoice and the retailer's records shall be brought to the department's attention within seven days after the invoice is received.

C. After any discrepancies are resolved, the department shall use an electronic funds transfer to collect the amount owed by the retailer, unless the director specifies another form of payment.

§ 2.15. If larger prizes are paid by retailer after game account settled. (See Part III of these regulations for payment of prizes before settlement.) *Reserved*

The department will reimburse a retailer for prizes of between \$26 and \$500 paid up to 180 days after an instant game ends. Reimbursement will be made even if the retailer's account for that game has been settled.

A. A retailer shall follow all ticket validation and prize payment procedures for the game for which the ticket was sold.

B. The director may require the retailer to submit the ticket and a completed prize claim form before the retailer is reimbursed.

PART III.

PAYMENT OF PRIZES FOR INSTANT GAMES.

§ 3.1. Prize winning tickets.

Prize-winning instant tickets are those that have been validated and determined in accordance with the rules of the department to be official prize winners. *Criteria Consistent with these regulations, criteria* and specific rules for winning prizes shall be published *and posted by the director* for each instant game and *made available for all players.* Final validation and determination of prize winning tickets remains with the department.

§ 3.2. Unclaimed prizes.

All instant game winning tickets shall be submitted *received* for payment as prescribed in these regulations within 180 days after the announced end of the game or of the event which caused the ticket to be a winning entry, whichever is later. [*In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a*

claimant may redeem his prize-winning ticket on the next business day.] Tickets which have been mailed in an envelope bearing a postmark on or before the 180th day will be deemed to have been received on time.

A. Any non-low-tier instant game prize which has been won as a result of a drawing but which is not claimed within 180 days after the instant game drawing shall revert to the state State Literary Fund.

B. Any non-low-tier instant game prize which has been won other than by drawing, but which is not claimed within 180 days after the announced end of the instant game shall revert to the State Lottery Literary Fund.

C. Any instant game low-tier prize-winning ticket which has been purchased but which is not claimed within 180 days after the announced end of the instant game shall revert as a bonus ~~commission~~ compensation to the account of the retailer which sold the instant game low-tier prize-winning ticket.

§ 3.3. Using winners' names.

The department shall have the right to use the names of prize winners. Photographs of prize winners may be used with the *written* permission of the winners. No additional consideration shall be paid by the department for this purpose.

§ 3.4. No prize paid to people under 18.

No prize shall be claimed by or paid to any individual under 18 years of age.

§ 3.5. Where prizes claimed.

Winners may claim instant game prizes from the retailer from whom the ticket was purchased or the department in the manner specified in these regulations.

§ 3.6. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations or in any other manner which the director may determine.

§ 3.7. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service.

1. If the department, a retailer or these regulations require that a claim form be filed, the FEIN shall be shown on the claim form.

2. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

3. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

§ 3.8. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize to the estate of a deceased prize winner, and

2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.9. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.10. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the director and employees of the department, terminates upon payment of a lottery prize.

§ 3.11. Delay of payment allowed.

The director or the board may refrain from making payment of the prize pending a final determination by the director, the board or by a court of competent jurisdiction under any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;

2. If there is any question regarding the identity of the claimant;

3. If there is any question regarding the validity of any ticket presented for payment; or

4. If the claim is subject to any set off for delinquent debts owed to any agency eligible to participate in the

State Lottery Department

Set-Off Debt Collection Act.

No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.

§ 3.12. When periodic prize payment may be delayed.

The director may, at any time, delay any payment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed payments shall be brought up to date immediately upon the director's confirmation. Delayed payments shall continue to be paid according to the original payment schedule after the director's decision is given.

§ 3.13. Ticket is bearer instrument.

A ticket that has been legally issued by a lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

§ 3.14. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification and the submission of a prize claim form if one is required, unless otherwise delayed in accordance with these regulations.

§ 3.15. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.16. Penalty for counterfeit or altered ticket.

~~Knowingly~~ *Knowingly Forging, altering or fraudulently making any lottery ticket or knowingly presenting a forged, counterfeit or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment is a Class 6 felony in accordance with the state lottery law.*

§ 3.17. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

§ 3.18. Erroneous or mutilated ticket.

The department is not liable for erroneous or mutilated tickets. The director, at his option, may replace an erroneous or mutilated ticket with an unplayed ticket for the same or a later instant game.

§ 3.19. Retailer to pay low-tier prizes.

Low-tier prizes (those of \$25 or less in cash or free

instant game tickets) shall be paid by the retailer who sold the winning ticket, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.20. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay cash prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.

2. If payment of a prize by a check presented to a claimant by a retailer is denied for any reason, the retailer is subject to the same service charge interest and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.

3. Retailers shall pay claims for low-tier prizes during all normal business hours.

4. Prize claims shall be paid only at the location specified on the license.

5. *The department will reimburse a retailer for prizes of between \$26 and \$599 paid up to 180 days after an instant game ends.*

§ 3.21. Retailer to validate winning ticket.

Before paying a prize claim, the retailer shall validate the winning ticket. The retailer shall follow validation procedures listed in these regulations or obtained from the department.

§ 3.22. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize-winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.23. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims paid in error.

§ 3.24. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the director.

§ 3.25. Prizes of less than \$600.

State Lottery Department

A retailer may elect to pay instant prizes between \$26 and \$599 won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. If the retailer elects to pay prizes of up to \$599, the following terms and conditions apply:

1. The retailer shall execute an agreement with the department to pay higher prize limits.
2. The retailer shall pay all prizes agreed to up to \$599 or less on validated tickets presented to that retailer.
3. The retailer shall display special informational material provided by or approved by the department informing the public of the exceptional prize payments available from that retailer.
4. Nothing in this section shall be construed to prevent the department from accepting an agreement from a retailer to pay prize amounts \$26 more but less than \$599.

§ 3.26. Additional validation requirements.

Before paying any prize between \$26 and \$599, the retailer shall:

1. *Require the claimant to fill out a prize claim form; Reserved*
2. Inspect the ticket to assure that it conforms to each validation criterion listed in these regulations and to any additional criteria the director may specify;
3. Report to the department the ticket number, validation code and validation number of the ticket; and
4. Obtain an authorization number for prize payment from the department.

§ 3.27. When prize shall be claimed from the department.

The department will pay prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall send or present to the department a completed claim form and the signed ticket.
2. If a ticket holder is unable to return to the retailer from which the ticket was purchased, a completed claim form and the signed ticket may be presented or mailed to the department.
3. If the prize amount is over the limit paid by the retailer from which the ticket was purchased, a completed claim form and the signed ticket shall be

presented or mailed to the department.

§ 3.28. Prizes of ~~\$5,000~~ \$25,000 or less.

Prizes of ~~\$5,000~~ \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.29. Prizes of more than ~~\$5,000~~ \$25,000 .

Prizes of more than ~~\$5,000~~ \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.30. When claims form required.

A claims form for a winning ticket may be obtained from any department office or any lottery sales retailer.

A. Claims forms shall be required to claim any prize from the department's central and regional offices.

B. *Claims forms shall be required to claim prizes of between \$26 and \$599 from lottery retailers Reserved .*

C. *The department or any lottery retailer may, in their discretion, require claims forms to claim prizes of \$25 or less from a lottery retailer Reserved .*

D. *The director may, at his discretion, require claims forms to be filed to claim prizes.*

§ 3.31. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

A. If the claim is not valid, the department will notify the ticket holder promptly.

B. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.

C. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

§ 3.32. Withholding, notification of prize payments.

A. When paying any prize of \$600 or more, the department shall:

1. File the appropriate income reporting form(s) with the state Department of Taxation and the federal

State Lottery Department

Internal Revenue Service; and

2. Withhold any moneys due for delinquent debts listed with the Department of Taxation's set-off debt collection program.

B. When paying any prize of more than \$5,000, the department shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for the winning ticket.

§ 3.33. Grand prize event.

If an instant game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director.

2. Participation in the drawing(s) shall be limited to those tickets which are actually received and validated by the department on or before the date announced by the director.

3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent instant game. That action is the extent of the department's liability.

4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each instant game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.34. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

§ 3.35. Valid ticket described.

To be valid, a Virginia lottery game ticket shall meet all of the validation requirements listed here:

1. The ticket shall have been issued by the department in an authorized manner.

2. The ticket shall not be altered, unreadable, reconstructed, or tampered with in any way.

3. The ticket shall not be counterfeit in whole or in part.

4. The ticket shall not have been stolen or appear on any list of void or omitted tickets on file with the department.

5. The ticket shall be complete and not blank or partly blank, miscut, misregistered, defective, or printed or produced in error.

6. The ticket shall have exactly one play symbol and exactly one caption under each of the rub-off spots, exactly one ticket number, exactly one validation code, and exactly one validation number. These items shall be present in their entirety, legible, right side up, and not reversed in any manner.

7. The validation number of an apparent winning ticket shall appear on the department's official list of validation numbers of winning tickets provided by the vendor of the instant tickets. A ticket with that validation number shall not have previously been paid.

8. The ticket shall pass all additional confidential validation requirements set by the department.

§ 3.36. Invalid ticket.

An instant ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its instant game is invalid. An invalid ticket is not eligible for any prize.

§ 3.37. Replacement of ticket.

The director may replace an invalid ticket with an unplayed ticket from the same or another instant game. If a defective ticket is purchased, the department's only liability or responsibility shall be to replace the defective ticket with an unplayed ticket from the same or another instant game or to refund the purchase price, at the department's option.

§ 3.38. When ticket is partially mutilated or not intact.

If an instant ticket is partially mutilated or if the ticket is not intact but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.39. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.40. When prize payable over time.

Unless the rules for any specific instant game provide otherwise, any cash prize of \$500,000 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount.

§ 3.41. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to

facilitate purchase of an appropriate funding mechanism.

§ 3.42. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

**VIRGINIA LOTTERY
STOLEN TICKET REPORT**



RETAILER ADVERTISING APPROVAL FORM

Please read the guidelines for advertising approval before completing this form. Retailer lottery advertising is subject to the restrictions of the Lottery Law, specifically, "...no funds shall be expended for the primary purpose of inducing persons to participate in the lottery."

Business Name _____ Retailer I.D.# _____

Address _____ Retailer Contact _____

City, State, Zip _____

Description of Advertising (attach copy of ad if possible)

Point of Sale (write all words here) _____
 Interior sign
 counter card
 window sign
 door sign
 other (describe) _____

Newspaper ad
 Date(s) ad will appear _____
 Headline _____
 Words used _____

Radio/Television ad
 Date(s) ad will appear _____
 Tagline _____
 Words used _____

Other
 Please describe (include dates of usage and exact wording) _____

Advertising approved Yes No Not sure

If not approved or if not sure, indicate reason. _____

Lottery employee signature _____ Date _____

Retailer contact signature _____ Date _____

White copy to retailer, yellow copy to LSRI/CAR, pink copy to Lottery

DATE OF REPORT:			INVESTIGATOR TAKING REPORT:			
RETAILER NAME & ADDRESS (if applicable):			RETAILER NUMBER:			
STOLEN PACK NUMBER(S)			STOLEN TICKET NUMBERS			
GM.	PACK	CK.	FROM	TO	FROM	TO
LOCATION OF THEFT:		DATE/THEFT:		<input type="checkbox"/> STOLEN OR <input type="checkbox"/> LOST FROM: <input type="checkbox"/> MAIN WHSE <input type="checkbox"/> L.S.R. <input type="checkbox"/> REGN. WHSE <input type="checkbox"/> RETAILER		
REPORTING PERSON'S NAME:		ADDRESS:		PHONE: ()		
DETAILS OF THEFT:						
THEFT REPORTED TO LOCAL AUTHORITIES? <input type="checkbox"/> YES <input type="checkbox"/> NO SPECIFY						
INVESTIGATOR'S SIGNATURE:			DATE & TIME ENTERED ON COMPUTER: ____/____/____:____ AM ____/____/____:____ PM			



RETAILER GUIDELINES FOR USING ADVERTISING APPROVAL FORM

Retailers who want to advertise that they sell lottery tickets need to be aware of certain advertising restrictions. The lottery law contains a provision that limits the lottery advertising to "...reasonably informing the public concerning..." at least one of the following:

1. type(s) of lotteries to be conducted;
2. price of tickets or shares in the lottery;
3. number and size of prizes and the odds of winning prizes;
4. way in which winning tickets or shares are selected;
5. way in which prizes are paid to winners;
6. frequency of drawings;
7. type(s) of locations at which tickets or shares may be sold; and
8. disposition of lottery revenues to the General Fund.

Retailers may list the names of winners, and the amount they won, in lottery advertising. (Provided, of course, that those winners have given permission to release their names.) This listing of winners is entirely voluntary, for the retailer as well as for the winners themselves.

The law further states that "...no funds shall be expended for the primary purpose of inducing persons to participate in the lottery."

All print ads (newspapers, magazines, free shoppers, flyers, etc.), all radio and television commercials, and all signs (interior and exterior) must be approved by the Virginia Lottery BEFORE they appear. Each ad or commercial within a continuing series must have separate approval. (IMPORTANT: All advertising materials you receive from the Virginia Lottery or your Lottery Sales Representative have been approved and may be used immediately. If your vendors—TV, radio, newspapers, printers, etc.—need written proof of ad approval, you need a form. Otherwise, completion of a form is at the discretion of the Lottery Sales Representative or Corporate Account Representative. For obvious cases, verbal approvals are acceptable and would require no form.

Lottery Sales Representatives and Corporate Account Representatives are responsible for the review of all retailer advertising. After each review, they must fill out a retailer advertising approval form in this manner:

1. Indicate the business name, address, retailer identification number, and primary retailer contact.
2. Write a brief description of the advertising, including all words used. Attach a copy if one is available.
3. Indicate whether or not the advertising should be approved by checking "yes" or "no" or "not sure."

WINNER CLAIM FORM - FOR PRIZES OF MORE THAN \$25		FOR LOTTERY USE ONLY	
MAIL TO: Virginia Lottery Box C-32100 Richmond, VA. 23261-2100		DATE <input type="text"/> - <input type="text"/> - <input type="text"/>	Winner No. <input type="text"/>
VIRGINIA LOTTERY		TIME <input type="text"/>	CASHIER <input type="text"/>
INSTRUCTIONS TO CLAIMANT		STAPLE TICKET TO TOP COPY HERE	
<ul style="list-style-type: none"> • ON BACK OF TICKET, PRINT YOUR NAME & ADDRESS • YOU MUST SIGN YOUR NAME ON THE TICKET • COMPLETE ITEMS 1 THROUGH 16 AND OPTIONAL ITEMS 17 AND 18 BELOW • YOU MUST SIGN YOUR NAME ON THE CLAIM FORM • STAPLE TICKET TO TOP COPY OF FORM AT FRIGHT • KEEP BOTTOM (PINK) COPY OF THIS FORM • MAIL WHITE & YELLOW COPIES OF THIS FORM WITH TICKET TO ADDRESS SHOWN ABOVE. 		PLEASE DO NOT STAPLE THROUGH ANY NUMBERS OR PLAY SPOTS ON TICKET!	
1. GAME NO. Black 2-digit number from front of ticket.	<input type="text"/>		
2. PACK NO. Black 10-digit number from front of ticket.	<input type="text"/>		
3. VALIDATION NO. 12 digit number from front of ticket.	<input type="text"/>		
4. PRIZE AMOUNT	\$ <input type="text"/>		
5. NAME	<input type="text"/>		
	LAST NAME - PLEASE PRINT	FIRST NAME	MI
6. ADDRESS	<input type="text"/>		
7. CITY	<input type="text"/>	8. STATE	<input type="text"/>
9. ZIP CODE	<input type="text"/>	10. PHONE NUMBER	<input type="text"/>
11. COUNTRY CODE	<input type="text"/>	12. SOCIAL SECURITY NO.	<input type="text"/>
13. U.S. CITIZEN <input type="checkbox"/>	RESIDENT ALIEN <input type="checkbox"/>	NON-RESIDENT ALIEN <input type="checkbox"/>	14. SEX <input type="checkbox"/> M OR <input type="checkbox"/> F
15. DATE PURCHASED <input type="text"/>	16. DATE OF BIRTH <input type="text"/>		
OPTIONAL INFORMATION			
17. HOW OFTEN DO YOU PURCHASE INSTANT TICKETS (CHECK ONE)			
<input type="checkbox"/> 1. DAILY	<input type="checkbox"/> 3. 2 TIMES/WEEK	<input type="checkbox"/> 5. 1 TIME/TWO WEEKS	<input type="checkbox"/> 7. LESS THAN ONCE/MONTH
<input type="checkbox"/> 2. 3 - 5 TIMES/WEEK	<input type="checkbox"/> 4. 1 TIME/WEEK	<input type="checkbox"/> 6. 1 TIME/MONTH	
18. NUMBER OF TICKETS PURCHASED AT ONE TIME? (CIRCLE ONE)			
1 2 3 4 5 6 7 8 9 10+			
UNDER PENALTY OF PERJURY, I DECLARE THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE NAME, ADDRESS, AND SOCIAL SECURITY NUMBER CORRECTLY IDENTIFY ME AS THE RECIPIENT OF THIS PAYMENT. I UNDERSTAND THAT ANY PERSON WHO, WITH INTENT TO DEFRAUD, FALSELY MAKES, FORGES OR COUNTERFEITS A LOTTERY TICKET IS IN VIOLATION OF STATE LAW. I ALSO AUTHORIZE THE VIRGINIA LOTTERY TO USE MY NAME AND PHOTOGRAPH FOR ANY REASONABLE PUBLICITY IT CONSIDERS DESIRABLE.			
CLAIMANT'S SIGNATURE _____			DATE _____



Virginia Lottery Department
Agreement to Pay Mid-Tier Prizes



P.O. Box 4689
Richmond, Virginia 23220
(804) 367-9130 ext. 37

This agreement is entered into between _____ and
the Virginia Lottery Department. retailer

Payment of Mid-Tier Prizes is a retailer benefit. It provides extraordinary customer service, generates new customer visits and promotes customer loyalty.

Retailer agrees to pay all instant lottery validated winning tickets of \$100.00 or less. The retailer agrees to pay prizes of up to the specified limit during the hours of 8:00 a.m. to 8:00 p.m., or as otherwise specified by the Lottery Director.

In consideration of this agreement by retailer, the Virginia Lottery agrees to supply special display materials, at no charge, to participating retailers paying Mid-Tier Prizes. Those materials will identify your location as a special lottery payment center and retailer's signature on this agreement requires retailer to display the materials provided in retailer's store.

This agreement shall remain in effect, unless terminated in writing by the retailer or the Virginia Lottery Department.

<u>Retailer</u>	<u>Virginia Lottery Department</u>
Name	Name
Title	Title
Date	Date

Note: Both copies must be signed by retailer and Lottery representative
White copy for retailer
Canary copy for agency

REFERENCE	DATE	GAME	DESCRIPTION	AMOUNT

VIRGINIA LOTTERY
P.O. BOX 4689
RICHMOND, VIRGINIA 23220

SHIPPER NO.
PACKAGE ID

INVOICE


PAGE
INVOICE NUMBER

VER TO:	CHAIN NO.	RETAILER NO.	INVOICE DATE
	LSR #	LOTTERY SALES REP NAME	
	DAY	STOP #	LOCATION CONTACT

--	--	--	--

ORDERED BY (SIGNATURE)	DATE	RECEIVED BY (SIGNATURE)	DATE
------------------------	------	-------------------------	------

E—LOTTERY HEADQUARTERS YELLOW—REGIONAL OFFICE GOLDENROD—CHAIN HQ PINK—LOTTERY RETAILER

VIRGINIA LOTTERY		LICENSED RETAILER
BUSINESS ADDRESS		
EXPIRES	RETAILER NO.	
BY AUTHORITY OF THE STATE LOTTERY LAW OF 1987, AS AMENDED, THE ABOVE-NAMED RETAILER IS DULY AUTHORIZED AS INDICATED TO SELL LOTTERY TICKETS IN VIRGINIA. INSTANT GAME TICKETS ONLY		
THIS CERTIFICATE MUST BE PROMINENTLY DISPLAYED AT ALL TIMES		KENNETH W. THORSON DIRECTOR, VIRGINIA LOTTERY NON-TRANSFERABLE
REV 8/88		

VIRGINIA LOTTERY	EXPIRES	AUTHORIZED RETAILER
BUSINESS NAME		
RETAILER NO.		

KENNETH W. THORSON
DIRECTOR, VIRGINIA LOTTERY
REV 7/88 NON-TRANSFERABLE
MUST BE PRESENTED WHEN ACCEPTING TICKETS

1. DO NOT DESTROY CERTIFICATE OR IDENTIFICATION CARD.
2. Carefully detach along perforated lines.
3. Display certificate in a PROMINENT PLACE in your business location.
4. Identification card MUST be presented when purchasing or accepting tickets.
5. If retailer authorization is suspended, revoked or voluntarily discontinued, return certificate identification card, and stamp to the Lottery.

<p align="center">PERSONAL DATA FORM</p> <p align="center"> Virginia Lottery P.O. Box 4689 Richmond, Virginia 23220 </p> <p><small>Note: Submit Personal Data Form for each individual listed in Question 2b of the Retailer License Application.</small></p> <p><small>NOTE: Please print or type. Read Applicant Instructions before completing Personal Data Form. Attach additional sheets if needed.</small></p>	<p align="center">DO NOT WRITE IN THIS BLOCK</p> <p>Date Received: _____ Control # _____</p> <p>Security Recommendation: _____ License # _____</p> <p>Accept <input type="checkbox"/> Not Accept <input type="checkbox"/> Date: _____</p> <p>By: _____</p>																								
<p>1. a. Business Name: _____ Phone () _____ <small>(As listed on retailer license application)</small></p> <p>b. Street Address: _____ City/County _____ State _____ Zip _____</p> <p>c. Mailing Address: _____ City/Town _____ State _____ Zip _____</p>																									
<p>2. YOUR NAME _____ DATE OF BIRTH _____</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Last Name</td> <td style="width: 25%;">First</td> <td style="width: 25%;">Middle</td> <td style="width: 25%;">Sex</td> <td style="width: 10%;">Race</td> <td style="width: 10%;">Month</td> <td style="width: 10%;">Day</td> <td style="width: 10%;">Year</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>Place of Birth - Country or City</td> <td>Place of Birth - State or Country</td> <td colspan="6">Social Security Number</td> </tr> </table>		Last Name	First	Middle	Sex	Race	Month	Day	Year									Place of Birth - Country or City	Place of Birth - State or Country	Social Security Number					
Last Name	First	Middle	Sex	Race	Month	Day	Year																		
Place of Birth - Country or City	Place of Birth - State or Country	Social Security Number																							
<p>3. a. Current Street Address: _____ City/County _____ State _____ Zip _____</p> <p>Home Phone () _____</p> <p>b. Have you been a permanent Virginia resident for the past year? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, attach a list of other states in which you have resided.</p>																									
<p>4. YOUR RELATIONSHIP TO BUSINESS <input type="checkbox"/> Owner <input type="checkbox"/> Principal <input type="checkbox"/> Officer/Board Member <input type="checkbox"/> Partner <input type="checkbox"/> Stockholder (10% or more) <input type="checkbox"/> Other _____</p>																									
<p>5. List two credit references: 1. _____ 2. _____</p>																									
<p>6. Current Bank _____ Account # _____ <small>(If more than one account, attach list of all account numbers)</small></p> <p>Bank Address _____ City/Town _____ State _____ Zip _____</p>																									
<p>7. If any of the following questions are answered yes, please attach a separate sheet with complete details.</p> <p>a. Have you ever been convicted of a felony, illegal gambling, fraud or had any business license revoked or suspended in Virginia or any other state? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>b. Ever filed for bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>																									

8. DISCLOSURE STATEMENT (Read Carefully.)

I, the undersigned do hereby certify that I have not knowingly made a false statement of material fact on this application and that I have read and understand the License Terms and Conditions enclosed with this Retailer License Application. If the Lottery makes a license pursuant to this application, the State Lottery Department and I will be bound by all the requirements contained in the License Terms and Conditions. I understand that untruthful or misleading answers are cause for denial of the application and/or termination of any lottery license. I authorize the Virginia State Lottery Department and/or the Department of State Police to investigate any or all matters set forth in this Retailer License Application pursuant to §58-1-4009 of the State Lottery Law including but not limited to financial records, financial sources, state tax records and criminal history. I understand that further information may be requested of me in regard to this investigation. I waive any rights or causes of action, based upon disclosure of otherwise confidential information, that may have against the Virginia State Lottery, the Virginia State Police and/or any other individual or agency disclosing or releasing such information to the Virginia State Lottery or the Virginia State Police.

TYPE OR PRINT NAME _____	TITLE _____
SIGNATURE _____	DATE _____

NOTARY PUBLIC	
State of _____	County/City of _____
To wit, this day _____, personally appeared before _____ (signature of person named in record)	
me in the County/City aforesaid, and under oath authorized the Virginia State Police to search the files of the Central Criminal Records Exchange for any criminal history record and report the results of such search to the Virginia State Lottery Department.	
Subscribed and sworn to before me this _____ day of _____, 19 _____	
My commission expires _____, 19 _____	
Notary Public	

NOTE: This form may be copied.

<p align="center">RETAILER LICENSE APPLICATION</p> <p align="center"> Virginia Lottery P.O. Box 4689 Richmond, Virginia 23220 </p> <p>Processing Fee: \$25.00 (non-refundable) Make check payable to: Virginia Lottery</p>	<p align="center">DO NOT WRITE IN THIS BLOCK</p> <p>Date Received: _____ Control # _____</p> <p>Security: _____ License # _____</p> <p>Final Action: _____ Final Action Date: _____</p> <p><small>NOTE: Please print or type. Read Applicant Instructions before completing application. Attach additional sheets if necessary for any questions.</small></p>						
<p align="center">TYPE OF APPLICATION</p> <p>1. INDICATE TYPE OF APPLICATION: <input type="checkbox"/> Single Location <input type="checkbox"/> Multiple Locations</p> <p>List main company address below, and attach a retail location form for each retail location that will be selling tickets.</p> <p>a. Business Name: _____ Phone Number: () _____</p> <p>b. Street Address: _____ City/County _____ State _____ Zip _____</p> <p>c. Mailing Address: _____ City/Town _____ State _____ Zip _____</p>							
<p align="center">BUSINESS/ORGANIZATION INFORMATION</p> <p>2. INDICATE TYPE OF BUSINESS/ORGANIZATION.</p> <p>a. <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership or Joint Venture <input type="checkbox"/> Trust <input type="checkbox"/> Corporation or Subsidiary <input type="checkbox"/> Association, Fraternal or Civic (including Non-Profit) <input type="checkbox"/> Governmental</p> <p>List below the names of individuals for your type of business as defined in the instruction booklet.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">1. _____</td> <td style="width: 33%;">2. _____</td> <td style="width: 33%;">3. _____</td> </tr> <tr> <td>4. _____</td> <td>5. _____</td> <td>6. _____</td> </tr> </table> <p>c. FOR EACH NAME LISTED ABOVE ATTACH A PERSONAL DATA FORM. If there are more names than the spaces above, please list them on a separate sheet and also attach a Personal Data Form for each of them.</p> <p>3. HAS BUSINESS/ORGANIZATION EVER BEEN CONVICTED OF A GAMBLING RELATED OFFENSE OR OTHER CRIME? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide details on a separate sheet.</p> <p>4. ATTACH LIST OF OTHER CURRENT STATE OR LOCAL BUSINESS LICENSES HELD. Include License Number.</p> <p>5. HAS BUSINESS OPERATED UNDER A DIFFERENT NAME? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide details on separate sheet.</p>		1. _____	2. _____	3. _____	4. _____	5. _____	6. _____
1. _____	2. _____	3. _____					
4. _____	5. _____	6. _____					
<p align="center">FINANCIAL INFORMATION</p> <p>6. <input type="checkbox"/> Bank <input type="checkbox"/> Primary Business</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Bank Name _____</td> <td style="width: 50%;">Account # _____ <small>(If more than one account, attach list of all account numbers.)</small></td> </tr> <tr> <td colspan="2">Bank Address _____</td> </tr> </table> <p>7. ARE YOU CURRENTLY BONDED? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list bond company, type & limits on separate sheet.</p> <p>8. FEDERAL EMPLOYER I.D. # _____ VIRGINIA TAX I.D. # _____</p> <p>9. ARE ALL STATE TAXES CURRENT? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		Bank Name _____	Account # _____ <small>(If more than one account, attach list of all account numbers.)</small>	Bank Address _____			
Bank Name _____	Account # _____ <small>(If more than one account, attach list of all account numbers.)</small>						
Bank Address _____							
<p>10. DISCLOSURE STATEMENT (Read Carefully.)</p> <p>I, the undersigned do hereby certify that I have not knowingly made a false statement of material fact on this application and that I have read and understand the License Terms and Conditions enclosed with this Retailer License Application. If the Lottery makes a license pursuant to this application, the State Lottery Department and I will be bound by all the requirements contained in the License Terms and Conditions. I understand that untruthful or misleading answers are cause for denial of the application and/or termination of any lottery license. I authorize the Virginia State Lottery Department and/or the Department of State Police to investigate any or all matters set forth in this Retailer License Application pursuant to §58-1-4009 of the State Lottery Law including but not limited to financial records, financial sources, state tax records and criminal history. I understand that further information may be requested of me in regard to this investigation. I waive any rights or causes of action, based upon disclosure of otherwise confidential information, that may have against the Virginia State Lottery, the Virginia State Police, and/or any other individual or agency disclosing or releasing such information to the Virginia State Lottery or the Virginia State Police.</p>							
<p>APPLICANT/AUTHORIZED AGENT OF BUSINESS/ORGANIZATION</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">TYPE OR PRINT NAME _____</td> <td style="width: 50%;">TITLE _____</td> </tr> <tr> <td>SIGNATURE _____</td> <td>DATE _____</td> </tr> </table>		TYPE OR PRINT NAME _____	TITLE _____	SIGNATURE _____	DATE _____		
TYPE OR PRINT NAME _____	TITLE _____						
SIGNATURE _____	DATE _____						
<p>ROUTING INSTRUCTIONS:</p> <p>White Copy - Agency Yellow Copy - Security Pink Copy - Marketing Gold Copy - Applicant</p>							

State Lottery Department

State Lottery Department

* * * * *

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: January 17, 1990

Summary:

The On-line Game Regulations establish the general operational parameters for the on-line game. This includes setting standards and requirements for licensing of on-line lottery retailers, ticket validation, setting the framework for operations of on-line lottery games and the payment of prizes.

The final regulations have been revised to incorporate amendments to §§ 1.6 and 3.7. Section 1.6, "Ticket cancellation," was amended to conform with recent emergency regulations deleting the 10-minute window for on-line ticket cancellation. This amendment has been included in the final regulations in response to comments received from the Governor. Section 3.7, "Unclaimed prizes," was amended to extend the 180-day time limit that a prize winner may redeem his winning ticket. This amendment was adopted in response to comments received from the Office of the Attorney General.

VR 447-02-2. On-Line Game Regulations

**PART I.
ON-LINE GAMES.**

§ 1.1. Development of on-line games.

The director shall select, operate, and contract for the operation of on-line games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each on-line lottery game after consultation with the director. These details include, but are not limited to:

- 1. The type or types of on-line lottery games;*
- 2. Individual prize amounts and overall prize structure;*
- 3. Types of noncash prizes, if any;*
- 4. The amount and type of any jackpot or grand prize which may be awarded and how awarded; and*
- 5. Chances of winning.*

§ 1.2. General definitions for on-line games.

"Auto-picks" means computer generated numbers or items. The director may select a different name to identify

this feature for marketing purposes.

"Breakage" means the fraction of a dollar not paid out due to rounding down and shall be used exclusively to fund prizes.

"Cancelled ticket" means a ticket that has been placed into the terminal, whereupon the terminal must read the information from the ticket, cancel the transaction and brand the ticket with a mark or words indicating that the ticket is cancelled and void.

"Certified drawing" means a drawing in which a lottery official and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination has occurred.

"Drawing" means a procedure by which the lottery randomly selects numbers or items in accordance with the specific game rules for those games requiring random selection of number(s) or item(s).

"Duplicate ticket" means a ticket produced by any means other than by an on-line terminal with intent to imitate the original ticket.

"On-line game" means a lottery game, the play of which is dependent upon the use of an on-line terminal in direct communication with an on-line game main frame operated by or at the direction of the department.

"On-line lottery retailer" means a licensed lottery retailer who has entered an agreement with the department to sell on-line tickets.

"On-line system" means the department's on-line computer system consisting of on-line terminals, central processing equipment, and a communication network.

"On-line terminal" means computer hardware through which a combination of numbers or items is selected or generated and through which on-line tickets are generated and claims may be validated.

"On-line ticket" means a computer-generated ticket issued by an on-line lottery retailer to a player as a receipt for the number, numbers, or items or combination of number or items the player has selected.

"Play" means a wager on a single set of selected numbers.

"Player-selected item" means a number or item or group of numbers or items selected by a player in connection with an on-line game. Player-selected items include selections of items randomly generated by the computer on-line system. Such computer-generated numbers or items are also known as "auto-picks" or "quick picks."

"Quick pick" means the same as "auto pick."

"Retailer," as used in these on-line game regulations, means a licensed on-line lottery retailer, unless the context clearly requires otherwise.

"Roll stock" means the paper roll placed into the lottery retailer terminals from which a unique lottery ticket is generated by the computer, displaying the player selected item(s) or number(s).

"Share" means a percentage of ownership in a winning ticket.

"Validation" means the process of determining whether an on-line ticket presented for payment is a winning ticket.

"Validation number" means a unique number assigned by the on-line central computer and printed on the front of each on-line ticket which is used for validation.

"Winning combination" means two or more items or numbers selected by a drawing.

§ 1.3. Prize structure.

The prize structure for any on-line game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each type of on-line game shall be determined in advance by the board.

B. From time to time, the board may determine temporary adjustments to the prize structure to account for breakage or other fluctuations in the anticipated redemption of prizes.

§ 1.4. Drawing and selling times.

A. Drawings shall be conducted at times and places designated by the director and publicly announced by the department.

B. On-line tickets may be purchased up to a time prior to the drawing as specified in the on-line drawing rules. That time will be designated by the director.

§ 1.5. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board and will be between \$.50 and \$15. These limits shall not operate to prevent the sale of more than one lottery play on a single ticket. Lottery retailers may not discount the sale price of on-line game tickets or provide free lottery tickets as a promotion with the sale of on-line tickets. This section shall not prevent a licensed retailer from providing free on-line tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business;

provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery. (see § 1.9)

§ 1.6. Ticket cancellation.

A ticket may be cancelled and a refund of the purchase price obtained at the request of the bearer of the ticket under the following conditions:

1. To be accepted for cancellation, the ticket must be presented to the lottery retailer location at which the ticket was sold [~~within 10 minutes of the date and time at which the ticket was issued~~] .

2. Cancellation may only be effected by inserting the ticket into the lottery terminal, whereupon the terminal must read the information from the ticket, cancel the transaction and brand the ticket with a mark or words indicating that the ticket is cancelled and void. Any ticket which cannot be cancelled by this procedure remains valid for the drawing for which purchased, and is to be returned to the person who presented the ticket for cancellation and no refund will be available. Any ticket which is mutilated, damaged or has been rendered unreadable, and cannot be inserted into or read by the lottery terminal, cannot be cancelled by any other means.

3. The cancelled ticket must be surrendered by the bearer to the retailer who must deliver the cancelled ticket to the lottery sales representative serving that location. Cancelled tickets will be returned to the department.

4. The lottery's internal auditor will audit cancelled tickets on a sample basis.

§ 1.7. Chances of winning.

The director shall publicize the overall chances of winning a prize in each on-line game. The chances may be printed in informational materials.

§ 1.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all net sales from on-line games. "Net sales" are gross sales less cancels.

B. The board shall approve any bonus or incentive system for payment to retailers. The director will publicize any such system in the rules of the game(s) to which it applies. The director may then award such cash bonuses or other incentives to retailers.

§ 1.9. Retailers' conduct.

A. Retailers shall sell on-line tickets at the price fixed by the board, unless the board allows reduced prices or ticket give-aways.

State Lottery Department

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies, or with the department's specific approval.

D. Tickets shall be sold during all normal business hours of the lottery retailer when the on-line terminal is available unless the director approves otherwise.

E. Tickets shall be sold only at the location listed on each retailer's license from the department.

F. On-line retailers must offer for sale all lottery products offered by the department.

G. An on-line game ticket shall not be sold to, purchased by, or given as a gift to any individual under 18 years of age.

H. On-line retailers shall furnish players with proper claim forms provided by the department.

I. On-line retailers shall post winning numbers prominently.

J. On-line retailers and employees who will operate on-line equipment shall attend training provided by the department and allow only trained personnel to operate terminals.

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by a person 18 years of age or older.

§ 1.10. End of game; suspension.

The director may suspend or terminate an on-line game without advance notice if he finds that this action will serve and protect the public interest.

PART II.

LICENSING OF RETAILERS FOR ON-LINE GAMES.

§ 2.1. Licensing.

A. Generally.

The director may license persons as lottery retailers for on-line games who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

B. For purposes of this part on licensing, "person"

means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 2.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may be considered for licensure, except no person may be considered for licensure:

1. Who will be engaged solely in the business of selling lottery tickets; or

2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as board member, officer or employee of the department; or

3. Who is a vendor to the department of instant or on-line lottery tickets or goods or data processing services, whose tickets, goods or services are provided directly to the lottery department, or whose business is owned by, controlled by, or affiliated with a vendor of instant or on-line lottery tickets or goods or data processing services whose tickets, goods or services are provided directly to the lottery department.

B. Form submission.

The submission of forms or data for licensure does not in any way entitle any person to receive a license to act as an on-line lottery retailer.

§ 2.3. General standards for licensing.

A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing or renewing a license:

1. The financial responsibility and integrity of the retailer, to include:

a. A credit and criminal record history search or when deemed necessary a full investigation of the retailer;

b. A check for outstanding delinquent state tax liability;

c. A check for required business licenses, tax and

business permits; and

d. An evaluation of physical security at the place of business, including insurance coverage.

2. The accessibility of his place of business to public, to include:

a. The hours of operation compared to the on-line system selling hours;

b. The availability of parking including ease of ingress and egress to parking;

c. Public transportation stops and passenger traffic volume;

d. The vehicle traffic density, including levels of congestion in the market area;

e. Customer transaction count within the place of business;

f. Other factors indicating high public accessibility and public convenience when compared with other retailers; and

g. Adequate space and physical layout to sell a high volume of lottery tickets efficiently.

3. The sufficiency of existing lottery retailers to serve the public convenience, to include:

a. The number of and proximity to other lottery retailers in the market area;

b. The expected impact on sales volume of potentially competing lottery retailers;

c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers; and

d. The population to terminal ratio, compared to other geographical market areas.

4. The volume of expected lottery ticket sales, to include:

a. Type and volume of the products and services sold by the retailer;

b. Dollar sales volume of the business;

c. Sales history of the market area;

d. Sales history for instant tickets, if already licensed as an instant retailer;

e. Volume of customer traffic in place of business; and

f. Market area potential, compared to other market areas.

5. The ability to offer high levels of customer service to on-line lottery players, including:

a. A history demonstrating successful use of lottery product related promotions;

b. Volume and quality of point of sale display;

c. A history of compliance with lottery directives;

d. Ability to display jackpot prize amounts to pedestrians and vehicles passing by;

e. A favorable image consistent with lottery standards;

f. Ability to pay prizes less than \$600 during maximum selling hours, compared to other area retailers;

g. Commitment to authorize employee participation in all required on-line lottery training; and

h. Commitment and opportunity to post jackpot levels near the point of sale.

B. Additional factors for selection.

The director may develop and, by director's order, publish additional criteria which, in the director's judgment, are necessary to serve the public interest and public trust in the lottery.

C. Filing of forms with the department.

After notification of selection as an on-line lottery retailer, the retailer shall file required forms with the department. The retailer must submit all information required to be considered for licensing. Failure to submit required forms and information within the times specified in these regulations may result in the loss of the opportunity to become or remain a licensed on-line retailer. The forms to be submitted shall include:

1. Signed retailer agreement;

2. Signed EFT Authorization form with a voided check or deposit slip from the specified account; and

3. Executed bond requirement.

§ 2.4. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond in the amount of \$10,000 from a surety company entitled to do business in Virginia. If the retailer

State Lottery Department

is already bonded for instant games, a second bond will not be required. However, the amount of the original bond must be increased to \$10,000. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$10,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.

2. Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "On-Line License Approval Notice" to the State Lottery Department to be filed with his record.

B. Continuation of surety bond on renewal of license.

A lottery retailer applying for renewal of a license shall:

1. Obtain a letter or certificate from the surety company to verify that the surety bond is being continued for the license renewal period; and

2. Submit the surety company's letter or certificate with the required license renewal fee to the State Lottery Department.

C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded. Such sliding scale may require a surety bond amount either greater or lesser than the amount fixed by subsection A of this section.

D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next renewal action.

§ 2.5. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the automatic clearing house (ACH) system. A single bank account may be used

for both on-line and instant lottery business.

B. Retailer's use of lottery account.

The lottery account will be used by the retailer to make funds available to permit withdrawals and deposits initiated by the department through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed by or due to the retailer from the sale of tickets and the payment of prizes. All retailers shall make payments to the department through the electronic funds transfer (EFT) process unless the director designates another form of payment and settlement under terms and conditions he deems appropriate.

C. Retailer responsible for bank charges.

The retailer shall be responsible for payment of any fees or service charges assessed by the bank for maintaining the required account.

D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "On-Line Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department recording the establishment of his account.

E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank account from one bank account to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

F. Director to establish EFT account settlement schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

§ 2.6. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the settlement of accounts.

B. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will have his on-line terminal disconnected. The

retailer will not be reconnected until payment is made by cashiers check, certified check or wire transfer. Additionally, interest will be charged on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

C. Service charge for dishonored EFT transfer or bad check.

In addition to the penalty authorized by subsection B of this section, the director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

D. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt incurred by the department and the agencies to which the debt is referred.

§ 2.7. License term and renewal.

A. License term.

A general on-line license for an approved lottery retailer shall be issued for a one-year period. A general on-line license requires the retailer to sell both on-line and instant lottery tickets.

B. License renewal.

A general on-line license shall be renewed annually at least 30 days prior to its expiration date and shall be accompanied by the appropriate fee(s) as specified elsewhere in these regulations. The director may implement a staggered, monthly basis for annual license renewals and allow for the proration of annual license fees to credit licensees for the time remaining on their current license when the staggered renewal requirement is imposed. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Amended license term.

An amended license shall be valid for the remainder of the period of the license it replaces.

D. Special license.

The director may issue special licenses. Special licenses

shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest.

§ 2.8. License fees.

A. License fee.

The fee for a lottery retailer general license to sell on-line game tickets shall be \$25. The general license fee to sell on-line game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License renewal fee.

The annual fee for renewal of a lottery retailer general license to sell on-line game tickets shall be an amount determined by the board at its November meeting or as soon thereafter as practicable for all renewals occurring in the next calendar year. The renewal fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The renewal fee shall be paid for each location for which a license is renewed. This fee is nonrefundable. The renewal fee shall be submitted at least 30 days prior to the expiration of a retailer's general license.

C. Amended license fee.

The fee for processing an amended license for a lottery retailer general license shall be an amount as determined by the board at its November meeting or as soon thereafter as practicable for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license shall be submitted in cases where a business change has occurred.

§ 2.9. Fees for operational costs.

A. Installation fee.

The fee for initial terminal telecommunications installation for the on-line terminal shall be \$275. This fee may be subject to change based upon an annual cost review by the department.

1. If the retailer has purchased a business where a terminal is presently installed or telecommunication service is available, a fee of \$25 per year shall be charged upon issuance of a new license.

2. No installation fee will be charged if interruption of service to the terminal has not occurred.

B. Weekly on-line telecommunications line charge.

Each retailer shall be assessed a weekly charge of \$15 per week. This fee may be subject to change based upon an annual cost review by the department.

State Lottery Department

§ 2.10. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

B. License invalidated.

A license shall become invalid in the event of any of the following circumstances:

1. Change in business location;
2. Change in business structure (e.g., from a partnership to a sole proprietorship);
3. Change in the business owners listed on the original personal data forms for which submission of a personal data form is required under the license procedure.

C. Amended personal data form required.

A licensed lottery retailer who anticipates any change listed in subsection B must notify the department of the anticipated change at least 30 calendar days before it takes place and submit an amended personal data form. The director shall review the changed factors in the same manner that would be required for a review of an original personal data form.

§ 2.11. Denial, suspension, revocation or nonrenewal of license.

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person has been:

1. Convicted of a felony;
2. Convicted of a crime involving moral turpitude;
3. Convicted of any fraud or misrepresentation in any connection;
4. Convicted of bookmaking or other forms of illegal gambling;
5. Convicted of knowingly and willfully falsifying, or misrepresenting, or concealing a material fact or makes a false, fictitious, or fraudulent statement or misrepresentation;
6. Determined not to meet the eligibility criteria or general standards for licensing.

B. Grounds for refusal to license partnership or corporation.

In addition to refusing a license to a partnership or corporation under subsection A of this section, the director may also refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A of this section.

C. Appeals of refusal to license.

Any person refused a license under subsection A or B may appeal the director's decision in the manner provided by VR 447-01-02, Part III, Article 2, § 3.4.

D. Grounds for suspension, revocation or refusal to renew license.

After notice and a hearing, the director may suspend, revoke, or refuse to renew a license for any of the following reasons:

1. Failure to properly account for on-line terminal ticket roll stock, for cancelled ticket, for prizes claimed and paid, or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms or conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;
4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;
5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules or regulations of the department or board;
6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;
7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers. This failure may be determined by comparison of the retailer's sales to a sales quota established by the director;
8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the

licensing process;

9. Failure to comply with lottery game rules; and

10. Failure to meet minimum point of sale standards.

E. Notice of intent to suspend, revoke or deny renewal of license.

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny renewal of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

F. Temporary suspension without notice.

If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, he may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any prosecution, hearing or investigation into possible violations is concluded.

G. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final accounting of his lottery activities by the date specified by the director.

§ 2.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 2.13. Display of license.

License displayed in general view. Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 2.14. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any licensed retailer's lottery promotional material that has not been approved for use by the department.

§ 2.15. Inspection of premises.

Access to premises by department. Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

§ 2.16. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

§ 2.17. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 2.18. Reporting requirements and settlement procedures.

Instructions for ordering on-line terminal ticket roll stock, reporting transactions and settling accounts. Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the procedures for (i) ordering on-line terminal ticket roll stock; (ii) reporting receipts, transactions and disbursements pertaining to on-line lottery ticket sales;

State Lottery Department

and (iii) settling the retailer's account with the department.

§ 2.19. Training of retailers and their employees.

Retailer training. Each retailer or anyone that operates an on-line terminal at the retailer's location will be required to participate in training given by the department for the operation of each game. The director may consider nonparticipation in the training as grounds for suspending or revoking the retailer's license.

§ 2.20. License termination by retailer.

Voluntary termination of license. The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 30 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART III.

ON-LINE TICKET VALIDATION REQUIREMENTS.

§ 3.1. Validation requirements.

To be valid, a Virginia lottery on-line game ticket shall meet all of the validation requirements listed here:

- 1. The original ticket must be presented for validation.*
- 2. The ticket validation number shall be presented in its entirety and shall correspond using the computer validation file to the selected numbers printed on the ticket.*
- 3. The ticket shall not be mutilated, altered, or tampered with in any manner. (see § 3.4)*
- 4. The ticket shall not be counterfeited, forged, fraudulently made or a duplicate of another winning ticket.*
- 5. The ticket shall have been issued by the department through a licensed on-line lottery retailer in an authorized manner.*
- 6. The ticket shall not have been cancelled.*
- 7. The ticket shall be validated in accordance with procedures for claiming and paying prizes. (see §§ 3.10 and 3.12)*
- 8. The ticket data shall have been recorded in the central computer system before the drawing, and the ticket data shall match this computer record in every*

respect.

9. The player-selected items, the validation data, and the drawing date of an apparent winning ticket must appear on the official file of winning tickets and a ticket with that exact data must not have been previously paid.

10. The ticket may not be misregistered or defectively printed to an extent that it cannot be processed by the department.

11. The ticket shall pass any validation requirement contained in the rules published and posted by the director for the on-line game for which the ticket was issued.

12. The ticket shall pass all other confidential security checks of the department.

§ 3.2. Invalid ticket.

An on-line ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its on-line game is invalid. An invalid ticket is not eligible for any prize.

§ 3.3. Replacement of ticket.

The director may refund the purchase price of an invalid ticket. If a defective ticket is purchased, the department's only liability or responsibility shall be to refund the purchase price of the defective ticket.

§ 3.4. When ticket cannot be validated through normal procedures.

If an on-line ticket is partially mutilated or if the ticket cannot be validated through normal procedure but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.5. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.6. Prize winning tickets.

Prize winning on-line tickets are those that have been validated in accordance with these regulations and the rules of the department and determined to be official prize winners. Criteria and specific rules for winning prizes shall be published for each on-line game and available for all players. Final validation and determination of prize winning tickets remain with the department.

§ 3.7. Unclaimed prizes.

A. All claims for on-line game winning tickets must be

postmarked or received for payment as prescribed in these regulations within 180 days after the date of the drawing for which the ticket was purchased. [In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day.]

B. Any on-line lottery prize which remains unclaimed after 180 days following the drawing which determined the prize shall revert to the State Literary Fund.

§ 3.8. Using winners' names.

The department shall have the right to use the names of prize winners and the city, town or county in which they live. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose.

§ 3.9. No prize paid to people under 18.

No prize shall be claimed by or paid to any individual under 18 years of age.

§ 3.10. Where prizes claimed.

Winners may claim on-line game prizes from any licensed on-line retailer or the department in the manner specified in these regulations. Licensed on-line retailers are authorized and required to make payment of all validated prizes of less than \$600.

§ 3.11. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations and in any other manner which the director may prescribe in the specific rules for each type of on-line game.

§ 3.12. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations. A nonresident alien shall furnish their Immigration and Naturalization Service Number. This I.N.S. number begins with an A and is followed by numerical data.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service. If the department or these regulations require that a claim form be filed, the FEIN must be shown on the claim form.

C. A group, family unit, club or other organization

which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

D. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

§ 3.13. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize to the estate of a deceased prize winner, and
2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.14. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.15. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the board, the director and employees of the department, terminates upon final payment of a lottery prize.

§ 3.16. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director, under any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;
2. If there is any question regarding the identity of the claimant;
3. If there is any question regarding the validity of any ticket presented for payment; or
4. If the claim is subject to any set-off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act, when the agency has registered such debt with the Virginia Department of Taxation and timely notice of the debt has been furnished by the Virginia Department of Taxation to the State Lottery Department. No liability for interest for such delay shall accrue to the benefit of the

State Lottery Department

claimant pending payment of the claim.

§ 3.17. When installment prize payment may be delayed.

The director may, at any time, delay any installment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed installments shall be brought up to date immediately upon the director's confirmation. Delayed installments shall continue to be paid according to the original payment schedule after the director's decision is given.

§ 3.18. Ticket is bearer instrument.

A ticket that has been legally issued by a licensed lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

§ 3.19. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon submission of a prize claim form, if one is required, unless otherwise delayed in accordance with these regulations. If a validated winning ticket has been signed, the bearer may be required to present proper identification.

§ 3.20. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.21. Penalty for counterfeit, forged or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a counterfeit, forged or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment is a Class 6 felony in accordance with the state lottery law.

§ 3.22. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

§ 3.23. Retailer to pay all prizes less than \$600.

Prizes less than \$600 shall be paid by any licensed on-line retailer, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.24. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.

2. If a check for payment of a prize by a retailer to a claimant is denied for any reason, the retailer is subject to the same service charge for referring a debt to the department for collection and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.

3. Retailers shall pay claims for all prizes under \$600 during all normal business hours of the lottery retailer when the on-line terminal is operational and the ticket claim can be validated.

4. Prize claims shall be payable only at the location specified on the license.

5. The department will reimburse a retailer for prizes paid up to 180 days after the drawing date.

§ 3.25. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.26. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims a retailer has paid in error.

§ 3.27. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the director.

§ 3.28. Prizes of less than \$600.

A retailer shall pay on-line prizes of less than \$600 won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. The retailer shall display special informational material provided by or approved by the department informing the public that the retailer pays all prizes of less than \$600.

§ 3.29. When prize shall be claimed from the department.

The department will process claims for payment of prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall

send or present the ticket to the department for validation with a completed claim form.

2. If a ticket holder is unable to return to any on-line retailer, a completed claim form and the ticket may be presented or mailed to the department for validation.

3. If the prize amount is \$600 or more, a completed claim form with the ticket shall be presented or mailed to the department for validation.

§ 3.30. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.31. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.32. Grand prize event.

If an on-line game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director consistent with § 1.1 of these regulations.

2. Participation in the drawing(s) shall be limited to those tickets which are actually purchased by the entrants on or before the date announced by the director.

3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent event. That action is the extent of the department's liability.

4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each on-line game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.33. When prize payable over time.

Unless the rules for any specific on-line game provide otherwise, any cash prize of \$500,000 or more will be paid in multiple payments over time. The schedule of

payments shall be designed to pay the winner equal dollar amounts over a period of years until the total payments equal the prize amount.

§ 3.34. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

§ 3.35. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

§ 3.36. When claims form required.

A claim form for a winning ticket may be obtained from any department office or any licensed lottery retailer. A claim form shall be required to claim any prize from the department's central and regional offices.

§ 3.37. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations as follows:

1. If the claim is not valid, the department will promptly notify the ticket holder.

2. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.

3. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

§ 3.38. Withholding, notification of prize payments.

When paying any prize of \$600 or more, the department shall:

1. File the appropriate income reporting form(s) with the Virginia Department of Taxation and the Federal Internal Revenue Service;

2. Withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program; and

3. Withhold federal and state taxes from any winnings over \$5,000.

State Lottery Department

§ 3.39. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

State Lottery Department



SEAL VERIFICATION CHART PICK 3/4

DATE: SAT., _____ through SAT., _____, 19 _____

BALL SET:

SAT _____

MON _____

TUE _____

WED _____

THU _____

FRI _____

SAT _____

DISTRIBUTION: WHITE - Security CANARY - External Auditor PINK - Internal Auditor GOLDENROD - TV Studio Secure Room

X-0103 (6/89)

604 000 VSL (5-18-90)

X - 0118 (6/89)	<p style="text-align: center;">REQUEST FOR INACTIVATING RETAILER TERMINAL</p> <p>TO: Peggy Booke Data Center Operations Manager</p> <p>FROM: Kim Culvers Licensing Coordinator</p> <p>DATE: _____</p> <p>Retailer Name _____ Region _____</p> <p>Retailer Number _____</p> <p>INACTIVATE RETAILER'S TERMINAL DUE TO THE FOLLOWING:</p> <p>Non-sufficient funds on EFT sweep</p> <p>Retailer's request</p> <p>Other _____</p> <p>Recommended Date _____ Recommended Time _____</p> <p>Approved By: _____</p> <p>Deputy Director/Director _____ Date _____</p> <p style="text-align: center;">REQUEST FOR RE - ACTIVATING RETAILER TERMINAL</p> <p>Re-Activate Date _____ Re-Activate Time _____</p> <p>Approved By: _____</p> <p>Deputy Director/Director _____ Date _____</p> <p>cc: Cy Coleman Brent Pennington Randy Vukobrat Dennis Shau Jill Hulph Bora Roan</p>
-----------------	---



DRAW VERIFICATION SHEET

Date: ___/___/___ Draw Day: _____
 Lottery Drawing Specialist _____
 Lottery Security Official _____
 VCR Meter Reading: Start _____ Stop _____
 Tape VolSer Number: _____

Winning Numbers

Daily Pick 3 _____
 Daily Pick 4 _____
 Weekly Lotto _____
 Culling in Balance: Yes _____ No _____
 Daily 3 _____ Daily 4 _____ Lotto _____

Lotto Prize Information

Actual Jackpot _____
 Estimated Jackpot _____
 Handle _____
 % of Plays Covered _____
 Carryover to next Draw _____
 Winners fa7004prizes & ga9001payout draw results

Lotto

Match 6 _____
 Match 5 _____
 Match 4 _____
 Match 3 _____

Data Center Operations Supervisor _____
 Lead Computer Operator _____
 Computer Operator _____

Original - Director of Security
 Yellow - Data Center Supervisor
 Goldenrod - Computer Systems Security
 Pink - Internal Auditor

Return To:
 Virginia Lottery
 1610 Ownby Lane
 Richmond, VA 23220

ORDER NUMBER

VIRGINIA LOTTERY VIRGINIA LOTTERY ON-LINE PLAY CENTER AGREEMENT / ORDER FORM

This agreement/order form between the State Lottery Department (Lottery) and the retailer named below provides for the placement of the on-line Play Center in the retailer's business.

RETAILER NAME: (trading as) _____ Phone #: (____) _____
 DELIVERY ADDRESS: _____
 CITY/STATE/ZIP: _____
 LOTTERY REGION NAME: _____ RETAILER NUMBER: _____

PLACE AN "X" BESIDE DESIRED ITEM:

_____ PLAY CENTER (TOP & BASE (A/B)) _____ PLAY CENTER (TOP ONLY)
 _____ APPROXIMATE DELIVERY DATE (PLEASE ALLOW TWO WEEKS FROM ORDER)

PLAY CENTER PLACEMENT AND USAGE

A Lottery Play Center may be provided at no charge for each on-line retail location. The Lottery reserves the right to approve the Play Center placement. The Play Center may be used only for the display and use of approved Lottery materials. The Play Center remains the property of the Lottery.

The Play Center may be removed at the Lottery's request due to unauthorized use or the retailer no longer sells lottery on-line games.

RETAILER CONTACT

LOTTERY REPRESENTATIVE

Print Name _____	Date _____	Print Name _____	Date _____
Signature _____		Signature _____	
Title _____		Title _____	

WHITE - Central Warehouse GREEN - Retail Promotion Specialist CANARY - Regional Sales Office PINK - Sales Department GOLD - Retailer



HOT LINE REPORT

VIRGINIA LOTTERY CONTROL NUMBER C - 100253		DATE	
RETAILER NAME		RETAILER NUMBER	
TICKET PROBLEM REPORT REFERENCE NUMBER P-			
DATE PROBLEM OCCURRED	TIME PROBLEM OCCURRED	HR	MIN
DATE CALL RECEIVED	TIME CALL RECEIVED	HR	MIN
VALUE OF TICKETS \$	TYPE OF PROBLEM NO PRINT <input type="checkbox"/> MISPRINT <input type="checkbox"/> OTHER <input type="checkbox"/>		
EXPLANATION/RECOMMENDATION: CREDIT <input type="checkbox"/> DEBIT <input type="checkbox"/>			
TICKET INFORMATION			
DRAW DATE: (FROM)		NUMBER OF DRAWS	
PICK 3 / PICK 4		LOTTO	
NUMBERS PLAYED		Play A:	- - - - - (- -)
<input type="checkbox"/> EXACT ORDER	- - - ()	Play B:	- - - - - (- -)
<input type="checkbox"/> ANY ORDER		Play C:	- - - - - (- -)
<input type="checkbox"/> EXACT/ANY		Play D:	- - - - - (- -)
		Play E:	- - - - - (- -)
ON-LINE VALIDATION NUMBER (Number at Bottom of Ticket)			
****LOTTERY USE ONLY****			
ADJUSTMENT: APPROVED <input type="checkbox"/> DENIED <input type="checkbox"/>		INITIALS	DATE
TOTAL ADJUSTMENT APPROVED		CREDIT	DEBIT
LESS COMMISSION		APPROVED BY:	
NET ADJUSTMENT			
EXPLANATION:			

K-0070 (2/89)

ACCOUNTING - white copy

HOT LINE - safety copy

SECURITY - pink copy



ON-LINE WEEKLY SETTLEMENT ENVELOPE

ITEM 3 RETAILER USE ONLY ENVELOPE

ITEM 4 CASH TICKETS ENVELOPE

ITEM 1 CASH TICKETS ENVELOPE

ITEM 2 CASH TICKETS ENVELOPE

DO NOT MAIL
THIS ENVELOPE WILL BE
PICKED UP BY YOUR LOTTERY
SALES REPRESENTATIVE

- PLEASE CHECK ITEMS ENCLOSED**
- ITEM 5 DEALY SIGN-ON SLIPS
 - ITEM 6 CASH TICKETS ENVELOPE
 - ITEM 7 CANCELLED TICKETS ENVELOPE
 - ITEM 8 ON-LINE RETAILER TICKET PROBLEM REPORT
 - ITEM 9 ON-LINE WEEKLY SETTLEMENT REPORT

LETTER POST ONLY

ZIP 5 SQUARE

RETAILER NUMBER

BILLING PROBLEM? YES NO

SLD-0127

VIRGINIA LOTTERY ON-LINE GAME SURVEY

LEI NO.	RETAILER NUMBER	CITY/CITY CODE #	MAJOR NEWSPAPER	DENSO TRACT	INTERVIEW DATE
LEGAL BUSINESS NAME					
PHYSICAL LOCATION ADDRESS		CITY/TOWN	STATE	ZIP	
I WISH TO BE SURVEYED FOR ON-LINE GAMES			<input type="checkbox"/> YES	<input type="checkbox"/> NO	TELEPHONE NUMBERS
NAME OF PERSON INTERVIEWED (PRINT NAME)		SIGNATURE		BUSINESS ()	
TITLE		<input type="checkbox"/> PROPRIETOR OPERATED		TERMINAL PHONE # ()	
		<input type="checkbox"/> MANAGER OPERATED		INTERVIEWED BY:	
TYPE OF BUSINESS (NAME/NUMBER FROM BUSINESS CLASSIFICATION CODE)					
LENGTH OF TIME AT LOCATION			SAME BUSINESS STYLE		
TYPE OF AREA/ROAD-BUILD-ROAD (Check One)					
<input type="checkbox"/> URBAN <input type="checkbox"/> SUBURBAN <input type="checkbox"/> RURAL <input type="checkbox"/> SEASONAL <input type="checkbox"/> RESIDENTIAL					
BRIEFLY DESCRIBE AREA BELOW:					
DEFINE TARGET MARKET PARAMETERS:					
DAILY VEHICLE COUNT ON STREETS (Obtain from CITY, COUNTY, OR STATE ROAD DEPT.)			TRANSIT STOPS		
DEPT.		YEAR (Insert Figure)		LAW ENFORCEMENT AGENCY <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY	
NEARBY MAJOR EMPLOYERS OF CUSTOMERS			NUMBER OF EMPLOYEES		
NAME		DISTANCE		NUMBER OF EMPLOYEES	

SKETCH MACHINE LOCATION WITHIN SITE:

ANNUAL GROSS SALES \$ _____ VIDEO RENTALS : _____

SOURCE CHECK CASHING : _____

RESTAURANT: FOOD \$ _____ PAY PHONES : _____

BEVERAGE \$ _____ ATM : _____

SERVICES : _____

Approximate Percent Volume by Sector

GAS SALES (Gal./Mo.) _____

TOTAL CUSTOMERS/WEEK _____

STORES:

BEVERAGE _____ % YES NO

FRONT END: _____ % YES NO

DARY: _____ % YES NO

DELI: _____ % YES NO

OTHER: _____ % YES NO

GROCERY: _____ % YES NO

READER BOARD YES NO

WILL USE FOR JACKPOT YES NO

MAKES OWN SIGNAGE YES NO

POINT OF SALES CONVENIENCE AND VISIBILITY: 1 2 3 4 5

NOTE: ALL SPACES MUST BE COMPLETED BEFORE FORM CAN BE PROCESSED.

VIRGINIA LOTTERY

TICKET PROBLEM REPORT

REFERENCE NO. P- _____

INSTRUCTIONS:

- CALL VIRGINIA LOTTERY HOT-LINE AT 1-800-654-2500 AT THE TIME PROBLEM OCCURS TO OBTAIN A CONTROL NUMBER.
- COMPLETE THE FORM AND EXPLAIN PROBLEM BELOW. STAPLE THE PROBLEM TICKET(S) TO THE FORM.
- KEEP PINK AND GOLDENROD FOR YOUR RECORDS. FORWARD THE WHITE AND YELLOW COPIES IN WEEKLY SETTLEMENT ENVELOPE (TO BE PICKED UP BY LOTTERY SALES REPRESENTATIVE).

DATE _____

RETAILER ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE (____) _____

LOTTERY CONTROL NO.	VALUE OF TICKET(S): \$ _____
DATE PROBLEM OCCURRED / /	
TIME PROBLEM OCCURRED _____ am	DO NOT CHANGE AMOUNT DUE ON WEEKLY SETTLEMENT REPORT. ADJUSTMENTS WILL BE MADE BY LOTTERY HEADQUARTERS.
hr min sec pm	

TYPE OF TICKET PROBLEM: No Print Misprinted Other

EXPLANATION _____

ON-LINE VALIDATION NUMBER (Number at Bottom of Ticket): _____

STAPLE TICKET HERE

Lottery: white & yellow copies/Retailer-pink copy/Chain Headquarters-goldenrod copy

VIRGINIA LOTTERY
RETAILER AGREEMENT FORM

This agreement between the State Lottery Department ("Department") and the Retailer ("Retailer") named below, in consideration of the \$275 non-refundable terminal installation fee paid by the Retailer, entitles the Retailer to an On-Line Retailer License to sell On-Line and Instant lottery tickets at the specified location.

1. **RETAILER'S BUSINESS NAME:** _____
ADDRESS: _____
Street City Zip Code
Retailer Identification Number: _____

2. Retailer shall comply with all applicable state and federal laws, Department rules and regulations, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the Department.

It is understood that this does not constitute a lease for on-line equipment but is an arrangement whereby the on-line Retailer, as a license of the Department, maintains sole custody of the equipment during the active term of the license. All equipment, manuals, tapes, cards, computer printouts, ticket stock, and other items furnished to the Retailer for use with on-line and instant games shall at all times remain the sole property of the Department.

4. The Department reserves the right to discontinue operation of an on-line terminal without notice, order its removal from the Retailer's premises, and revoke the Retailer's license in the event that: a) the on-line Retailer fails to comply with any rule established by the Department, or any instruction issued by the Director of the Department; b) the Department suspends or revokes the Retailer's license to sell lottery tickets; or c) the Retailer fails to make payment of a prize or makes payment with a business check which is dishonored.

5. The Retailer agrees to submit the following forms:
- a. Signed EFT Authorization form with a voided check or deposit slip from the specified account.
 - b. Executed bond requirement. (See On-Line Game Regulations-Part II, Section 2.4)
 - c. Signed Retailer agreement.

6. The Retailer recognizes that this license is a privilege and not a right. The license issued by the Department authorizes the business named above to act as an on-line Retailer at the location specified in the license. The license is not transferrable to any other business, person, or location.

7. The Retailer understands and agrees that, in addition to the provisions of this Agreement, he has read, understands and agrees to abide and be bound by all rules and regulations adopted by the Department.

SIGNATURES: _____
PRINT NAME: _____
TITLE: _____
DATE: _____

Retailer Licensee

WHITE-Department PINK-Region YELLOW-Resale

SLD-0130 (04/9)



CANCELLED TICKETS ENVELOPE

RETAILER NUMBER				

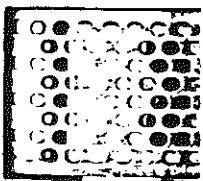
NUMBER OF TICKETS ENCLOSED	

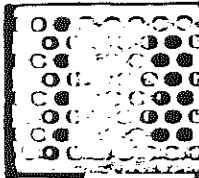
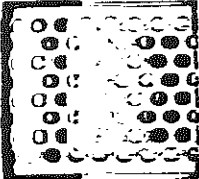
RETAIL VALUE OF TICKETS ENCLOSED				

TUESDAY SETTLEMENT DATE			
<small>Month</small>	<small>Day</small>	<small>Year</small>	

STAPLE EACH CANCELLED TICKET TO THE CORRESPONDING PLAYER TICKET.

SLD-0124





CASH TICKETS ENVELOPE

RETAILER NUMBER				

NUMBER OF TICKETS ENCLOSED				

PRIZE VALUE OF TICKETS ENCLOSED				

TUESDAY SETTLEMENT DATE				
Month	Day	Year		

EACH CASH TICKET MUST BE STAPLED TO THE CORRESPONDING PLAYER TICKET.

SLD-0125

X-0105 5/89

COMMONWEALTH of VIRGINIA
STATE LOTTERY DEPARTMENT

A/R ONLINE ACCOUNTING TRANSACTION FORM

REFERENCE # _____
DATE _____

AGENT NO: _____	AGENT NAME: _____	TRANSACTION AMOUNT: _____
-----------------	-------------------	---------------------------

<input checked="" type="checkbox"/>	TRAN CODE	DESCRIPTION	GL JOURNAL NO: _____
<input type="checkbox"/>	8	CM - Account Credit	
<input type="checkbox"/>	9	DM - Account Charge	
<input type="checkbox"/>	11	DM - Cash Transfer	
<input type="checkbox"/>	12	DM - Chargeback NSF	
<input type="checkbox"/>	13	DM - Interest on NSF	
<input type="checkbox"/>	14	DM - Penalty	
<input type="checkbox"/>	15	DM - Regional Adjustment	

Comments: _____

Approved: _____ Date: _____

Entered: _____ Date: _____

White: Accounting Yellow: Retailer Pink: General Ledger



COMMONWEALTH of VIRGINIA

State Lottery Department

P.O. Box 4689, Richmond, Virginia 23220

(804) 367-9130

Kenneth W. Thomson
Director

VIRGINIA LOTTERY BOARD
M. Stuart Knight
The Honorable William F. Patterson, Jr.
Henry Thompson Tucker, Jr.
Dr. Cyrena Hadenby Tyson
The Honorable G. William Whelan

Page 2

ON-LINE LICENSE APPROVAL NOTICE

Dear Lottery Retailer:

Congratulations! Your business has been selected as an on-line retailer. Soon after you have signed and returned the enclosed agreement form and completed the requirements set forth below, the Lottery will initiate the steps necessary for installation of an on-line terminal for your location. This letter and the enclosed materials explain what you have to do to complete this process and receive your new license.

As an on-line retailer, you are required to provide \$10,000 surety bond coverage for your on-line terminal location(s). This may be done by having your current instant ticket \$5,000 bond amended to the \$10,000 amount or by securing a new bond.

You must also authorize access to an electronic funds transfer (EFT) bank account to be used exclusively for lottery settlement. You can use your current EFT account that you established for the instant games.

Also enclosed with this notice is a summary of the duties and responsibilities of the lottery and on-line retailers. Please take a few moments to read the enclosed information.

After you have reviewed this information, please do the following:

- (1) Complete and return the On-Line Agreement form;
- (2) Purchase or amend your bond to show \$10,000 coverage and provide the original of the surety bond certificate and the surety company's power of attorney;
- (3) Complete and return the on-line electronic funds transfer (EFT) agreement form; and
- (4) Return a check payable to the State Lottery Department in the amount of \$275.00.

If you have any questions, please contact our licensing service representative at (804) 367-9236.

Sincerely,

Larry J. Gray
Deputy Director

Enclosures

1. THE LOTTERY WILL (at no cost to you):

- a. Provide an on-line terminal for the sale and cancellation of on-line tickets, the validation of winning tickets and the production of management reports.
- b. Arrange for the installation of the telecommunications lines.
- c. Provide advertising for the on-line games.
- d. Provide point-of-sale material, signage and other forms of merchant sale aids.
- e. Provide marketing and advertising assistance to the retailer.
- f. Provide training on the operation of the on-line terminal for the sale, redemption and cancellation of the on-line tickets.
- g. Supply the retailer playslips, ticket stock, weekly settlement envelopes, and all other forms required for on-line games.
- h. Provide mechanical and electrical maintenance and repairs to the on-line terminal.
- i. Provide funds to the retailer, when necessary, if any required payment of on-line prizes exceeds retailer's sales since the last settlement date.

2. THE RETAILER SHALL:

- a. Pay to the Lottery a non-refundable amount of \$275 in advance to cover the Lottery's cost for initial installation expenses and will be assessed a weekly charge of \$15 for the on-line telecommunication line charges.
- b. Attend such training sessions as the Lottery shall provide to ensure that the retailer and employees are properly trained in the operation of the on-line terminal.
- c. Provide secure storage for the on-line terminal supplies and a secure area for the on-line terminal, cancelled tickets, and tickets on which payments have been paid.
- d. Locate secure cash storage within close proximity to the on-line terminal.
- e. Provide for the sale of all Lottery products.
- f. Exercise due diligence in the operation of the on-line terminal and shall immediately notify the Lottery of any telephone line or on-line terminal malfunction.
- g. Not perform mechanical or electrical maintenance on the on-line terminal, but may replace ribbons and on-line ticket stock and minor machine corrections per the instructions provided by the Lottery.
- h. Conduct the sale, redemption, and cancellation of on-line tickets during all hours and days the retailer's business is open and the on-line system is functioning.

- i. Immediately pay each valid winning on-line ticket claim of less than \$600.
 - j. Stamp, mark or otherwise identify all cancelled on-line tickets and winning on-line tickets that have been paid and submit these along with the "cancel" and "pay" tickets to the Lottery as part of the payment process.
 - k. Provide the proper claim forms and instructions to each bearer of a winning ticket of \$600 or more.
 - l. Post each winning number prominently where tickets are sold as soon as possible following the drawing.
 - m. Be responsible for the loss of or damages to the on-line terminal equipment which results from the retailer's negligence or intentional acts.
 - n. Provide a bond in the amount of \$10,000 made payable to the State Lottery Department.
 - o. Establish and maintain a special electronic funds transfer bank account to be used exclusively for lottery business.
3. INSTALLATION:
- a. The retailer will provide, prior to installation of the on-line terminal, an electrical duplex-grounded outlet on a separate circuit that remains operational 24 hours a day. The circuit shall be 110 volts AC, 60 Hz nominal and a 20 amp circuit breaker. The outlet shall be located within six feet of the on-line terminal and in an area where the public does not have access.
 - b. The retailer will locate the on-line terminal within the retailer's premises at a point of sale approved by the Lottery. The retailer shall not move the terminal unless the retailer follows the procedures established by the Director, including reimbursing the Lottery for any telephone charges associated with the change of location if the retailer requests the change.
4. COMPENSATION:
- a. In consideration for properly performing its duties and responsibilities, the licensed retailer shall receive 5.0% compensation on all net sales from on-line games. "Net sales" are gross sales less cancels.

THINGS TO DO

ON-LINE RETAILER

Check box
When Complete

Task

Sign on-line Retailer agreement form.

Submit \$275.00 check for telecommunications installation fee.

Specify bank account number for electronic funds transfer settlement.

Provide lottery with proof of \$10,000 bond.

Mark area near terminal counter with stickers for Installers (TELCO and A.C. power).

Prepare counter space for terminal installation.

Attend training as scheduled.



SURETY COMPANY BOND # _____

COMMONWEALTH OF VIRGINIA
LOTTERY RETAILER SURETY BOND

KNOW ALL MEN BY THESE PRESENTS: That we, _____
as Principal and _____, incorporated under the laws of the State
of _____ and authorized to do business in the Commonwealth of Virginia, as Surety,
are held and firmly bound unto the State Lottery Department, Commonwealth of Virginia, as obligee,
in the penal sum of Five Thousand and no/100 Dollars (\$5,000), lawful money of the United States
of America, for which payment, well and truly to be made, we bind ourselves, our heirs, executors,
administrator, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bound Principal has obtained or is about to obtain from the Obligee a
license as a Lottery Retailer at the following physical location: _____
and the term of said license shall be for a period of
one year effective during the month of the lottery retailer's license approval,

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH,
that if the above bound Principal shall make payment of all sums due the Obligee for lottery tickets
and proceeds and comply with all statutes, rules, and regulations pertaining to said license, than this
obligation shall be null and void, otherwise to remain in full force and effect.

PROVIDED, that this bond shall be effective on _____, 19____, and shall
continue in force for one year; unless said bond is continued in force from year to year by the
issuance of a continuation certificate executed by the Surety hereon; and

PROVIDED FURTHER, that regardless of the number of years this bond shall continue in
force, the Surety shall not be liable hereunder for a larger amount, in the aggregate, than the amount
of this bond, and

PROVIDED FURTHER, this bond may be cancelled by the Surety as to subsequent liability
by giving thirty (30) days notice in writing by certified mail to the Director, State Lottery Department,
P. O. Box 4689, Richmond, VA 23220.

Signed and sealed this ____ day of _____, 19____.

(Seal) _____

By: _____ By: _____

SEE REVERSE SIDE FOR ACKNOWLEDGMENT OF SURETY
PLEASE RETURN THIS BOND TO THE LOTTERY

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

/s/ Gerald L. Baliles
Date: November 24, 1989

(Required by § 9-6.12:9.1 of the Code of Virginia)

* * * * *

DEPARTMENT OF CORRECTIONS

Title of Regulation: VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.

Title of Regulation: VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

Governor's Comment:

Governor's Comment:

The proposed regulation effective July 1, 1990, describes the minimum standards for operation of programs developed under the Delinquency Prevention and Youth Development Act (§§ 66-26 through 66-35 of the Code of Virginia) Chapter 733 Acts of Assembly of 1989.

I concur with the form and content of the final regulations, which incorporate comments received by the Board of Health.

/s/ Gerald L. Baliles
Date: November 16, 1989

Title 66 of the Code of Virginia creates the Department of Youth Services which is charged with the responsibility of developing and supervising delinquency prevention and youth development programs after July 1, 1990. Pursuant to the enacting clause of Chapter 733 Acts of Assembly of 1989, I have appointed a Director and State Board of Youth Services. The Director and Board have such powers, prior to July 1, 1990, as necessary to effect a smooth transition of powers and duties from the Department of Corrections to the Department of Youth Services and render the Department fully operational by July 1, 1990.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to the New Drug Review Program.
VR 460-03-3.1100. Amount, Duration and Scope of Services.
VR 460-05-2000.0000. New Drug Review Program.
VR 460-05-2000.1000. New Drugs Not Covered by Medicaid.

In order to effect a smooth transition of powers and duties and be fully operational by July 1, 1990, I believe the newly created Board of Youth Services should promulgate the proposed regulations governing the development of programs contemplated by the Delinquency Prevention and Youth Development Act.

I concur with the form and content of the final regulations as revised to respond to comments received by the Department of Medical Assistance Services.

/s/ Gerald L. Baliles
Date: November 20, 1989

* * * * *

/s/ Gerald L. Baliles
Date: November 17, 1989

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-28-01.02. Regulations for Disease Reporting and Control.

Title of Regulation: VR 460-03-3.1100. Amount, Duration and Scope of Services. (Coverage of Orthoptics.)

Governor's Comment:

Governor's Comment:

I request that the Board of Health consider alternatives to the proposed requirement that all pregnant women undergo a third-trimester test for syphilis. I ask that the Board consider whether treatment at this stage can prevent congenital syphilis and that it also consider whether universal testing can be replaced with a requirement for testing only high-risk patients. I concur with the form and content of the remainder of this proposal. My final approval will be contingent upon a review of the Board's response and public comments.

I have no objection to the form or content of these regulations as proposed. The regulatory change is necessary to conform to federal requirements.

/s/ Gerald L. Baliles
Date: November 16, 1989

BOARD OF MEDICINE

Title of Regulation: VR 465-03-01. Regulations Governing the Practice of Physical Therapy.

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the

Governor

public's comments.

/s/ Gerald L. Baliles
Date: November 24, 1989

DEPARTMENT OF MOTOR VEHICLES

Title of Regulation: VR 485-50-8901. Virginia Commercial Driver's License Regulations.

Governor's Comment:

I approve these regulations subject to a reassessment by DMV on or before January 1, 1992, to determine whether third party testing should be expanded, or if other changes are indicated.

/s/ Gerald L. Baliles
Date: November 24, 1989

BOARD OF PHARMACY

Title of Regulation: VR 530-01-02. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.

Governor's Comment:

I have carefully reviewed the Board of Pharmacy's proposed regulations entitled, "Regulations for Practitioners of the Healing Arts to Sell Controlled Substances."

In view of the quality-of-care concerns raised by these regulations, I would strongly urge the Board to amend these standards to include the following:

A more stringent renewal requirement for practitioners whose licenses have been inactive beyond a fixed number of years, to assure the applicant's competency regarding current pharmaceutical practices;

A procedural rule for the Board of Pharmacy to confirm the status of the applicant for a new or renewal license with the Board of Medicine, and a requirement that the applicant be a licensee in good standing with the Board of Medicine;

A provision for checking the records of an applicant for a new or renewal license with the federal Department of Health and Human Services' National Practitioners' Data Bank (I understand that the Data Bank will not be operational for about a year, but that physicians will be in the first group whose records will be entered in the Data Bank); and

A rule which sets out the circumstances under which a license would be revoked or suspended.

/s/ Gerald L. Baliles
Date: November 22, 1989

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR)

Title of Regulation: VR 670-03-1. Provision of Services in Vocational Rehabilitation.

Governor's Comment:

I concur with this proposal. My final approval will be contingent upon incorporation of DPB's recommendations, particularly those concerning the financial eligibility policy, and upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: November 27, 1989

* * * * *

Title of Regulation: VR 670-03-2. Regulation for the Program for Infants, Children and Youth.

Governor's Comment:

I concur with this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: November 24, 1989

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-10-1. Virginia Hazardous Waste Management Regulations.

Governor's Comment:

The promulgation of this regulation is intended to improve the existing hazardous waste management regulations and to bring the regulations into conformity with the newly promulgated federal regulations. Pending public comment, I recommend approval of the amended regulations.

/s/ Gerald L. Baliles
Date: November 19, 1989

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

ALCOHOLIC BEVERAGE CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **VR 125-01-6. Manufacturers and Wholesalers Operations.** The purpose of the proposed action is to eliminate the controversy, uncertainty and potential litigation under the Virginia Beer Franchise Act and the Virginia Wine Franchise Act which have frequently arisen in the past whenever the brand owners of beer or wine sold in Virginia choose to conduct business with Virginia wholesale licensees through third parties, and through acknowledgements and disclosures, to identify and establish the business, agency and commercial relationships between manufacturers, importers and wholesalers of wine and beer.

A public meeting will be held on January 17, 1990, at 10 a.m. in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comment from the public.

Statutory Authority: §§ 4-7(1), 4-11, 4-98.14 and 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Written comments may be submitted until 10 a.m., January 17, 1990.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: **VR 125-01-1 through VR 125-01-7. Regulations of the Virginia Alcoholic Beverage Control Board.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending or repealing the board's regulations.

Notice to the Public

A. Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines For Adoption Or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control

Board), the Board will conduct a public meeting on January 17, 1990, at 10 a.m. in its Hearing Room, First Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, City of Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of Board regulations. Any group or individual may file with the Board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. Recommended adoption, amendment or repeal of specific regulation(s).
4. Why is change needed? What problem is it meant to address?
5. What is the anticipated effect of not making the change?
6. Estimated costs and/or savings to regulate entities, the public, or others incurred by this change as compared to current regulations.
7. Who is affected by recommended change? How affected?
8. Supporting documents.

The Board may also consider any other request for regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the Board no later than November 17, 1989.

B. The Board will also be appointing an Ad Hoc Advisory Panel consisting of persons on its General Mailing List who will be affected by or interested in the adoption, amendment or repeal of Board regulations. This panel will study requests for regulatory changes, make recommendations, and suggest actual draft language for a regulation, if it concludes a regulation is necessary. Anyone interested in serving on such panel should notify the undersigned by November 17, 1989, requesting that their name be placed on the General Mailing List.

C. Applicable laws or regulation (authority to adopt regulations): Sections 4-11, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103 and 9-6.14:1 et seq., Virginia Code; VR 125-01-1, Part V, Board Regulations.

D. Entities affected: (1) all licensees (manufacturers,

General Notices/Errata

wholesalers, importers, retailers) and (2) the general public.

A public meeting will be held on January 17, 1990, at 10 a.m., in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comments from the public.

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14 and 4-103(b) of the Code of Virginia.

Written comments may be submitted until 10 a.m., January 17, 1990.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

DEPARTMENT OF AVIATION (VIRGINIA AVIATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Aviation Board intends to consider repealing existing regulations and promulgating new regulations entitled: **Rules and Regulations of the Department of Aviation and Virginia Aviation Board**. The purpose of the proposed action is to govern the licensing and operation of aircraft and airports, and to govern and permit structures in the airspace of the Commonwealth.

Statutory Authority: § 5.1-2.2 of the Code of Virginia.

Written comments may be submitted until December 20, 1989, to Kenneth A. Rowe, Director, Virginia Department of Aviation, 4508 South Laburnum Avenue, Richmond, VA 23231-2422.

Contact: Keith F. McCrea, AICP, Aviation Planner, 4508 S. Laburnum Ave., Richmond, VA 23231-2422, telephone (804) 786-1365 or toll-free 1-800-292-1034

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider promulgating regulations entitled: **Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchase**. The purpose of the proposed action is to promulgate regulations that are currently emergency regulations which are effective through October 13, 1990, governing the privacy and security of criminal history record information used for checks for firearm purchase.

Statutory Authority: §§ 9-170 21 and 18.2-308.2:2 of the Code of Virginia.

Written comments may be submitted until January 18, 1990, to Charlotte McClamroch, Section Chief, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Criminal Justice Services intends to consider promulgating regulations entitled: **McGruff House Regulations**. The purpose of the proposed action is to provide procedural instruction for the sponsorship and operation of McGruff House Program.

Statutory Authority: § 9-173.4 of the Code of Virginia.

Written comments may be submitted until December 18, 1989.

Contact: Patrick D. Harris, Crime Prevention Center Program Manager, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8467

DEPARTMENT OF HEALTH (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Governing the Newborn Screening and Treatment Program**. The purpose of the proposed action is to (i) revise the regulations to include diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia and (ii) clarify the critical time periods for submitting newborn screening tests in order to more accurately test for diseases that are mandated.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 of Title 32.1 of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Program Director, Department of Health, Division of Maternal and Child Health, James Madison Bldg., 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367 or SCATS 786-7367

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Rules and Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualification for Noncommercial and Commercial Blood Banks.** The purpose of the proposed action is to update the 1980 regulations to reflect change in federal regulations, American Association of Blood Bank guidelines and current blood banking technology.

Statutory Authority: §§ 32.1-2, 32.1-12, 32.1-42 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: Dr. Martin A. Cader, Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261 or SCATS 786-6261

LIBRARY BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Library Board intends to consider amending regulations entitled: **Requirements Which Must be Met in Order to Receive Grants-In-Aid.** The purpose of the proposed action is to consider changes to the local minimum expenditure requirement and to other criteria libraries must meet in order to receive grant-in-aid.

Statutory Authority: § 42.1-52 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

Contact: Ella Gaines Yates, State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-05-9.2. Rules and Regulations Governing the Use of Diesel-Powered Equipment in Underground Coal Mines.** The purpose of the proposed action is to ensure the health and safety of underground coal miners in mines where diesel-powered equipment is used.

A public meeting is scheduled for December 19, 1989, in the Dalton-Cantrell Auditorium, Mountain Empire Community College, Big Stone Gap, Virginia.

Statutory Authority: §§ 45.1-1.3 and 45.1-104 of the Code of Virginia.

Written comments may be submitted until January 5, 1990.

Contact: Bill Edwards, Policy Analyst, Department of Mines Minerals and Energy, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330

VIRGINIA RACING COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.** The purpose of the proposed regulation is to establish procedures for the Virginia Breeders' Fund, establish medication guidelines, and post-race testing procedures, and licensure of limited horse race meetings.

Statutory Authority: § 59.1-364 of the Code of Virginia.

Written comments may be submitted until February 1, 1990, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **Conversion of Anticipated Income to Monthly Amounts in the Food Stamp Program.** The purpose of the proposed action is to ensure that no household is denied food stamp benefits solely because of a method of calculating monthly income.

This policy is based on federal food stamp regulations contained at 7 CFR 273.10(c)(2)(i).

Statutory Authority: § 63.1-25.2 of the Code of Virginia.

Written comments may be submitted until January 17, 1990, to Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

General Notices/Errata

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217

Written comments may be submitted until 5 p.m., January 12, 1990, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Chester C. Bigelow, Office of Water Resources, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6406

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **Regulations Governing the Transportation of Hazardous Materials**. The proposed amendment will incorporate by reference, changes that were made by U.S. DOT to Title 49 Code of Federal Regulations from July 1988 to June 30, 1989. In addition the amendment includes a new section, Part 180, promulgated by U.S. DOT. U.S. DOT believes that these changes will increase safety in the transportation of hazardous materials in cargo tanks.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until December 18, 1989, to William F. Gilley, Department of Waste Management, James Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: Cheryl Cashman, Legislative Analyst, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-15-02. Virginia Water Protection Permit**. The purpose of the proposed action is to establish a Virginia Water Protection Permit for any activity requiring a Section 401 Certification under the Clean Water Act and for ensuring that the proposed activity is consistent with the provisions of the State Water Control Law and the Clean Water Act.

If adopted, these regulations will establish the Virginia Water Protection Permit and will impact any activity requiring a Section 401 Certification under the Clean Water Act. Applicable laws and regulations include the State Water Control Law; Procedural Rule No. 3; and Sections 301, 302, 303, 306, 307, and 401 of the Clean Water Act. A public meeting has been scheduled, see Calendar of Events section for additional information.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-15-03. Surface Water Management Areas**. The purpose of the proposed regulation is to promulgate general regulations necessary for declaration of surface water management areas, and the permitting of water withdrawals, for areas where there is, in the judgment of the board, reason to believe that the conditions of § 62.1-246 of the Code of Virginia exist and the public welfare, health and safety require that regulatory efforts be initiated.

Regulations, if adopted, will establish the framework for declaration of surface water management areas which, if declared, would subject surface water withdrawals of 300,000 gallons or more per month for consumptive use to permitting and reporting requirements. Applications law is § 62.1-242 et seq. of the Code of Virginia. A public meeting has been scheduled for 2 p.m., January 3, 1990. See Calendar of Events section for additional information.

Statutory Authority: § 62.1-242 et seq. of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 12, 1990, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Joe Hassell, Office of Water Resources Management, State Water Control Board, 2111 N. Hamilton St., Richmond, VA 23230, telephone (804) 367-6435

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards**. The purpose of the proposed amendment is to conduct the review of water quality standards required by federal and state law every three years.

Possible changes to the standards have the potential to impact every VPDES permit holder in the Commonwealth. The range of impact varies from one of additional monitoring costs through upgrades to existing wastewater treatment facilities. Applicable laws and regulations include the State Water Control Law, Permit Regulation (VR 680-14-01), Policy for Nutrient Enriched Waters (VR 680-14-02), Toxics Management Regulation (VR 680-14-03),

and Sections 303(c)(2)(B) and 307(a) of the Clean Water Act. Public meetings have been scheduled. See Calendar of Events section for additional information.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

GENERAL NOTICES

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

† Notice to the Public of Proposed Regulation Action and Notice of Public Regulatory Development Meeting

Pursuant to the Public Participation guidelines contained in VR 125-01-1 § 5.1, the board intends to consider proposals to amend the regulations as set forth below and will conduct a public meeting on such proposal as indicated below:

1. VR 125-01-6 § 6 - Wine and beer importer licensees; conditions for issuance and renewal.

a. **Subject of Proposal** - To require all persons applying for the issuance or renewal of a wine or beer importer's license to file written acknowledgments by brand owners that any wholesale licensees which have been or are later supplied with its brands, either directly or indirectly, are appointed as designated distributors of the brand owner for purposes of the Virginia Beer Franchise Act or the Virginia Wine Franchise Act.

b. **Entities Affected** - Manufacturers, importers, and wholesalers of wine and beer.

c. **Purpose of Proposal** - To eliminate the controversy, uncertainty and potential litigation under the Virginia Beer Franchise Act and the Virginia Wine Franchise Act which have frequently arisen in the past whenever the brand owners of beer or wine sold in Virginia choose to conduct business with Virginia wholesale licensees through third parties, and through acknowledgments and disclosures, to identify and establish the business, agency and commercial relationships between manufacturers, importers and wholesalers of wine and beer.

d. **Issues Involved** - Whether brand owners who have chosen to conduct business with Virginia wholesale licensees through third parties are obligated to comply

with the provisions of the Virginia Beer Franchise Act or the Virginia Wine Franchise Act.

e. **Applicable Laws or Regulations** - §§ 4-7(b) and (l), 4-11, 4-25(e), 4-118.3 - 4-118.20:1 and 4-118.42 - 4-118.61 of the Code of Virginia.

f. **Submitted By:** Virginia Beer Wholesalers Association, Inc.

2. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(l), 4-11(a), 4-98.14, 4-103(b) and 9-6.14:1 et seq. of Title 9 of the Code of Virginia.

3. The board requests that all persons interested in the above described subject please submit comments in writing by 10 a.m. January 17, 1990, to Robert N. Swinson, P. O. Box 27491, Richmond, Virginia 23261 or attend the public meeting scheduled below.

4. The board will hold a public meeting and receive the comments or suggestions of the public on the above subject. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia at 10 a.m. on January 17, 1990.

5. Regarding the proposal as set forth above, all references to existing regulations that may be the subject of amendment or repeal, all references to proposed numbers for new regulations or to applicable laws or regulations are for purposes of information and guidance only, and are not to be considered as the only regulations or laws that may be involved or affected when developing draft language to carry out the purposes of any proposal. This notice is designed, primarily, to set forth the subject matter and objectives of each proposal. In developing draft language, it may be necessary to amend or repeal a number or existing regulations and/or adopt new regulations as may be deemed necessary by the board, and the references set forth above are not intended to be all inclusive.

6. Contact Robert N. Swinson, if you have questions, at the above address or by phone at (804) 367-0616.

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

General Notices/Errata

NOTICE OF INTENDED REGULATORY ACTION - RR01
NOTICE OF COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE OF MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

ERRATA

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-3-400.1. Corporation Income Tax: Telecommunications Companies.

Publication: 6:5 VA.R. 731-741 December 4, 1989

Correction to the Final Regulation:

Page 741, column 1, end of subsection B, the following text was omitted: "...*telecommunications company or upon the amount of gross receipts of a telecommunications company will be acted upon by the Department of Taxation.*"

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
☒ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

December 20, 1989 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) conduct regulatory review, (ii) adopt proposed regulations, and (iii) develop a work plan regarding R.D.I. Study.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

VIRGINIA AVIATION BOARD

December 19, 1989 - 10 a.m. - Open Meeting
Best Western Airport Inn, 5700 Williamsburg Road, Richmond, Virginia. ☒

A meeting to discuss matters of interest and concern of aviation in Virginia.

Contact: Kenneth A. Rowe, Director, 4508 S. Laburnum Ave., Richmond, VA 23231, telephone (804) 786-6284

BOARD FOR BARBERS

December 18, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review enforcement cases, (ii) review applications, (iii) review correspondence, and (iv) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

VIRGINIA BOATING ADVISORY BOARD

January 11, 1990 - 10:30 a.m. - Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia

A meeting to review and take action on issues, legislation and regulations affecting Virginia's recreational boating public.

Contact: Wayland W. Rennie, Chairman, 8411 Patterson Ave., Richmond, VA 23229, telephone (804) 740-7206

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

† January 4, 1990 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

The committee will meet to discuss the requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Dept., P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

DEPARTMENT FOR CHILDREN

State-Level Runaway Youth Services Network

January 18, 1990 - 10:30 a.m. - Open Meeting
Department of Corrections, 6900 Atmore Drive, Room 3056, Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Martha Frickert, Human Resources Developer, Department for Children, 805 E. Broad St., 11th Floor, Richmond, VA 23219, telephone (804) 786-5994

Calendar of Events

BOARD OF COMMERCE

† **February 1, 1990 - 11 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

A regular quarterly meeting of the board. The director will report on legislation under consideration by the General Assembly that would affect the regulatory operations of the Department of Commerce.

Contact: Alvin D. Whitley, Policy Analyst, Director's Office, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564, toll-free 1-800-552-3016 or SCATS 367-8519

DEPARTMENT OF COMMERCE

January 10, 1989 - 10 a.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **VR 190-05-01. Asbestos Licensing Regulations.** The amendments to the Virginia Asbestos Licensing Regulations include RFS contractor licensure requirements, qualifications for inspector and management planner license, contractor notification requirements and revisions of license application procedures.

Statutory Authority: § 54.1-500 et seq. of the Code of Virginia.

Written comments may be submitted until January 19, 1990.

Contact: Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595

DEPARTMENT OF CONSERVATION AND RECREATION

Goose Creek Advisory Board

† **December 20, 1989 - 11 a.m.** – Open Meeting
Warren Portridge Residence, Route 722, South of Route 7, Lincoln, Virginia

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Department of Conservation and Recreation, Environmental Program Manager, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132

BOARD FOR CONTRACTORS

December 21, 1989 - 10 a.m. – Open Meeting
Council Chambers, Municipal Building, 215 Church Avenue, Roanoke, Virginia

The board will meet to conduct a formal hearing:

File Numbers 87-00516, 87-00575
Board for Contractors v. Jack R. Black, Jr.
and Application for License Renewal

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

BOARD FOR COSMETOLOGY

† **February 18, 1990** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Cosmetology intends to amend regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The regulation reestablishes a requirement for the cosmetology schools to report the number of hours and performances of a student upon termination for any reason.

STATEMENT

Basis, purpose, impact and summary: Pursuant to § 54.1-201 5 of the Code of Virginia and in accordance with § 9-6.14:7.1, the Board for Cosmetology proposes to amend § 3.5 of VR 235-01-02.

The regulation applies directly to approximately 90 licensed schools, 885 certified instructors, and 2,500 individuals applying per year to sit for the cosmetology examination. Also affected are the 34,330 licensed cosmetologists and 5,470 licensed salons.

The proposed amendment to § 3.5 requires cosmetology schools to report to the board upon termination of a student from a licensed school, for any reason, the performances and hours completed within 30 days from the date of termination. The proposed regulation assures that individuals will not be prohibited from completing their education and from being barred from sitting for the examination because contractual financial obligations have not been met. Further it should be noted that cosmetology schools have civil remedies to resolve contractual disputes with students.

Statutory Authority: § 54.1-201 5 of the Code of Virginia.

Written comments may be submitted until February 18, 1990.

Calendar of Events

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

BOARD OF EDUCATION

January 11, 1990 - 8 a.m. - Open Meeting
January 12, 1990 - 8 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold regularly scheduled meetings. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: Margaret Roberts, Community Relations Office, Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540

DEPARTMENT OF EDUCATION (BOARD OF)

February 5, 1990 - Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to repeal existing regulations and promulgate new regulations entitled: **VR 270-01-0033. Regulations Governing Driver Education.** The current Board of Education Regulations need to be clarified in the Code of Virginia to specify what is a "standardized program of driver education for public and nonpublic schools" and for commercial schools, how "comparable content and quality" is defined.

Statutory Authority: § 22.1-205 of the Code of Virginia.

Written comments may be submitted until February 5, 1990.

Contact: Jeane L. Bentley, Associate Director, Health, Physical Education and Driver Education, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2866

VIRGINIA EMPLOYMENT COMMISSION

January 3, 1990 - 10 a.m. - Public Hearing
Virginia Employment Commission, 703 East Main Street, Administrative Office Courtroom, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR 300-01-3. Virginia Employment Commission**

Regulations and General Rules - Benefits. The regulations are being amended to provide guidance for the processing of claims for unemployment compensation in the areas of total and part-total unemployment, partial unemployment, interstate claims, combined wage claims, and miscellaneous benefit provisions.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until December 26, 1989.

Contact: Joseph L. Hayes, Manager Administration/Appeals, 703 E. Main St., Room 302, Richmond, VA 23211, telephone (804) 786-7554

COUNCIL ON THE ENVIRONMENT

Executive Council of the Chesapeake Bay Program

December 19, 1989 - 10:30 a.m. - Open Meeting
U.S. Navy Yard, Washington, D.C.

An annual meeting of the executive council of the regional, intergovernmental Chesapeake Bay Program. Primary purpose of the meeting is to report on progress made in 1989 and to look ahead to 1990. (In order to obtain entrance to the Washington Navy Yard an identification card with a photograph (driver's license, etc.) is required.)

Contact: Sharon Anderson, Assistant Administrator for Chesapeake Bay and Coastal Programs, Virginia Council on the Environment, 202 N. 9th St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

January 10, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia

A general board meeting. Emergency preneed regulations and proposed regulations may be discussed.

January 9, 1990 - 3 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia

Informal fact-finding conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

Calendar of Events

BOARD OF GAME AND INLAND FISHERIES

† January 11, 1990 - 11 a.m. - Open Meeting
Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia. ☒

The following committess of the board will meet on
January 11, 1990, beginning at 11 a.m. to discuss
administration and related matters as appropriate to
each committee, which will be reported to the full
board at its meeting on Friday, January 12, 1990.

Planning Committee - 11 a.m.
Finance Committee - 1:30 p.m.
Wildlife and Boat Committee - 3:30 p.m.
Law and Education - 4:30 p.m.

† January 12, 1990 - 10 a.m. - Open Meeting
Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia. ☒

The board will consider general administrative
matters. Committee reports will be given. Action will
taken on proposed regulations, VR 325-2-1, Hunting
with Crossbows and VR 325-03-2 Jackson River Trout
Regulations.

Contact: Nancy B. Dowdy, Agency Regulatory Coordinator,
4010 W. Broad St., Richmond, VA 23230, telephone (804)
367-1000 or toll-free 1-800-237-5712 (Hotline)

DEPARTMENT OF GAME AND INLAND FISHERIES

January 12, 1990 - 10 a.m. - Public Hearing
Department of Game and Inland Fisheries, 4010 West
Broad Street, Richmond, Virginia

A public hearing on the advisability of adopting, or
amending and adopting, proposed regulations, or any
part thereof.

Contact: Nancy B. Dowdy, Agency Regulatory Coordinator,
4010 W. Broad St., Richmond, VA 23230, telephone (804)
367-1000

GLOUCESTER LOCAL EMERGENCY PLANNING COMMITTEE

† January 24, 1990 - 6:30 p.m. - Open Meeting
Old Colonial Courthouse, Court Green, Main Street,
Gloucester, Virginia. ☒

The Gloucester LEPC will hold its winter quarterly
meeting with an agenda set to include:

Selection of officers and committee chairpersons, and
development of training and exercise scenario
timetables for 1990.

Contact: Georgette N. Hurley, Assistant County
Administrator, P.O. Box 329, Gloucester, VA 23061,
telephone (804) 693-4042

HAZARDOUS MATERIALS EMERGENCY RESPONSE ADVISORY COUNCIL

Hazardous Materials Training Committee

† December 19, 1989 - 9:30 a.m. - Open Meeting
Holiday Inn Conference Center, Koger Center South, 1021
Koger Center Boulevard, Richmond, Virginia

This will be the first meeting of the newly selected
Training Committee. The purpose of this meeting will
be to discuss what the Advisory Council expects of the
Training Committee, to discuss the committee's
organization, to select a chairperson, and to set a date
for the first working committee meeting.

Contact: Addison E. Slayton, Jr., State Coordinator,
Department of Emergency Services, 310 Turner Rd.,
Richmond, VA, telephone (804) 674-2497

DEPARTMENT OF HEALTH (STATE BOARD OF)

January 6, 1990 - Written comments may be submitted
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board of Health
intends to amend regulations entitled: **VR 355-11-02.02.
Regulations Governing the Newborn Screening and
Treatment Program.** The rules and regulations
governing the newborn screening and treatment
program have been revised and amended to include
genetic, metabolic, and other diseases of the newborn
as specified in §§ 33.1-12 and 32.1-65 et seq. of the
Code of Virginia. They specifically clarify the critical
time periods for submitting newborn screening tests in
an effort to more accurately screen and diagnose
newborn diseases.

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et
seq.) of Chapter 2 of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics
Director, Maternal and Child Health, 109 Governor St., 6th
Floor, Richmond, VA 23219, telephone (804) 786-7367,
SCATS 786-7367

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January 5, 1990 - Written comments may be submitted
until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of

the Code of Virginia that the Department of Health intends to amend regulations entitled: **VR 355-12-02. State Plan for the Provision of Children's Specialty Services.** The proposed plan will revise the present State Plan of May 1, 1987. The proposals include clarification of covered services, the setting of eligibility resources, limitation for patients receiving large awards through litigation, modified eligibility criteria and addition of Child Development Services Program.

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Written comments may be submitted until January 5, 1990.

Contact: Nancy R. Bullock, R.N., Nurse Consultant, Children's Specialty Services, Virginia Department of Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-3691, SCATS 786-3691

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January 8, 1990 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-27-01.01. Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualifications for Noncommercial and Commercial Blood Banks.** These regulations define the licensure standards and procedures for commercial and noncommercial blood banks.

Statutory Authority: §§ 32.1-12 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: A. Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261

VIRGINIA HEALTH PLANNING BOARD

January 8, 1990 - 9 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-01-01. Guidelines for Public Participation in Developing Regulations.** This regulation sets forth the mechanism by which interested parties may assist the Virginia Health Planning board in developing its regulations.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-01. Regulations for Designating Health Planning Regions.** This regulation establishes the process for designating health planning regions and sets forth the characteristics required as a condition of such designations.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-02. Regulations Governing the Regional Health Plannings Boards.** This regulation establishes the required characteristics of a regional health planning board.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health

Calendar of Events

Planning Board intends to adopt regulations entitled: **VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.** This regulation establishes the process for designating regional health planning agencies and sets forth the characteristics that are required for such designation.

Contact: Dr. Barry M. Dorsey, Associate Director, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2632

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-03-01. Administration of State Funding for Regional Health Planning.** This regulation establishes the administrative rules for distributing state funds appropriated for regional health planning.

Statutory Authority: §§ 32.1-122.02 and 32.1-122.06 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

December 19, 1989 - 9:30 a.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION

† **January 3, 1990 - 9:30 a.m. – Open Meeting**
James Monroe Building, 101 North 14th Street, 9th Floor, Richmond, Virginia. ☒

A monthly meeting. Agenda available upon request.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

December 19, 1989 - 10 a.m. – Open Meeting
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the office of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986

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† **January 12, 1990 –** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.**

STATEMENT

Purpose: The purpose of the proposed amendments is to make certain clarifying, instructive and informative changes to the authority's Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income with regard to various programmatic procedures and requirements.

Basis: Section 36-55.30:3 of the Code of Virginia.

Substance and issues: The proposed amendments will make the following changes to the authority's Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income:

1. All references to sales price and income limits applicable to loans reserved, or assumptions applied for, prior to March 1, 1989, will be deleted because all of those loans and assumptions have been closed. Similarly, a reference to "adjusted" family income will be deleted as no longer applicable because the

authority currently applies a gross family income test exclusively.

2. The authority's PDS agents will be divided into two categories and renamed. "Originating agents" will be those agents which will originate, process and, in certain cases, service loans, and "Servicing agents" will be those agents which only service loans. These names will more accurately represent the responsibilities of the individual agents.

3. A description will be added of the authority's two programs permitting buydowns of borrowers' monthly payments (by directly subsidizing them or by reducing the interest rates on the loans) for a certain period of time with money provided by the seller or other third party.

4. With respect to the reservation of loan funds, a clarifying section will be added prohibiting substitutions of property, applicant, originating agent or interest rates.

5. A provision will be added to note that loans covered by private mortgage insurance may have to meet underwriting requirements more stringent than those imposed by the authority.

6. A requirement will be added that applicants must either be United States citizens or possess a "green card."

7. In the sections describing what to include in application packages for FHA and VA loans several forms will be added.

8. A clarifying section will be added which provides that applicants for loans to finance homes in targeted areas must submit their federal income tax records for the year prior to closing.

9. Other changes will be by typographical corrections or stylistic revisions.

Impact: The proposed amendments will have no significant impact on the number of persons served. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Written comments may be submitted until January 12, 1990.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986

COUNCIL ON HUMAN RIGHTS

† **March 28, 1990 - 10 a.m.** - Public Hearing
James Monroe Building, 101 North 14th Street, 1st Floor,
Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Council on Human Rights intends to adopt regulations entitled: **VR 402-01-02. Regulations to Safeguard Virginia's Human Rights From Unlawful Discrimination.** The purpose of these regulations is to supplement the Virginia Human Rights Act (§ 2.1-714 et seq.) which safeguards all individuals within the Commonwealth from unlawful discrimination.

STATEMENT

During the 1987 General Assembly session, the Council on Human Rights was created by the Virginia Human Rights Act (1987 General Assembly; Senate Bill 666) and empowered to enforce the policy of the Commonwealth to safeguard individuals from unlawful discriminatory practices.

The purpose of the council is to safeguard all individuals within the Commonwealth from unlawful discrimination on the basis of race, color, religion, national origin, sex, age, marital status or disability in places of public accommodation, including educational institutions and in real estate transactions; in employment; to preserve the public safety, health and general welfare; and to further the interests, rights and privileges of individuals within the Commonwealth, and to protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

The regulations are applicable to persons or organizations subject to the Human Rights Act. These include state agencies, private employers, labor organizations, employment agencies, educational institutions, places of public accommodation, voting registrars and those acting at their direction, realtors, creditors, and contractors. Therefore, the estimated impact of the regulations is both large and broad.

Statutory Authority: § 2.1-720.6 of the Code of Virginia.

Written comments may be submitted until February 18, 1990, to Sandra D. Norman, P.O. Box 717, Richmond, Virginia 23206.

Contact: Lawrence J. Dark, Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2292 or toll-free 1-800-633-5510

LIBRARY BOARD

January 18, 1990 - 9:30 a.m. - Open Meeting
Virginia State Library and Archives, 11th Street at Capitol

Calendar of Events

Square Square, 3rd Floor, Supreme Court Room,
Richmond, Virginia. ☒

A meeting to discuss administrative matters of the
Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian,
Virginia State Library and Archives, 11th St. at Capitol
Square, Richmond, VA 23219, telephone (804) 786-2332

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February 4, 1990 – Written comments may be submitted
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Library Board intends
to adopt regulations entitled: **VR 440-01-149.2.**
Certification of Librarians. The purpose of this
regulation is to establish qualifications for certification
of professional librarians in certain public libraries
and establish fees.

Statutory Authority: § 42.1-15.1 of the Code of Virginia.

Written comments may be submitted until February 4,
1990.

Contact: Ella Gaines Yates, State Librarian, Virginia State
Library and Archives, 11th St. at Capitol Square,
Richmond, VA 23219, telephone (804) 786-2332

COMMISSION ON LOCAL GOVERNMENT

January 8, 1990 - 10 a.m. – Open Meeting
Site to be determined, Richmond, Virginia

A regular meeting of the commission to consider such
matters as may be presented.

Contact: Barbara W. Bingham, Administrative Assistant, 702
Eighth Street Office Bldg., 805 E. Broad St., Richmond, VA
23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

December 19, 1989 - 9:30 a.m. – Open Meeting
Ruffner Building, Longwood College, Board Room,
Farmville, Virginia. ☒

January 19, 1990 - noon – Open Meeting
January 20, 1990 - noon – Open Meeting
Richmond Omni Hotel, Richmond, Virginia. ☒

A meeting to conduct business pertaining to the
governance of the institution.

Contact: William F. Dorrill, President, Longwood College,
Farmville, VA 23901, telephone (804) 395-2001

STATE LOTTERY BOARD

December 20, 1989 - 10 a.m. – Open Meeting
State Lottery Department, 2201 West Broad Street,
Conference Room, Richmond, Virginia. ☒

A regularly scheduled monthly meeting of the board.
Business will be conducted according to items listed
on the agenda which has not yet been determined.

Contact: Barbara L. Robertson, Lottery Staff Officer, State
Lottery Department, 2201 W. Broad St., Richmond, VA
23220, telephone (804) 367-9433

BOARD OF MEDICINE

December 22, 1989 – Written comments may be submitted
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board of Medicine
intends to adopt regulations entitled: **VR 465-07-01.**
Certification of Optometrists. The proposed
regulations establish requirements for postgraduate
training in therapeutic and pharmaceutical agents,
clinical training, and examinations necessary to certify
licensed optometrists to administer therapeutic
pharmaceutical agents in the treatment of diseases of
the eye.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until December 22,
1989.

Contact: Eugenia K. Dorson, Deputy Executive Director,
Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA
23229-5005, telephone (804) 662-9925

Ad Hoc Committee on Optometry

February 2, 1990 - 1 p.m. – Open Meeting
NOTE: CHANGE IN MEETING TIME
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, 2nd Floor, Board Room 1, Richmond,
Virginia. ☒

The committee will review and discuss the post
graduate training programs and the development of an
examination for certification of optometrists to treat
certain diseases of the human eye with certain
therapeutic pharmaceutical agents, and other items
which may come before the committee.

Chiropractic Examination Committee

January 18, 1990 - 1:30 p.m. – Executive Session
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, 2nd Floor, Board Room 2, Richmond,
Virginia. ☒

The committee will meet in executive session to develop test questions for the June 1990 Chiropractic Examination.

Executive Committee

February 2, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, 2nd Floor, Board Room 1, Richmond, Virginia. ☒

The committee will meet in open session to review closed cases, cases/files requiring administrative actions and consider any other items which may come before the committee.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Informal Conference Committee

† **December 29, 1989 - 10 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

The committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 6 of the Code of Virginia.

Contact: Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-7006

Legislative Committee

January 19, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, Surry Building, 2nd Floor, Richmond, Virginia. ☒

The committee will meet to review and respond to public comments received in response to proposed regulations VR 465-05-01, Physician's Assistants; VR 465-07-01, Certification of Optometrists; proposed amendments to VR 465-03-01, Practice of Physical Therapy; and other matters which may be presented for discussion and consideration for recommendations to the full board.

Advisory Board on Occupational Therapy

January 12, 1990 - 10 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 2, 2nd Floor, Richmond, Virginia. ☒

A meeting to review the Administrative Process Act and the Freedom of Information Act and to develop bylaws for conducting business.

Advisory Board on Physical Therapy

January 26, 1990 - 9 a.m. - Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Section D/Ballroom, Richmond, Virginia. ☒

A meeting to review and discuss regulations, bylaws, procedural manuals, receive reports, and other items which may come before the board.

Advisory Board on Physician's Assistants

† **February 2, 1990 - 2:30 p.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

A meeting to review public comments received on proposed regulations VR 465-04-01 and prepare a report for the full board in March, 1990.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Virginia Interagency Coordinating Council

† **January 10, 1990 - 10 a.m. - Open Meeting**
Koger Center Office Complex, Department of Social Services, 8007 Discovery Drive, 2nd Floor, Conference Rooms A and B, Blair Building, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A meeting of the council according to P.L. 99-457, Part H early intervention program for disabled infants and toddlers and their families is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services, as lead agency, to develop and implement a statewide interagency early intervention program.

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710

DEPARTMENT OF MINES, MINERALS AND ENERGY

December 19, 1989 - 10 a.m. - Open Meeting
Dalton-Cantrell Auditorium, Mountain Empire Community College, Big Stone Gap, Virginia. ☒

Calendar of Events

A meeting to receive comments on the advisability of amendments to the fuel standards and the air-quality standards in the rules and regulations governing the use of diesel-powered equipment in underground coal mines.

Contact: Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330

BOARD OF NURSING

December 19, 1989 - 9:30 a.m. - Open Meeting
Hampton University School of Nursing, Room 131, Hampton, Virginia. ☒ (Interpreter for deaf provided if requested)

Formal hearings will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909

VIRGINIA OUTDOORS FOUNDATION

† **December 21, 1989 - 10:30 a.m. - Open Meeting**
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23229, telephone (804) 786-5539

DEPARTMENT OF PERSONNEL AND TRAINING

† **January 16, 1990 - 10 a.m. - Public Hearing**
James Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Personnel and Training intends to adopt regulations entitled: **VR 525-01-02. Commonwealth of Virginia Health Benefits Program.**

STATEMENT

The purpose of these regulations is to provide guidance to participating employees, state agencies and local employers regarding the administration of the Health Benefits Program. The regulations will facilitate the operation of the Program and encourage participation by providing employers with sufficient information to determine the appropriateness of the Program to their circumstances.

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

Contact: Anthony C. Graziano, Manager of State Benefits, Department of Personnel and Training, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2170

VIRGINIA PESTICIDE CONTROL BOARD

Personnel Committee

† **December 20, 1989 - 9 a.m. - Executive Session**
Washington Building, 1100 Bank Street, Room 503, Richmond, Virginia. ☒

The Personnel Committee will meet in executive session for the specific purpose of reviewing and screening applications for the position of Pesticide Environmental Program Manager. The committee will consider any other pertinent business while not in Executive Session.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523

VIRGINIA RACING COMMISSION

December 20, 1989 - 9:30 a.m. - Open Meeting
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A regular commission meeting.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

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December 20, 1989 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-01-02. Regulations Pertaining to Horse Racing with Pari-mutuel Wagering.**

Statutory Authority: § 59.1-364 of the Code of Virginia.

Written comments may be submitted until January 20, 1990, to Donald Price, Executive Secretary, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

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† January 18, 1990 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to amend regulations entitled: VR 662-01-02. Regulation Pertaining to Horse Racing with Pari-Mutuel Wagering. The purpose of the proposed amendment is to request approval of racing days, transfer and acquisition of an interest in a license, appeals of licensing decisions, pari-mutuel wagering, and purse distribution.

STATEMENT

Statement of purpose: These regulations complete Part II regarding licensure for owners, owner-operators and operators as well as specifying the conditions under which pari-mutuel wagering will be conducted and purse moneys distributed.

There are six major areas covered in these proposed regulations relating to horse race meetings with pari-mutuel wagering. The amendments specify (i) the procedures by which a licensee shall make a request for racing days; (ii) the conditions under which the Virginia Racing Commission shall consider requests for racing days and issue racing days to a licensee; (iii) the conditions under which a transfer of a license may be approved by the commission and the procedures to be followed when an entity acquires an interest in a license; (iv) the conditions under which a licensee may make an appeal of a licensing decision to the Virginia Racing Commission; (v) the conditions under which pari-mutuel wagering will be conducted including requests and approval for types of pari-mutuel pools, operations of the mutuel department, calculation of payouts and emergency situations; and (vi) the conditions under which the amounts retained by statute for purse moneys shall be distributed to participants in pari-mutuel horse racing.

Estimated impact:

Entities Affected: The owners, owner-operators and operators will be directly affected. They will have to either purchase or lease the necessary hardware and software and employ sufficient personnel to operate the totalizator. Further, the employees, management and staff, of the licensee's mutuel department will have to perform their daily tasks in accordance with these regulations. Ultimately, by offering pari-mutuel wagering of the highest integrity, the participants in horse racing and the wagering public will be positively benefited.

Statutory Authority: § 59.1-364 of the Code of Virginia.

Written comments may be submitted until February 19, 1990, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

RAPPAHANNOCK-RAPIDAN DIVISION OF COURT SERVICES EXECUTIVE BOARD

December 18, 1989 - 6:30 p.m. - Open Meeting
155 West Davis Street, Room 206, Culpeper, Virginia

A quarterly business meeting of the District Nine Virginia Alcohol Safety Action Program.

Items for review: budget, personnel, activities and the 88-89 audit report.

Contact: R. Dean Irvine, Director, 155 W. Davis St., Culpeper, VA 22701, telephone (703) 825-4550

BOARD OF REHABILITATIVE SERVICES

January 25, 1990 - 9:30 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

Finance Committee

January 24, 1990 - 2 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review monthly financial reports and budgetary projections.

Legislation and Evaluation Committee

January 24, 1990 - 4 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review pending federal and state legislation and develop criteria for evaluation of department programs.

Program Committee

January 24, 1990 - 3 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Calendar of Events

The committee will review vocational rehabilitation regulation proposals and explore options for developing amendments to current VR regulations.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD ☎ or (804) 367-0280/TDD ☎

BOARD FOR RIGHTS OF THE DISABLED

NOTE: EXTENSION OF WRITTEN COMMENT PERIOD
December 31, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Rights of the Disabled intends to adopt regulations entitled: **VR 602-01-2. Nondiscrimination Under State Grants and Programs.** These regulations prohibit discrimination on the basis of disability by programs or activities receiving state funds.

Statutory Authority: §§ 51.5-33 A 7 and 51.5-40 of the Code of Virginia.

Written comments may be submitted until December 31, 1989.

Contact: Bryan K. Lacy, Systems Advocacy Attorney, Department for Rights of the Disabled, 101 N. 14th St., 17th Floor, James Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962

ROCKINGHAM/HARRISONBURG ASAP COMMISSION

† **December 28, 1989 - 7 p.m.** - Open Meeting
Rockingham/Harrisonburg ASAP, 265 East Market Street, Harrisonburg, Virginia. ☎

A general meeting.

Contact: Pam Simmons, Acting Director, 265 E. Market St., Harrisonburg, VA 22801, telephone (703) 434-0154

STATE BOARD OF SOCIAL SERVICES

December 20, 1989 - 2 p.m. - Open Meeting
December 21, 1989 - 9 a.m. - Open Meeting (If Necessary)

† **January 17, 1990 - 2 p.m.** - Open Meeting
† **January 18, 1990 - 9 a.m.** - Open Meeting (If Necessary)

† **February 14, 1990 - 2 p.m.** - Open Meeting
† **February 15, 1990 - 9 a.m.** - Open Meeting (If Necessary)
Department of Social Services, 8007 Discovery Drive,

Richmond, Virginia. ☎

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9236

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

January 20, 1990 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **VR 615-01-2. Lump Sum Ineligibility Period in the Aid to Dependent Children (ADC) Program.** The proposed amendment deletes language giving final authority to the local social services agency for decisions regarding conditions that could shorten the period of ineligibility established due to the receipt of a lump sum.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until January 20, 1990, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217

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December 23, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-01-26. Aid to Dependent Children (ADC) Programs - Deprivation Due to the Incapacity of a Parent.** The purpose of the proposed action is to amend Aid to Dependent Children (ADC) Program policy to require the limited employment opportunities of handicapped individuals to be considered in the determination of eligibility for ADC based on a parent's incapacity. The regulation is being amended in order to comport with federal regulations at 45 CFR § 233.90(a).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until December 23, 1989, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery

Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

BOARD OF SOCIAL WORK

† **January 12, 1990 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Suite 200, Richmond, Virginia

A meeting to (i) conduct general board business; (ii) review applications; (iii) respond to correspondence; (iv) discuss emergency regulations; and (v) certify results of oral examinations.

Contact: Evelyn Brennan Brown, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9914

DEPARTMENT OF TAXATION

January 5, 1990 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-1-1805.1. General Provisions: Padlocking Premises.**

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until January 5, 1990

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010

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† **February 20, 1990 - 2 p.m.** – Public Hearing
Department of Taxation, Central Office Training Room, 2200 West Broad Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-2-335. Individual Income Tax: Virginia Tax Reform Credit.** The purpose of the proposed action is to inform individual income taxpayers of the correct procedures for claiming the Virginia Tax Reform Credit enacted by the 1989 General Assembly.

STATEMENT

Basis: This regulation is issued under the authority granted by § 58.1-203 of the Code of Virginia.

Purpose: This regulation is being adopted to explain how the Department of Taxation will administer the credit against the Virginia individual income tax which is allowed by Chapter 590 of the 1989 Acts.

Substance: The procedures required for qualifying individual income taxpayers to claim a Virginia Tax Reform Credit of up to \$35 per exemption claimed in taxable year 1989, and of up to \$22.50 per exemption claimed in taxable years 1990 through 1993.

Issues: The major issues under consideration involve the determination of a taxpayer's eligibility for claiming the Virginia Tax Reform Credit and the correct procedures for claiming the credit.

Impact: For taxable years 1989 through 1993, individual income taxpayers who have Virginia income tax liability and Virginia adjusted gross income below certain ceiling amounts will be entitled to claim the Virginia Tax Reform Credit.

It is estimated that approximately 81% of the individual income tax returns filed in Taxable Year 1989 (1.8 million returns), and 39% of the individual income tax returns filed in Taxable Year 1990 (.9 million returns) will qualify for the credit.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

Contact: Janie E. Bowen, Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010

COMMONWEALTH TRANSPORTATION BOARD

December 21, 1989 - 10 a.m. – Open Meeting
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA, telephone (804) 786-9950

TREASURY BOARD

† **December 18, 1989 - 2 p.m.** – Open Meeting

Calendar of Events

James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

A regular treasury board monthly meeting.

Contact: Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P. O. Box 6-H, Richmond, Virginia 23215, telephone (804) 225-4931

December 20, 1989 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

A monthly meeting.

Contact: Betty A. Ball, Department of Treasury, 101 N. 14th St., James Monroe Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142

VIRGINIA MILITARY INSTITUTE

Board of Visitors

January 27, 1990 - 8:30 a.m. - Open Meeting
Virginia Military Institute, Smith Hall, Board Room, Lexington, Virginia. ☒

A regular winter meeting of the VMI Board of Visitors to receive committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206

BOARD FOR THE VISUALLY HANDICAPPED

† **January 18, 1990 - 2:30 p.m. - Open Meeting**
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board meets quarterly to review policy and procedures of the department and to review and approve the department's budget.

Contact: Diane E. Allen, Administrative Assistant, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

January 20, 1990 - 11 a.m. - Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

January 8, 1990 - 7 p.m. - Public Hearing
City Council Chambers, 900 East Broad Street, Richmond, Virginia

January 9, 1990 - 7 p.m. - Public Hearing
City Council Chambers, 215 Church Street, S.W., Roanoke, Virginia

January 9, 1990 - 7 p.m. - Public Hearing
Hampton Public Library, 4207 Victoria Boulevard, Room A, Hampton, Virginia

January 11, 1990 - 7 p.m. - Public Hearing
Manassas City Hall, 9027 Center Street, Manassas, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **VR 672-50-01. Regulations for the Development of Solid Waste Management Plans.** The regulations require each city, county and town, acting individually or as a designated region, to prepare plans for solid waste management within their jurisdictions. They describe plan contents and recycling goals.

Statutory Authority: Chapter 14 (§ 10.1-1400 et seq. and specifically § 10.1-1411) of Title 10.1 of the Code of Virginia.

Written comments may be submitted until February 9, 1990.

Contact: Robert G. Wickline, Department of Waste Management, 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

December 18, 1989 - 3:30 p.m. - Open Meeting
Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

January 4, 1990 - 3 p.m. - Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Calendar of Events

Public meeting to receive comments and suggestions which the agency will use in proposing specific changes in the Water Quality Standards that will be formally considered during the 1990 Triennial Review.

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

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December 18, 1989 - 7 p.m. - Public Hearing
Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

January 4, 1990 - 7 p.m. - Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Requirements.** The proposed regulation requires that owners, operators, and vendors demonstrate sufficient financial responsibility to ensure that corrective action and third party liability responsibilities associated with petroleum UST releases are met.

Statutory Authority: §§ 62.1-44.34:10, 62.1-44.34:12 and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Fred Cunningham, Office of Water Resources, Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0411

January 3, 1990 - 2 p.m. - Open Meeting
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia. ☒

Public meetings will be held to receive views and comments and answer questions from the public on the promulgation of regulations to (i) establish a Virginia Water Protection Permit for any activity requiring a Section 401 Certification under the Clean Water Act and (ii) establish the framework for declaration of surface water management areas which, if declared, would subject surface water withdrawals of 300,000 gallons or more per month for consumptive use to permitting and reporting requirements.

Contact: Joe Hassell or Chester Bigelow, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 367-6435 or 367-6406

WINCHESTER LOCAL EMERGENCY PLANNING COMMITTEE

† **January 3, 1990 - 3 p.m. - Open Meeting**
Old County Courthouse, Conference Room, Winchester, Virginia. ☒

The first LEPC meeting of 1990 will cover election of new officers, nomination proposals for new members, discussion of interim threshold planning levels as established by the EPA, and discussion of future LEPC topics and projects.

Contact: L. A. Miller, Fire Chief, Fire Department Headquarters, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 665-5695

COUNCIL ON THE STATUS OF WOMEN

† **January 16, 1990 - 7 p.m. - Open Meeting**
Richmond Radisson Hotel, 555 East Canal Street, Richmond, Virginia

A regular meeting to conduct general business and to receive reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200

LEGISLATIVE

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

January 11, 1990 - 2 p.m. - Open Meeting
Site to be determined

A tentative date for a working session.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

VIRGINIA COAL AND ENERGY COMMISSION

† **December 21, 1989 - 9:30 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia ☒

A working session to develop recommendations for the 1990 Session of the General Assembly.

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, 910 Capitol Street, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

Calendar of Events

VIRGINIA STATE CRIME COMMISSION

December 19, 1989 - 2 p.m. - Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

The full Crime Commission will hold its annual public hearing for the general public to address their concerns and suggestions regarding Virginia's criminal justice system.

Drug Task Force

December 19, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

A meeting for the full Drug Task Force to report its 1989 findings and recommendations and to outline objectives for the final year of the study, 1990.

Treatment Subcommittee

December 19, 1989 - 8:30 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

A meeting for the Treatment Issues Subcommittee to review matters relating to juvenile transportation.

Contact: Robert E. Colvin, Executive Director, 910 Capitol St., Suite 915, Richmond, VA 23219, telephone (804) 225-4534

JOINT SUBCOMMITTEE STUDYING CERTAIN PRACTICES OF PSYCHIATRIC PROFESSIONALS

† **January 11, 1990 - 9:30 a.m. - Open Meeting**
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☒

An open meeting. SJR 191

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591 or Thomas Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

JOINT SUBCOMMITTEE STUDYING DISCLOSURE REQUIREMENTS OF PUBLIC RETIREMENT SYSTEMS

† **December 20, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia ☒

An open meeting. SJR 47

Contact: John Garrett, Deputy Clerk, Senate of Virginia,

P.O. Box 396, Richmond, VA 23203, telephone (804) 786-4639 or Bill Echelberger, Senate Finance Committee, 10th Floor, General Assembly Bldg., Capitol Square, Richmond, VA 23219, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING FINANCING OF PUBLIC SCHOOL FACILITIES

† **December 27, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia ☒

A work session. HJR 380

Contact: John Garka, Economist, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

REAL ESTATE TAX ASSESSMENTS

† **December 18, 1989 - 1 p.m. - Open Meeting**
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A special House Finance Subcommittee meeting to study real estate tax assessments.

Contact: John A. Garka, Economist, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

STATE WATER COMMISSION

December 19, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia. ☒

A business meeting to (i) receive a briefing on the State Water Control Board regulation for the water bills passed during the 1989 Session and (ii) review a proposal for a drinking water protection charge.

Contact: Martin Farber, Research Associate, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

December 18
Barbers, Board for
Rappahannock-Rapidan Division of Court Services
Executive Board
† Real Estate Tax Assessments

Calendar of Events

- † Treasury Board
Water Control Board, State
- December 19**
Aviation Board, Virginia
Crime Commission, Virginia State
- Full Drug Task Force
- Treatment Subcommittee
Environment, Council on the
- Executive Council of the Chesapeake Bay Program
† Hazardous Materials Emergency Response Advisory Council
- Hazardous Materials Training Committee
Health Services Cost Review Council, Virginia
Housing Development Authority, Virginia
Longwood College
- Board of Visitors
Mines, Minerals and Energy, Department of
Nursing, Board of
Water Commission, State
- December 20**
Accountancy, Board for
† Conservation and Recreation, Department of
- Goose Creek Advisory Board
Lottery Board, State
† Pesticide Control Board, Virginia
- Personnel Committee
† Public Retirement Systems, Joint Subcommittee
Studying Disclosure Requirements of
Racing Commission, Virginia
Social Services, State Board of
Treasury Board
- December 21**
† Coal and Energy Commission, Virginia
Contractors, Board for
† Outdoors Foundation, Virginia
Social Services, State Board of
Transportation Board, Commonwealth
- December 27**
† Public School Facilities, Joint Subcommittee Studying
Financing of
- December 28**
† Rockingham/Harrisonburg ASAP Commission
- December 29**
† Medicine, Board of
- Informal Conference Committee
- January 3, 1990**
† Higher Education, State Council of
Water Control Board, State
† Winchester Local Emergency Planning Committee
- January 4**
† Chesterfield County Local Emergency Planning
Committee
- January 5**
Water Control Board, State
- January 8**
Local Government, Commission on
- January 9**
Funeral Directors and Embalmers, Board of
- January 10**
Funeral Directors and Embalmers, Board of
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Virginia Interagency Coordinating Council
- January 11**
Acquired Immunodeficiency Syndrome (AIDS)
Boating Advisory Board, Virginia
Education, State Board of
† Game and Inland Fisheries, Board of
† Psychiatric Professionals, Joint Subcommittee
Studying Certain Practices of
- January 12**
Education, State Board of
† Game and Inland Fisheries, Board of
Medicine, Board of
- Advisory Board on Occupational Therapy
† Social Work, Board of
- January 16**
† Women, Council on the Status of
- January 17**
† Social Services, State Board of
- January 18**
Children, Department for
- State-Level Runaway Youth Services Network
Library Board
Medicine, Board of
- Chiropractic Examination Committee
† Social Services, State Board of
† Visually Handicapped, Board for the
- January 19**
Medicine, Board of
- Legislative Committee
Longwood College
- Board of Visitors
- January 20**
Longwood College
- Board of Visitors
Visually Handicapped, Department for the
- Advisory Committee on Services
- January 24**
† Gloucester Local Emergency Planning Committee
Rehabilitative Services, Board of
- Finance Committee

Calendar of Events

- Legislation and Evaluation Committee
- Program Committee

January 25
Rehabilitative Services, Board of

January 26
Medicine, Board of
- Advisory Board on Physical Therapy

January 27
Virginia Military Institute
- Board of Visitors

February 1
† Commerce, Board of

February 2
Medicine, Board of
- Ad Hoc Committee on Optometry
- Executive Committee
- Advisory Board on Physician's Assistants

February 14
† Social Services, State Board of

February 15
† Social Services, State Board of

February 20
† Taxation, Department of

January 9
Waste Management, Department of

January 10
Commerce, Department of

January 11
Waste Management, Department of

January 12
Game and Inland Fisheries, Board of

January 18
† Racing Commission, Virginia

February 5
† Education, Department of

February 20
† Taxation, Department of

March 28
† Human Rights, Council on

PUBLIC HEARINGS

December 18
Water Control Board, State

December 19
Crime Commission, Virginia State

December 20
Racing Commission, Virginia

January 3, 1990
Employment Commission, Virginia

January 4
Water Control Board, State

January 5
Taxation, Department of

January 8
Health Planning Board, Virginia

January 8
Waste Management, Department of