

CODE OF VIRGINIA



Title 57

Religious and Charitable Matters; Cemeteries

Title 57 - RELIGIOUS AND CHARITABLE MATTERS; CEMETERIES

Chapter 1 - RELIGIOUS FREEDOM

§ 57-1. Act for religious freedom recited.

The General Assembly, on January 16, 1786, passed an act in the following words:

"Whereas, Almighty God hath created the mind free; that all attempts to influence it by temporal punishment, or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who, being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, have established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical, and even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards which, proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labors, for the instruction of mankind; that our civil rights have no dependence on our religious opinions any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow citizens, he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing, with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though, indeed, those are criminal who do not withstand such temptation, yet, neither are those innocent who lay the bait in their way; that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he, being of course judge of that tendency, will make his opinions the rules of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere, when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail, if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them:

"Be it enacted by the General Assembly, That no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested or burthened, in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities.

"And though we well know that this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies constituted with powers equal to our own, and that, therefore, to declare this act to be irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind; and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right."

Code 1919, § 34; 1985, c. 73.

§ 57-2. Rights asserted therein reaffirmed.

The General Assembly does hereby declare again that the rights asserted in § [57-1](#) are the natural and unalienable rights of mankind and this declaration is the policy of the Commonwealth of Virginia.

Code 1919, § 35; 2016, c. [284](#).

§ 57-2.01. Religious Freedom Week and Day.

On the 200th Anniversary of the enactment of the Virginia Act for Religious Freedom, the 1986 Virginia General Assembly commends their eighteenth century predecessors for their wisdom and foresight and declares that from this date forth, the second full week of every January is designated as Religious Freedom Week in the Commonwealth of Virginia.

In addition, the date of the passage of the Virginia Act for Religious Freedom merits special commemoration and celebration in the Commonwealth and nation. For this purpose, the sixteenth day of January of each year shall be designated "Religious Freedom Day."

1986, c. 352; 1997, c. [388](#).

§ 57-2.02. Religious freedom preserved; definitions; applicability; construction; remedies.

A. As used in this section:

"Demonstrates" means meets the burdens of going forward with the evidence and of persuasion under the standard of clear and convincing evidence.

"Exercise of religion" means the exercise of religion under Article I, Section 16 of the Constitution of Virginia, the Virginia Act for Religious Freedom (§ [57-1](#) et seq.), and the First Amendment to the United States Constitution.

"Government entity" means any branch, department, agency, or instrumentality of state government, or any official or other person acting under color of state law, or any political subdivision of the Commonwealth and does not include the Department of Corrections, the Department of Juvenile Justice,

and any facility of the Department of Behavioral Health and Developmental Services that treats civilly committed sexually violent predators, or any local, regional or federal correctional facility.

"Prevails" means to obtain "prevailing party" status as defined by courts construing the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988.

"Substantially burden" means to inhibit or curtail religiously motivated practice.

B. No government entity shall substantially burden a person's free exercise of religion even if the burden results from a rule of general applicability unless it demonstrates that application of the burden to the person is (i) essential to further a compelling governmental interest and (ii) the least restrictive means of furthering that compelling governmental interest.

C. Nothing in this section shall be construed to (i) authorize any government entity to burden any religious belief or (ii) affect, interpret or in any way address those portions of Article 1, Section 16 of the Constitution of Virginia, the Virginia Act for Religious Freedom (§ [57-1](#) et seq.), and the First Amendment to the United States Constitution that prohibit laws respecting the establishment of religion. Granting government funds, benefits or exemptions, to the extent permissible under clause (ii) of this subsection, shall not constitute a violation of this section. As used in this subsection, "granting" used with respect to government funding, benefits, or exemptions shall not include the denial of government funding, benefits, or exemptions.

D. A person whose religious exercise has been burdened by government in violation of this section may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain declaratory and injunctive relief from a circuit court, but shall not obtain monetary damages. A person who prevails in any proceeding to enforce this section against a government entity may recover his reasonable costs and attorney fees. The provisions of this subsection relating to attorney fees shall not apply to criminal prosecutions.

E. Nothing in this section shall prevent any governmental institution or facility from maintaining health, safety, security or discipline.

F. The decision of the circuit court to grant or deny declaratory and injunctive relief may be appealed by petition to the Court of Appeals of Virginia.

2007, c. [889](#); 2009, cc. [813](#), [840](#).

§ 57-2.1. Advertising by hotels, etc., that persons find objectionable because of religion; exemptions.

A. As used in this section:

"Establishment" means any building or part thereof, including without being limited to public inns and hotels, any structure, enclosure, tract of land, and all improvements, appurtenances, and additions, bodies of water whether natural or artificial, and any other place of whatsoever nature to which the general public is or will be admitted, allowed or invited on payment of a fee, free of charge or otherwise.

"Person" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

B. No person, directly or indirectly, for himself or for another, shall publish in any newspaper or magazine, post on any sign, or broadcast by radio or television any commercial advertisement that any person not otherwise prohibited by law from using an establishment is not welcome, or is objectionable, or is not acceptable because of his religion. No person shall cause or solicit another person to violate this section.

C. This section shall not apply (i) to any establishment that is private or restricted to membership only; (ii) to any institution of higher education, school, educational institution, or camp, admission to which is based on religious belief or affiliation; or (iii) to any gathering, meeting, or assembly held under the auspices of any religious group or sect.

D. Any commercial advertisement as set forth herein is declared a public nuisance and shall be subject to abatement by injunctive relief; any aggrieved individual or group of individuals may proceed to obtain an injunction enjoining and restraining the person from continuing such commercial advertisement.

1954, c. 701.

Chapter 2 - Church Property; Benevolent Associations and Objects

Article 1 - GENERAL PROVISIONS

§ 57-3. Appropriation of glebe lands and church property.

A. The glebe lands and church property, or the proceeds thereof held by the authorities of any county under the act of January 12, 1802, or under any other act, which may not have been applied to some particular object under a local statute passed for the purpose, shall be appropriated to such object or objects, other than for a religious purpose, as may be voted for in such county (at such time and place as the circuit court may prescribe) by a majority of the persons entitled to vote in the county for a delegate therefrom to the General Assembly, and, if no such object be so voted for, shall remain vested in such authorities and be appropriated by them for the benefit of the poor of such county; provided that the counties of Essex, Middlesex, Northampton, and Lancaster may use the "Glebe Fund," together with other funds, for improvements to the courthouse and related facilities.

B. Any county granted authority on or after July 1, 2004, to use "Glebe Fund" for improvements to its courthouse or related facilities shall use such funds exclusively for compliance with the Americans with Disabilities Act (40 U.S.C. § 12101 et seq.) at such courthouse or related facilities.

Code 1919, § 36; 1962, c. 101; 1964, cc. 33, 601; 2004, c. [595](#).

§ 57-4. Donations to vestries for charitable purposes.

Where, previous to January 30, 1806, any donation was made of money or any other thing, for a charitable purpose, and the donation was to be controlled or managed by a vestry, the governing body of

the county, city or town, in which the charity was intended by the donor to be exercised, shall exercise the same powers, and perform the same duties, respecting the donation, that could or ought to have been exercised and performed by the vestry, if it had continued to exist and been a corporate body, and shall apply such money or other thing in such manner as may have been directed by the donor.

Code 1919, § 37.

§ 57-5. R. E. Lee Camp; Pelham Chapel.

The act entitled "An act to incorporate R. E. Lee Camp, No. 1, Confederate Veterans," approved March 13, 1884; and the act entitled "An act making an annual appropriation for the support of the home of R. E. Lee Camp, No. 1, Confederate Veterans," approved February 12, 1886, shall continue in force.

The Governor is hereby authorized to enter into an agreement to lease the Pelham Chapel to the Sons of Confederate Veterans, Lee-Jackson Camp No. 1. The lease, or any renewal thereof, shall be in increments of five years and shall be under such terms and conditions, consistent with commemoration of a Confederate war memorial, as the Governor finds reasonably necessary and approved as to form by the Attorney General. Any such lease or renewal thereof shall only be revoked or terminated during such lease term increment if the lessee willfully fails to abide by the terms of the lease.

The provisions of § [2.2-1155](#) shall not apply to the Pelham Chapel, as configured as of July 1, 2002.

Code 1919, § 60; 1950, p. 632; 1972, c. 763; 1981, c. 1; 1990, c. 124; 1993, c. 737; 2002, c. [742](#).

§ 57-6. Lee Memorial Association.

The act entitled "An act to incorporate the Lee Memorial Association," approved January 14, 1871, as amended by an act approved December 29, 1877, as amended by an act approved March 3, 1879, as amended by an act approved March 13, 1884; the act entitled "An act to authorize the investment of moneys belonging to the Lee Memorial Association in State bonds," approved March 20, 1877; and the act entitled "An act to authorize the redemption of certain State securities held by the Lee Monument Association," approved March 19, 1884, shall severally continue in force.

Code 1919, § 61.

§ 57-6.1. Validity of literary, educational, and charitable gifts, grants, devises, or bequests.

Every gift, grant, devise, or bequest made on or after April 2, 1839, for literary or educational purposes, and every gift, grant, devise, or bequest made on or after April 6, 1976, for charitable purposes, whether made in any case to any type of entity or to a natural person, shall be as valid as if made to or for the benefit of a certain natural person, except such devises or bequests, if any, that have failed or become void by virtue of the seventh section of the Act of the General Assembly passed on April 2, 1839, entitled "an act concerning devises made to schools, academies, and colleges." Nothing in this section shall be construed so as to give validity to any devise or bequest to or for the use of any unincorporated theological seminary. Every gift, grant, devise, or bequest made for literary, educational, or charitable purposes before April 6, 1976, is hereby validated.

1976, c. 546, § 55-26.1; 2019, c. [712](#).

Article 2 - PROPERTY HELD FOR RELIGIOUS PURPOSES

§ 57-7. Repealed.

Repealed by Acts 1993, c. 370.

§ 57-7.1. What transfers for religious purposes valid.

Every conveyance or transfer of real or personal property, whether inter vivos or by will, which is made to or for the benefit of any church, church diocese, religious congregation or religious society, whether by purchase or gift, shall be valid.

Any such conveyance or transfer that fails to state a specific purpose shall be used for the religious and benevolent purposes of the church, church diocese, religious congregation or religious society as determined appropriate by the authorities which, under its rules or usages, have charge of the administration of the temporalities thereof.

No such conveyance or transfer shall fail or be declared void for insufficient designation of the beneficiaries in any case where the church, church diocese, religious congregation or religious society has lawful trustees in existence, is capable of securing the appointment of lawful trustees upon application as prescribed in § [57-8](#), is incorporated, has created a corporation pursuant to § [57-16.1](#), or has ecclesiastical officers pursuant to the provisions of § [57-16](#).

1993, c. 370; 2005, c. [772](#).

§ 57-8. Appointment of trustees to effect the purposes of conveyances, etc.; validation of certain appointments.

The circuit court of the county or the circuit court of the city, or the judge thereof in vacation, wherein there is any parcel of such land or the greater part thereof may, on the application of the proper authorities of an unincorporated church or religious body or branch or division thereof, from time to time appoint trustees, either where there were, or are, none or in place of former trustees, and on such application and without notice to the trustee or trustees change those so appointed whenever it may seem to the court or judge proper to effect and promote the purpose and object of the conveyance, devise, or dedication, and the legal title to such land shall for that purpose and object be vested in the trustees for the time being and their successors.

All such changes and appointments heretofore [before March 31, 1966] made are hereby validated, ratified, approved and confirmed.

Code 1919, § 39; 1962, c. 516; 1966, c. 216; 2005, c. [772](#).

§ 57-9. How property rights determined on division of church or society.

A. If a division has heretofore occurred or shall hereafter occur in a church or religious society, to which any such congregation whose property is held by trustees is attached, the members of such congregation over 18 years of age may, by a vote of a majority of the whole number, determine to which branch of the church or society such congregation shall thereafter belong. Such determination shall be

reported to the circuit court of the county or city, wherein the property held in trust for such congregation or the greater part thereof is; and if the determination be approved by the court, it shall be so entered in the court's civil order book, and shall be conclusive as to the title to and control of any property held in trust for such congregation, and be respected and enforced accordingly in all of the courts of the Commonwealth.

B. If a division has heretofore occurred or shall hereafter occur in a congregation whose property is held by trustees which, in its organization and government, is a church or society entirely independent of any other church or general society, a majority of the members of such congregation, entitled to vote by its constitution as existing at the time of the division, or where it has no written constitution, entitled to vote by its ordinary practice or custom, may decide the right, title, and control of all property held in trust for such congregation. Their decision shall be reported to such court, and if approved by it, shall be so entered as aforesaid, and shall be final as to such right of property so held.

Code 1919, § 40; 1972, c. 825; 2005, cc. [681](#), [772](#).

§ 57-10. How trustees to hold personal property.

When personal property shall be given or acquired for the benefit of an unincorporated church or religious body, to be used for its religious purposes, the same shall stand vested in the trustees having the legal title to the land, to be held by them as the land is held, and upon the same trusts or, if the church has created a corporation pursuant to § [57-16.1](#), to be held by it as its land is held, and for the same purposes.

Code 1919, § 41; 1962, c. 516; 2005, c. [772](#).

§ 57-11. Suits by and against trustees.

Such trustees, and such as are mentioned in §§ [57-21](#), [57-22](#), and [57-23](#), may, in their own names, sue for and recover any real or personal estate held by them respectively in trust, or damages for injury thereto, and be sued in relation to the same. Such suit notwithstanding the death of any of the trustees, or the appointment of others, shall proceed in the names of the trustees by or against whom it was instituted.

In any case where such trustees shall have given any deed of trust, or encumbered such real or personal estate in any manner to secure any debt, and such trustees have since died, and such church diocese, religious congregation or organization has become extinct, or has ceased to occupy the property, so that it may be regarded as abandoned property, the beneficiary entitled to the debt secured by such deed of trust or encumbrance, may for the purpose of subjecting the estate to the payment of such lien, institute a suit in equity in the circuit court of the county or city in which the property or the greater part thereof is, against the members of such church diocese or religious congregation or organization as parties unknown, proceeding by order of publication as provided by Chapter 8 (§ [8.01-285](#) et seq.) of Title 8.01.

Code 1919, § 42; 1918, p. 409; 1920, p. 9; 1962, c. 516; 2005, c. [772](#).

§ 57-12. Repealed.

Repealed by Acts 2003, c. [813](#).

§ 57-13. Suits by members against trustees to compel proper application of property.

Any one or more members of any church diocese or religious congregation whose property is held by trustees may, in his or their names, on behalf of such church diocese or congregation, commence and prosecute a suit in equity against any such trustee to compel him to apply such real or personal estate for the use or benefit of the church diocese or congregation, as his duty shall require. No member of the church diocese or congregation need be made a defendant to such suit, but, in other respects, the same shall be proceeded in, heard, and determined as other suits in equity, except that it may be proceeded in, notwithstanding the death of the plaintiff, as if he were still living.

Code 1919, § 44; 1962, c. 516; 2005, c. [772](#).

§ 57-14. Suits by members to have land sold or mortgaged.

Whenever the governing body of any church diocese or any religious congregation whose property is held by trustees, for whose use a conveyance, devise, or dedication of land has been lawfully made, shall deem that their interest will be promoted by a sale of the whole or a part of such land, or by a mortgage thereof, or deed of trust thereon, it shall be lawful for any member of such church diocese or congregation, in his name and on behalf of the other members thereof, to prosecute a suit for either of such purposes in the circuit court of the county, or circuit court of the city, in which such land or the greater part thereof lies, against the trustees or the survivors of them in whom the legal title is; and it shall be lawful for such court, if a proper case be made, and it appears that the governing body of the church diocese or the congregation has given its assent thereto in the mode prescribed by its authorities, and the court be of opinion that the rights of others will not be violated thereby, to order the sale of such land or part thereof, or the execution of such mortgage or deed of trust, and make such disposition of the proceeds of such sale as the governing body of the church diocese or congregation may desire.

Code 1919, § 45; 1962, c. 516; 2005, c. [772](#).

§ 57-15. Proceedings by trustees or members for similar purposes, exception for certain transfers.

A. The trustees of such a church diocese, congregation, or church or religious denomination, or society or branch or division thereof, in whom is vested the legal title to such land held for any of the purposes mentioned in [§ 57-7.1](#), may file their petition in the circuit court of the county or the city wherein the land, or the greater part thereof held by them as trustees, lies, or before the judge of such court in vacation, asking leave to sell, encumber, extend encumbrances, improve, make a gift of, or exchange the land, or a part thereof, or to settle boundaries between adjoining property by agreement. Upon evidence being produced before the court that it is the wish of the congregation, or church or religious denomination or society, or branch or division thereof, or the constituted authorities thereof having jurisdiction in the premises, or of the governing body of any church diocese, to sell, exchange, encumber, extend encumbrances, make a gift of, or improve the property or settle boundaries by agreement, the court shall make such order as may be proper, providing for the sale of such land, or a part thereof, or that the same may be exchanged, encumbered, improved, or given as a gift, or that encumbrances

thereon be extended, and in case of sale for the proper investment of the proceeds or for the settlement of such boundaries by agreement.

When any such religious congregation has become extinct or has ceased to occupy such property as a place of worship, so that it may be regarded as abandoned property, the petition may be filed either by the surviving trustee or trustees, should there be any, or by any one or more members of such congregation, should there be any, or by the religious body which by the laws of the church or denomination to which the congregation belongs has the charge or custody of the property, or in which it may be vested by the laws of such church or denomination. The court shall either (i) make a decree for the sale of the property or the settlement of boundaries between adjoining properties by agreement, and the disposition of the proceeds in accordance with the laws of the denomination and the printed acts of the church or denomination issued by its authority, embodied in book or pamphlet form, shall be taken and regarded as the law and acts of such denomination or religious body or (ii) at the request of the surviving trustees and after notice in accordance with law to all necessary parties, make such order as may be proper providing for the gift of such property to any willing local, state or federal entity or to a willing private, nonprofit organization exempt from taxation under § 501(c) (3) of the Internal Revenue Code, provided the court finds that (a) the property includes a historic building or landmark so designated by the Commonwealth and (b) the purpose of such gift is historical preservation of the property.

The court may make such order as to the costs in all these proceedings as may seem proper.

B. As an alternative to proceeding under subsection A, (i) the trustees of a church or religious body that incorporate may transfer the title to the real and personal property of the church or religious body held by them to the incorporated church or religious body; and (ii) the trustees of a church or religious body that do not incorporate under subdivision (i) hereof may transfer title to the real and personal property of the church or religious body held by them to a corporation created pursuant to [§ 57-16.1](#) without, in either instance, obtaining court permission if the transfer is authorized in accordance with the church's or religious body's polity. If no petition seeking to set such a transfer aside is filed within one year of the recordation of the trustees' deed transferring title to the real estate, or the date of the transfer of any personal property, it shall be conclusively presumed that the transfer was made in accordance with the church's or religious body's polity insofar as a good faith purchaser or lender is concerned.

C. No transfer made pursuant to subsection A or B shall operate as a transfer for purposes of a provision contained in any note or deed of trust that purports to accelerate an indebtedness upon a transfer of title. Any such transfers of real estate shall be entitled to the exemptions set forth in [§ 58.1-811](#).

D. Any transfer of real or personal property made pursuant to subsection B, and any similar transfer made pursuant to subsection A after April 23, 2002, shall be deemed to assign to the incorporated church or religious body, or the corporation created pursuant to [§ 57-16.1](#), as the case may be, the beneficial interest in every policy of insurance of every kind, type, and description, relating to the

property transferred, contemporaneously with the transfer, and the transferee shall have all of the rights and obligations of the transferor relating thereto.

Code 1919, § 46; 1924, p. 535; 1938, p. 179; 1962, c. 516; 1974, c. 138; 1983, c. 542; 1993, c. 370; 1998, c. [258](#); 2005, c. [772](#).

§ 57-15.1. Order may provide that fiscal officer may sign instrument without personal liability.

Any order entered pursuant to §§ [57-14](#) and [57-15](#) may provide that any instrument evidencing a debt secured by a deed of trust or mortgage made in behalf of a church diocese, congregation, church or religious denomination or society or branch or division thereof, hereinafter referred to inclusively as "church," may be signed without personal liability by the treasurer or other fiscal officer of such church and thereupon become the obligation solely of the church named therein.

To carry out any order entered pursuant to §§ [57-14](#) and [57-15](#), the judge may appoint a special commissioner to convey or encumber any real estate held for the benefit of any church in connection with any transaction involving any conveyance or debt in the name of the church.

Any such instrument when recorded shall be indexed in the name of the church as grantor.

1966, c. 149.

§ 57-16. Property held, etc., by ecclesiastical officers.

A. How property acquired, held, transferred, etc. -- Whenever the laws, rules or ecclesiastic polity of any church or religious sect, society or denomination commits to its duly elected or appointed bishop, minister or other ecclesiastical officer, authority to administer its affairs, such duly elected or appointed bishop, minister or other ecclesiastical officer shall have power to acquire by deed, devise, gift, purchase or otherwise, any real or personal property, for any purpose authorized and permitted by its laws, rules or ecclesiastic polity, and not prohibited by the laws of Virginia, and the power to hold, improve, mortgage, sell and convey the same in accordance with such laws, rules and ecclesiastic polity, and in accordance with the laws of Virginia.

B. Transfer, removal, resignation or death of ecclesiastical officer. --

In the event of the transfer, removal, resignation or death of any such bishop, minister, or other ecclesiastical officer, the title and all rights with respect to any such property shall pass to and become vested in his duly elected or appointed successor immediately upon election or appointment, and pending election or appointment of such successor, such title and rights shall be vested in such person or persons as shall be designated by the laws, rules, or ecclesiastical polity of such church or religious sect, society or denomination.

C. Validation of deeds, etc. --

All deeds, deeds of trust, mortgages, wills or other instruments made prior to March 18, 1942, to or by a duly elected or appointed bishop, minister or other ecclesiastical officer, who at the time of the making of any such deed, deed of trust, mortgage, will or other instrument, or thereafter, had authority to administer the affairs of any church or religious sect, society or denomination under its laws, rules or ecclesiastic polity, transferring property, real or personal, of any such church or religious sect, society

or denomination, are hereby ratified and declared valid. All transfers of title and rights with respect to property, prior to such date from a predecessor bishop, minister or other ecclesiastical officer who has resigned or died, or has been transferred or removed, to his duly elected or appointed successor, by the laws, rules or ecclesiastic polity of any such church or religious sect, society or denomination, either by written instruments or solely by virtue of the election or appointment of such successor, are also hereby ratified and declared valid.

D. Insufficient designation of beneficiaries or objects of trust. --

No gift, grant, bequest or devise made on or after March 18, 1942, to any such church or religious sect, society or denomination or the duly elected or appointed bishop, minister or other ecclesiastical officer authorized to administer its affairs, shall fail or be declared void for insufficient designation of the beneficiaries in, or the objects of, any trust annexed to such gift, grant, bequest or devise; but such gift, grant, bequest or devise shall be valid; provided, that whenever the objects of any such trust shall be undefined, or so uncertain as not to admit of specific enforcement by the courts of the Commonwealth, such gift, grant, bequest or devise shall be held, managed, and the principal or income appropriated, for the religious and benevolent uses of such church or religious sect, society or denomination by its duly elected or appointed bishop, minister or other ecclesiastical officer authorized to administer its affairs.

E. Rights and remedies cumulative. --

The rights created and the remedies provided in this section shall be construed as cumulative and not exclusive.

F. No implied repeal of other provisions. --

This section shall not be so construed as to effect an implied repeal of any other provisions of this chapter.

1942, p. 382; Michie Code 1942, § 38a; 1962, c. 306; 1966, c. 308; 2005, cc. [681](#), [772](#).

§ 57-16.1. Property of unincorporated church held by corporation.

Whenever the laws, rules, or ecclesiastic polity of an unincorporated church or religious body provide for it to create a corporation to hold, administer, and manage its real and personal property, such corporation shall have the power to (i) acquire by deed, devise, gift, purchase, or otherwise, any real or personal property for any purpose authorized and permitted by the laws, rules, or ecclesiastic polity of the church or body, and not prohibited by the law of the Commonwealth and (ii) hold, improve, mortgage, sell, and convey the same in accordance with such law, rules, and ecclesiastic polity, and in accordance with the law of the Commonwealth.

2005, cc. [772](#), [928](#).

§ 57-17. Conveyance of church land held in adverse possession.

Whenever any church in the Commonwealth has been in the undisputed possession, for a period of 25 years or more, of any real estate, and for which there is no deed of record, the church, after giving notice once a week for four successive weeks in some newspaper published in, or having general circulation in, the county or city in which such real estate is, may file a petition in the circuit court of such

county, or any court of record of such city, duly sworn to, which petition shall set forth the fact that the real estate mentioned therein has been in the undisputed possession of such church for a period of 25 years or more and shall give the true boundaries of such real estate. Upon the hearing of such petition, if the court shall be satisfied that the real estate mentioned has been in the undisputed possession of such church for a period of 25 years or more; that the boundaries mentioned in the petition are the true boundaries of such real estate; and that such petition has been filed by the proper party, it may appoint a special commissioner to make conveyance of such real estate to the church, with covenant of special warranty.

1918, p. 94; 1924, p. 498; Michie Code 1942, § 46a; 2005, c. [772](#).

Article 3 - BENEVOLENT ASSOCIATIONS AND OBJECTS

§ 57-18. Conveyance for charitable purpose to unincorporated bodies or societies.

In any case where, since June 18, 1914, there has been, or at any time hereafter there may be, any gift, grant or devise of real estate for charitable purposes to an unincorporated body or society whether such gift, grant or devise be directly to such body or society, or to it in trust for charitable uses, trustees to hold the same may, if such unincorporated body or society so elects, be appointed in accordance with the procedure prescribed by § [57-8](#), and such trustees shall hold the trust subject in accordance with the provisions of §§ [57-11](#), [57-13](#), [57-14](#) and [57-15](#), in like manner as if such sections had been made expressly applicable to such unincorporated body or society. For the purposes of this section the words church, society, denomination, congregation, religious congregation, religious body, religious denomination and religious congregation or organization, appearing in the aforesaid sections, shall be interpreted to refer to such unincorporated body or society.

1928, p. 25; Michie Code 1942, § 49a.

§ 57-19. Conveyances of land to benevolent and other associations to be subject to certain sections.

When any conveyance of land has been or shall be made to trustees for the use of any society of Freemasons, Odd Fellows, Sons of Temperance, posts of Veterans of Foreign Wars or of the American Legion, Spanish War Veterans, Disabled American Veterans and of other associations of veterans of the armed forces of the United States, or any other benevolent or literary associations, or school league, or other groups organized for rural community civic purposes or improvement of farm life or operations of like purposes and not for profit, or if without the intervention of trustees such conveyance has been made since March 31, 1848, or shall be hereafter made for such use, §§ [57-8](#), [57-11](#), [57-14](#) and [57-15](#) shall be construed as if they were expressly made applicable to such association, post or society. Whenever such association, post or society has been in undisputed possession, for a period of twenty-five years or more, of any real estate, and for which there is no deed of record, § [57-17](#) shall be construed as if it was expressly made applicable to such association, post or society.

Code 1919, § 47; 1946, p. 230; 1954, c. 129; 1956, c. 203.

§ 57-20. Quantity of land benevolent and other associations may hold.

Except as otherwise provided in this section, the trustee for the use of any benevolent or other association referred to in § [57-19](#) shall not hereafter take or hold, at one time, any land exceeding five acres; and the trustees of two or more bodies or societies may hold jointly, land not exceeding five acres; provided that the local governing body of any county or city may by ordinance authorize such trustee or trustees to take and hold in such county or city not exceeding ten acres of land at any one time. However, a school league may, in addition to the five acres held by such trustees, hold not exceeding ten acres as a home for the principal of the school for which the league is named. All such holdings heretofore acquired are validated; except holdings which are in litigation prior to or on July 1, 1964.

Any lodge of the Benevolent and Protective Order of Elks or other groups organized for rural community civic purposes or improvement of farm life or operations of like purposes and not for profit may hold not exceeding thirty-five acres of land. All such holdings heretofore acquired are validated; except holdings which are in litigation on or before July 1, 2002.

Any association or post of the Veterans of Foreign Wars, American Legion, Spanish War Veterans, Disabled American Veterans or any similar association of veterans of the armed forces of the United States chartered by an act of Congress may hold not exceeding seventy-five acres of land. Notwithstanding any other provision of law conveyances of land made prior to June 29, 1948, to any such post or association of veterans is validated provided the same is not in excess of seventy-five acres.

Code 1919, § 48; 1948, p. 634; 1956, c. 454; 1964, c. 553; 1986, c. 63; 2002, c. [638](#).

§ 57-21. May hold personal property through trustees.

Any such association may acquire personal property for its use, and hold the same and any such as it may have heretofore acquired, through the intervention of trustees in whom the legal title shall be vested for its benefit; and the circuit court of the county, or the circuit court of the city, in which the meetings of such association are usually held, or the judge of such court in vacation, may, on the application of the proper authorities of the association, from time to time, appoint trustees, either where there were or are none, or in place of former trustees, and change those so appointed, as may seem to the court or judge to be proper; and the legal title to such personal property shall be vested in the trustees, for the time being, and their successors, for the use and benefit of the association.

Code 1919, § 49; 2005, c. [772](#).

Chapter 3 - CEMETERIES

Article 1 - GENERAL PROVISIONS

§ 57-22. Conveyance of land to trustees or local governing body for cemetery use.

A. Land may be conveyed to trustees, not less than five nor more than nine in number, for the use of any city, town, county, magisterial district, cemetery association, ecclesiastical or other society, as a cemetery. It shall be held by such trustees and their successors for such use and no other.

B. Land may also be conveyed to a county, city or town, in the name of the county, city or town, for use as a cemetery. Any perpetual care fund associated with the land or cemetery shall also be transferred upon such conveyance.

Code 1919, § 50; 1997, c. [132](#).

§ 57-23. Appointment, change or removal of trustees.

On the application of the governing body of a city or town, the attorney for the Commonwealth of a county, ten citizens of a magisterial district, or the proper authorities of any such association or society, for whose use such cemetery is held, the circuit court of the county in which the cemetery is situated may, from time to time, appoint, change, and remove the trustees, as provided in § [57-8](#), whenever it may seem to the court proper to effect or promote the purposes of the trust.

Code 1919, § 51.

§ 57-24. Powers and duties of trustees.

Such trustees and their successors shall have power to make such rules and regulations for the burial of the dead, the laying off, assignment and sale of burial lots, and the management, care, preservation and improvement of the grounds, as they may deem proper. They may take and hold personal property and money for the purposes of the trust, and what is so acquired and all money received from the sale of lots shall be accounted for by them and faithfully applied to such purposes.

Code 1919, § 52.

§ 57-24.1. Trustee for purpose of suit.

In the case of any private or family graveyard, where no trustees have been designated, and it appears that the interest of justice may be served by the appointment of a trustee or trustees for the purpose of suing or being sued, on the petition of any interested party, the court of record wherein deeds are recorded of the county or city in which such cemetery is located, may appoint a trustee or trustees for the purpose of suing or being sued. The petitioner shall bear the expense of such proceedings, provided that in the event a recovery is effected on behalf of such trustee or trustees, costs shall be taxed as provided by law.

1970, c. 94.

§ 57-25. Condemnation of land for cemeteries.

If it is desired at any time to establish a cemetery for the use of a city, town, county or magisterial district, or to enlarge any such cemetery already established, and the title to land needed cannot be otherwise acquired, land sufficient for the purpose may be condemned. Application for the condemnation shall be made by the governing body of the city or town, the attorney for the Commonwealth of the county, or any ten citizens of the magisterial district, as the case may be, to the circuit court of the county or city in which the land lies, and the proceedings shall be according to the provisions of Title 25.1 for condemnation of land thereunder, so far as they can be applied to the case. The title to any land acquired under the proceedings, if for the enlargement of an existing cemetery, shall vest in the county, city or town, or in the trustees of such cemetery, as appropriate; and if for the establishment of

a new cemetery, the title shall vest in the county, city or town, or in the trustees to be appointed under § [57-23](#), as appropriate. The land shall be held as provided by § [57-22](#).

Code 1919, § 53; 1997, c. [132](#).

§ 57-26. Restrictions as to location of cemeteries and as to quantity of land.

(1) Restrictions as to location. -- No cemetery shall be hereafter established within a county or the corporate limits of any city or town, unless authorized by appropriate ordinance subject to any zoning ordinance duly adopted by the governing body of such county, city or town; provided that authorization by county ordinance shall not be required for interment of the dead in any churchyard or for interment of members of a family on private property; nor shall any cemetery be established within 250 yards of any residence without the consent of the owner of the legal and equitable title of the residence; provided that subject to the foregoing if the location for the proposed cemetery is separated from any residence by a state highway, it may be established upon such location without the consent of the owner of such residence if it be not less than 250' from the residence at its nearest point thereto; provided such prohibition and restriction shall not apply where the tract of land intended for use as a cemetery is separated from any residence by a state highway and now contains a public or private burial ground and is not within the corporate limits of any city or town; and no cemetery shall be hereafter established, and no burial made in any part of any cemetery, other than a municipal or city cemetery, located within 300 yards of any property owned by any city, town or water company, upon which or a portion of which are now located driven wells from which water is pumped or drawn from the ground in connection with the public water supply.

(2) Quantity of land. -- Nothing contained in §§ [57-22](#) to [57-25](#) shall be so construed as to authorize a conveyance of more than 300 acres or the condemnation of more than 2 acres of land for the use of a cemetery.

(3) Action for damages. -- When damage is done to adjacent land by the establishment of such cemetery, whether established by purchase or condemnation, the owners whose lands have been damaged shall have a right to action for such damage against any person, firm, corporation, or municipality, establishing the cemetery; provided such action be instituted within one year from such establishment.

(4) Exceptions. -- The prohibitions and restrictions as to the location or establishment of cemeteries shall not apply to the town of Stuart, in Patrick County, to the town of Gretna, in Pittsylvania County, to the town of Shenandoah in Page County, or to the Woodbine Cemetery in the city of Harrisonburg, Rockingham County. And if the location for the proposed cemetery be in Norfolk County it may be established on such location if consent thereto be given by the owners of every residence within 250' thereof at its nearest point to any such residence, or if the location for the proposed cemetery is separated from any such residence by a state highway it may be established upon such location without the consent of the owner of such residence if it be not less than 150' from the residence at its nearest point thereto.

Code 1919, § 56; 1926, p. 866; 1934, p. 13; 1942, p. 102; 1944, p. 462; 1948, p. 492; 1952, c. 108; 1954, c. 10; 1960, c. 161; 1994, c. [229](#).

§ 57-27. City of Richmond may prohibit burials in certain cemeteries.

The governing body of the City of Richmond may, by ordinance, prohibit the burial of dead bodies in the cemeteries known as Ham's, Cedarwood, Methodist, Union Mechanics', Ebenezer, and Sycamore cemeteries, respectively, and may by such ordinance provide for penalties for violations of the same by fine not exceeding fifty dollars, or imprisonment in jail not exceeding six months.

Code 1919, § 57.

§ 57-27.1. Access to cemeteries located on private property; cause of action for injunctive relief; applicability.

A. Owners of private property on which a cemetery or graves are located shall have a duty to allow ingress and egress to the cemetery or graves by (i) family members and descendants of deceased persons buried there; (ii) any cemetery plot owner; and (iii) any person engaging in genealogy research, who has given reasonable notice to the owner of record or to the occupant of the property or both. No landowner shall erect a wall, fence or other structure or device that prevents ingress and egress to the cemetery or grave, unless the wall, fence or other structure or device has a gate or other means by which ingress and egress can be accomplished by persons specified in this subsection. The landowner may designate the frequency of access, hours and duration of the access and the access route if no traditional access route is obviously visible by a view of the property. The landowner, in the absence of gross negligence or willful misconduct, shall be immune from liability in any civil suit, claim, action, or cause of action arising out of the access granted pursuant to this section.

B. The right of ingress and egress granted to persons specified in subsection A shall be reasonable and limited to the purposes of visiting graves, maintaining the gravesite or cemetery, or conducting genealogy research. The right of ingress and egress shall not be construed to provide a right to operate motor vehicles on the property for the purpose of accessing a cemetery or gravesite unless there is a road or adequate right-of-way that permits access by a motor vehicle and the owner has given written permission to use the road or right-of-way of necessity.

C. Any person entering onto private property to access a gravesite or cemetery shall be responsible for conducting himself in a manner that does not damage the private lands, the cemetery or gravesites and shall be liable to the owner of the property for any damage caused as a result of his access.

D. Any person denied reasonable access under the provisions of this section may bring an action in the circuit court where the property is located to enjoin the owner of the property from denying the person reasonable ingress and egress to the cemetery or gravesite. In granting such relief, the court may (i) set the frequency of access, hours and duration of the access and (ii) award reasonable attorney fees and costs to the person denied such access.

E. The provisions of this section shall not apply to any deed or other written instrument that creates or reserves a cemetery or gravesite on private property.

1993, c. 713; 2004, c. [831](#); 2008, c. [390](#); 2011, c. [257](#).

§ 57-27.2. Correction of interment errors.

A. In any instance where the operator of a cemetery is informed or becomes aware that it has interred or permitted the interment of a body or cremains in the wrong burial space, it shall disinter the burial container wrongfully interred, identify the burial container, and reinter it in the proper burial space. The cemetery shall give reasonable notice, in advance of the disinterment, to the nearest known next of kin of the deceased person and, if requested, the owner of such burial space. For the purposes of this section, "interment" means the same as such term is defined in § [54.1-2310](#).

B. At the time specified for the disinterment and reinterment, the cemetery shall permit the nearest known next of kin and, if requested, the owner of such burial space to witness the disinterment and reinterment.

C. The cemetery shall bear all costs of the disinterment and reinterment.

1997, c. [74](#).

§ 57-27.3. Authorization for interment.

A cemetery may accept the notarized signature of one next of kin of a decedent for the purpose of authorizing the interment or entombment, and for erecting a memorial on the grave, crypt or niche, unless the cemetery is on written notice that there exists a dispute between next of kin over such interment, entombment or memorialization. In the case of such a dispute, the cemetery shall have no obligation to perform the interment, entombment or memorialization until there is agreement of all next of kin, or a court order adjudicating the issue among all necessary parties.

For purposes of this section, "next of kin" means any of the following persons, regardless of the relationship to the decedent: any person designated to make arrangements for the disposition of the decedent's remains upon his death pursuant to § [54.1-2825](#), the legal spouse, child over 18 years of age, custodial parent, noncustodial parent, siblings over 18 years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over 18 years of age and paternal siblings over 18 years of age, or any other relative in the descending order of blood relationship.

2004, c. [247](#).

Article 2 - JOINTLY OWNED CEMETERIES

§ 57-28. Cities and counties may establish.

Any city and county, or any number of cities and counties, may jointly purchase or otherwise acquire land for the purpose of improving and establishing a jointly owned cemetery or cemeteries, and the governing bodies of the cities and counties purchasing or acquiring land for joint cemetery purposes shall have the power to plan any such cemetery and amend and revise any plans so made, to determine the perpetual upkeep requirements of such cemetery and of perpetual upkeep lots therein, to fix

the purchase price of all lots therein, and to designate pauper lots and lots with and without perpetual care.

1944, p. 326; Michie Suppl. 1946, § 53a.

§ 57-29. Trustees.

After acquiring and planning such cemetery or cemeteries, the circuit court of the county wherein the cemetery is located shall appoint not less than five nor more than nine trustees, who shall reside in the city or county, for the purpose of managing and controlling such cemetery. The trustees shall have the power to convey lots in the cemetery in accordance with the plan thereof, without authority of court, and to include in deeds of conveyance such reasonable restrictions and conditions as they deem advisable, and shall have all other powers granted by general law to trustees of cemeteries. Such trustees shall, before entering upon the performance of their duties, give bond with approved security and in such penalty as the court determines for the faithful performance of their duties.

1944, p. 326; Michie Suppl. 1946, § 53a.

§ 57-30. Funds from sale of lots and for perpetual upkeep.

The trustees shall, upon delivery of a deed for any lot or portion thereof, except a pauper lot, collect the purchase price and pay it to the designated treasurer of either the county or city establishing the cemetery. The amounts received from the sale of lots or portions thereof as herein determined shall be used by the city and county to pay for the cost of the land and improvements. All funds for perpetual upkeep shall be properly invested under the direction of the governing bodies of the city and county. The balance of the purchase price of lots or portions thereof, and so much of the income from invested perpetual care funds as may be needed, shall be paid annually to the trustees, to be used by them along with all other funds received by them for the maintenance, operation and upkeep of the cemetery and of the perpetual care lots therein.

1944, p. 326; Michie Suppl. 1946, § 53a.

Article 3 - DISPOSITION OF PROPERTY FOR MAINTENANCE AND CARE

§ 57-31. May be in perpetuity.

No disposition of property heretofore or hereafter made for the maintenance or care of any cemetery, burial ground, burial lot in a cemetery, or monument, or other erections about such cemetery or burial lot, shall fail by reason of such disposition having been made in perpetuity, but shall be valid.

Code 1919, § 59; 1918, p. 103; 1920, p. 10.

§ 57-32. Who may hold such property.

Any cemetery company chartered under the laws of the Commonwealth, or a church, or any trustees holding title to a cemetery, or burial ground, may take and hold any property granted, bequeathed, devised, or given upon trust to apply its income to the improvement, repair, or embellishment of the cemetery, or any burial lot or monument or tomb or vault or other erections in such cemetery, according to the terms of such grant, bequest, devise, or gift.

Code 1919, § 59; 1918, p. 103; 1920, p. 10; 2005, c. [772](#).

§ 57-33. Repealed.

Repealed by Acts 1995, c. [255](#).

§ 57-34. Amount to defray original cost not limited.

Nothing contained in this article shall be construed as limiting the amount which may be given, bequeathed or devised to defray the original cost of the cemetery, burial lot, monument, vault or other like erection or structure, nor shall this article be construed as affecting any estate that has been distributed or settled on the basis of the law then existing.

Code 1919, § 59; 1918, p. 103; 1920, p. 10.

§ 57-35. Trusteeship for administering funds for perpetual care.

The board of directors of any incorporated cemetery company may by bylaw establish a trusteeship for holding and administering all funds paid to such cemetery company for the perpetual care of any lot or lots in the cemetery conducted by the company, and such trusteeship, once established, shall only be revoked, annulled or modified by and with the consent of the circuit court of the county or the corporation court of the city within whose jurisdiction the cemetery is situated.

Code 1919, § 59; 1918, p. 103; 1920, p. 10.

Article 3.1 - ENDOWMENT TRUSTS FOR PERPETUAL CARE

§§ 57-35.1 through 57-35.10. Repealed.

Repealed by Acts 1989, c. 631.

Article 3.2 - PERPETUAL CARE FUNDS, PRENEED BURIAL CONTRACTS AND CONSUMER PROTECTIONS

§§ 57-35.11 through 57-35.35. Repealed.

Repealed by Acts 1998, cc. [708](#) and [721](#), effective July 1, 2000.

Article 4 - Abandoned or Previously Unidentified Cemeteries; Removal of Remains

§ 57-35.35:1. Definitions.

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

"Previously unidentified cemetery" means a cemetery that, notwithstanding the fact that it is known to researchers, members of the community, or descendants of those buried there, has not been identified in the Virginia Cultural Resources Information System or has not been officially located in the land records of the locality.

2019, c. [195](#).

§ 57-35.36. Cemeteries owned by localities; good faith effort required prior to interment.

Notwithstanding the exemptions provided for in § [54.1-2312](#), a cemetery operated by a county or city shall keep accurate records of the ownership of cemetery lots and shall make a good faith effort to ensure, prior to interment, that the ownership of a cemetery lot is vested in the decedent's estate or that permission for the interment has been granted by the person holding such ownership. This section shall not apply to lots or cemeteries which are dedicated for the burial of indigents.

1991, c. 614.

§ 57-36. Abandoned or previously unidentified graveyards may be condemned; removal of bodies.

A. When a graveyard, wholly or partly within any locality, has been abandoned, is unused and neglected by the owners, or is a previously unidentified graveyard, and such graveyard is necessary, in whole or in part, for public purposes, authorized by the charter of such locality, or by the general statutes providing for the government of localities, such locality may acquire title to such burying ground by condemnation proceedings, to be instituted and conducted in the manner and mode prescribed in the statutes providing for the exercise of the power of eminent domain by localities. The locality may continue to maintain all or a portion of the burying ground as a graveyard.

B. The court taking jurisdiction of the case may, in its discretion, require the locality to acquire the whole burying ground, in which event the locality may use such part thereof as may be necessary for its purposes and sell the residue. The court, however, shall direct that the remains interred in such graveyard, if possible so to do, be removed to some repository used and maintained as a cemetery.

C. Should any locality, having acquired by any means land on which a previously unidentified or abandoned graveyard is located, including lands acquired in accordance with § [22.1-126.1](#) for educational purposes, initiate plans to use that land for purposes other than to maintain the graveyard, such locality shall, prior to completion of said plans, develop and engage in active public notice and participation regarding efforts to avoid adverse impacts to the graveyard or to remove the remains interred in such graveyard to an alternative repository. Such public notice and participation shall include, at minimum, publication of at least one notice in a local newspaper of general circulation, notice posted at the site of the graveyard, and notice to and consultation with any historic preservation or other such commission, as well as area historical and genealogical societies, and at least one public hearing. The locality shall make a good faith effort to identify and contact living descendants of the persons buried in the graveyard, if known. In addition, the locality is encouraged to post such notice on the Internet, including appropriate websites and through the use of social media, and to consult with the Virginia Department of Historic Resources. Having given all public comment due consideration, the locality is encouraged first to adjust plans to maintain the graveyard as part of the larger land use plan or, if that is not feasible, to request permission to proceed with removal through the court or through the Virginia Department of Historic Resources should archaeological removal be appropriate. In any event, any removal of remains should be given all due care and respect, as should the selection of and reburial in another cemetery. This requirement for public notice, consultation, consideration of comments, and following due process for removal of human remains shall apply in cases where the

presence of a previously unidentified or abandoned graveyard is discovered during either the planning or construction phases of a project.

D. Any locality that has acquired by any means land on which a previously unidentified or abandoned cemetery or gravesite of any Virginian held as a slave at the time of his death is located shall notify the Virginia Department of Historic Resources of the location of such cemetery or gravesite. The Department shall record the location of the cemetery or gravesite. A listing of the locations of all previously unidentified or abandoned cemeteries and gravesites of Virginians held as slaves at the time of their deaths that have been provided to the Department shall be maintained by the Department as a public record.

Code 1919, § 54; 1985, c. 95; 2010, c. [617](#); 2014, c. [588](#); 2019, c. [195](#).

§ 57-37. Costs of suits, removal and reinterment; how surplus above costs disposed of.

In the event that the proceeds from the condemnation are insufficient to defray the costs of the suit and removal, and reinterment of the remains, then the additional amount necessary therefor shall be paid by the county, city or town instituting the suit. If, after the payment of proper costs, there be any residue, the same shall be paid to the parties entitled thereto, and if there be any parties unknown who are entitled to such proceeds, the county, city or town shall hold such amount in trust for the parties so entitled, but such county, city or town shall not be charged with any interest on such amount so held. If the amount so held is not claimed by or paid to the parties entitled thereto within seven years from the date of sale of such burying ground, or part thereof, then such amount shall pass to and become a part of the Literary Fund of the Commonwealth, as provided by the statute of escheats.

Code 1919, § 55; 1985, c. 95.

§ 57-38. Exemption from §§ 57-36 and 57-37.

Sections [57-36](#) and [57-37](#) shall not apply to any graveyard or cemetery owned by a church, or controlled by trustees, in which sections are sold.

Code 1919, § 55.

§ 57-38.1. Proceedings by landowner for removal of remains from previously unidentified or abandoned family graveyard.

The owner of any land on which is located a previously unidentified graveyard or an abandoned family graveyard, and there has been no reservation of rights in such graveyard, or when the beneficiaries of any reservations of rights desire to waive such rights, and in which no body has been interred for twenty-five years may file a bill in equity in the circuit court of the county or in the circuit or corporation court wherein such land is located for the purpose of having the remains interred in such graveyard removed to some more suitable repository. To such bill all persons in interest, known or unknown, other than the plaintiffs shall be duly made defendants. If any of such parties be unknown, the plaintiffs shall undertake active, good faith efforts to locate interested parties including, at a minimum, publication of at least one notice in a local newspaper of general circulation, notice posted at the site of the graveyard, and notice to and consultation with any historic preservation or other such commission,

as well as area historical and genealogical societies. In addition, the plaintiff is encouraged to post such notice on the Internet, including appropriate websites and through the use of social media, and to consult with the Virginia Department of Historic Resources. Upon the case being properly matured for hearing, and proof being made of the propriety of the removal, the court may order the removal made and the remains properly deposited in another place, at the expense of the petitioner. Such removal and reinterment shall be done with due care and decency.

In determining the question of removal the court shall consider the historical significance of such graveyard and shall consider as well the wishes of the parties concerned so far as they are brought to its knowledge, including the desire of any beneficiaries of any reservation of rights to waive such reservation of rights in favor of removal, and so considering shall exercise a sound discretion in granting or refusing the relief prayed for.

1966, c. 444; 1970, c. 377; 2014, c. [588](#); 2019, c. [195](#).

§ 57-38.2. Proceedings by heir at law or descendant for removal of ancestor's remains from previously unidentified or abandoned family graveyard.

Any heir at law or descendant of a deceased person interred in a previously unidentified graveyard or an abandoned family graveyard in which no body has been interred for 25 years may file a bill in equity in the circuit court of the county or city wherein the land is located for the purpose of having the remains interred in the graveyard removed to some more suitable repository. The owner of the land, any beneficiaries of any reservation of rights, and all other persons in interest, known or unknown, other than the plaintiffs shall be duly made defendants. If any of such parties are unknown, notice may be given by order of publication. Upon the case being properly matured for hearing, and proof being made of the propriety of the removal, the court may order the removal and the remains properly deposited in another place, at the expense of the petitioner. The removal and reinterment shall be done with due care and decency.

The bill may be filed and relief granted regardless of whether there has been a reservation of rights in the graveyard and regardless of whether the beneficiaries of any reservation of rights desire to waive their rights. In determining the question of removal, the court shall consider the historical significance of the graveyard and the wishes of the parties concerned so far as they are brought to its knowledge, including the desire of any beneficiaries of any reservation in rights, and shall exercise sound discretion in granting or refusing the relief prayed for.

1990, c. 562; 2019, c. [195](#).

§ 57-39. Proceedings for removal of remains and sale of land vacated.

When the owners of a graveyard, or the trustees of a graveyard left in trust, by reason of the infancy or the disability of any of them or by reason of their being numerous or partly unknown, or of the residence of any of them being unknown, cannot or cannot conveniently unite in making disposition of the same, any one or more of such owners or trustees, or, in any event, any county, city or town of this Commonwealth, if a private graveyard or pauper's graveyard (potter's field), which has been dedicated

for such use either by written instrument, or by use by the public for such purpose, be within the boundaries thereof and the private graveyards be not connected with any church or church property and said graveyards be in a condition of neglect or disuse, or in the case of a pauper's graveyard is in a condition of neglect, or disuse, or is located in a location which is inappropriate for its continued use as a burial ground, may file a bill in equity in the circuit court of the county or in the circuit or corporation court of the corporation wherein the graveyard is located for the purpose of having the remains interred in such graveyard removed to some more suitable repository, and the land thus vacated sold and the costs of removal and interment and the costs of suit including reasonable attorney's fees paid out of the proceeds of the sale. To such bill all owners of the graveyard or any person having a right therein, and in the case of a pauper's graveyard the dedicator thereof, his heirs or successors in interest, if known, and if not known, such unknown parties shall be made defendants by the name of "person or persons unknown who may be the owners, heirs, or successors in interest of the unknown dedicator of the pauper's graveyard which is the subject of this suit," other than the plaintiffs shall be duly made defendants.

The bill shall show the title of the land, the interest of all parties, so far as known, and the reasons why relief is sought and that it is practicable. And upon the case being properly matured for hearing, and proofs being adduced of the propriety of the removal, the court shall have power to have the removal made and the remains properly deposited in another place, and to make sale of the grounds vacated by the removal and to have the costs of removal and reinterment, including the costs of the new place of interment, and of putting it in all respects in suitable condition and erecting upon it suitable memorials and the costs of the suit paid out of the proceeds of the sale.

Such removal and reinterment shall be done with due care and decency. But, unless the bill be filed by a city, town or county, the court shall not order such removal and reinterment until due and sufficient guaranty be given it that the proceeds of sale of the grounds proposed to be sold will be sufficient to meet all costs that may be incurred unless some party to the cause or other person gives due security to make good any deficit.

In determining the question of removal or sale the court shall consider as well the wishes of the parties concerned so far as they are brought to its knowledge as the proofs, and so considering shall exercise a sound discretion in granting or, refusing the relief prayed for, except that in case the bill be filed by a city, town or county, the court shall be guided by considerations of public welfare.

The court may distribute any surplus of the proceeds of sale according to their rights among the owners of the ground sold or the parties entitled thereto, and in the case of the sale of a pauper's graveyard wherein the original owner, his heirs and successors in interest are unknown, or there has been a dedication of said land for pauper's graveyard, the court, after the due consideration, upon application of the county, city or town may permit the proceeds of the sale to be utilized for other public uses of a charitable nature including the purchase of land for parks, public offices and other municipal uses including the construction of buildings thereon.

No graveyard to which there is no right-of-way except over or through some person's land shall be sold hereunder without the consent of such person.

1946, p. 407; Michie Suppl. 1946, § 58a; 1968, c. 83.

§ 57-39.1. Improvement of abandoned and neglected graveyards.

When the owners of any private graveyard, not connected with any church or church property, abandon the graveyard and allow it to fall into a condition of neglect and disuse, so that it is unsightly and thereby lessens the desirability and value of adjacent land, and the owners fail or refuse, when requested by the owner of adjacent land or when requested by the local governing body of the county, city or town wherein the private graveyard is located, to remedy such condition of neglect and put the graveyard into suitable condition, then any owner of adjacent land or the local governing body may file a bill in equity in the circuit court of the county or city wherein the graveyard is located, for the purpose of requiring the graveyard to be placed in a suitable condition. The owners of the graveyard or any person having a right therein shall be made defendants to such court proceedings.

The court shall not enter an order requiring the owners of a graveyard in which a grave or entombment right has never been sold to improve it or place it in a suitable condition. However, after hearing the evidence the court may allow the petitioners, at their own expense, to improve the graveyard and place it in suitable condition and may also require bond to ensure that the petitioners will not injure or remove any tomb, monument, gravestone, grave marker, or vault without having first obtained court approval. Acting pursuant to court order, the petitioners may thereafter enter upon the land and improve the graveyard and place it in suitable condition. The costs in any case involving a graveyard in which a grave or entombment right has never been sold shall be paid by the petitioners.

In any case involving a graveyard in which a grave or entombment right has been sold, the court shall determine whether the owners or petitioners shall pay the costs of improving the graveyard and may require bond to insure against injury or removal of any tomb, monument, gravestone, grave marker, or vault without court approval.

1950, p. 91; 1986, c. 55; 1990, c. 675.

§ 57-39.1:1. Recovery of abandoned interment rights; procedure; rights of owner of record.

A. When interment rights that have been granted by the owner of a cemetery are not used for a period of 50 years or more, they shall be deemed abandoned and revert to the owner of the cemetery, provided he has complied with the provisions of subsections B, C, and D. For the purposes of this section, "interment" means the same as such term is defined in § [54.1-2310](#).

B. If the last known address of the record owner of an interment right or his heirs, assigns, or next of kin is known to the owner of the cemetery or may reasonably be ascertained by the owner of the cemetery, the owner of the cemetery shall send notice by certified mail, return receipt requested, to the owner of the interment right, his heirs or assigns, and any next of kin at such address. The notice shall request the owner's current address, if different from the last known address, and the addresses of the owner's heirs or assigns. If a written response is received from the person to whom notice was sent by

the cemetery, the interment rights shall not be deemed abandoned and such rights shall continue for an additional 50 years from the date the response was received by the cemetery. If notice is returned undeliverable or if no response is received by the cemetery within 30 days after notice was sent, the cemetery shall publish a general notice pursuant to subsection D in a newspaper of general circulation (i) in the county or city where the cemetery is located and (ii) in the county or city of the last known address of the record owner of the interment rights.

C. In cases in which the last address for the last record owner of an interment right or his heirs, assigns, or next of kin is not known to and cannot reasonably be ascertained by the owner of the cemetery, the cemetery owner shall publish a notice, once a week for four consecutive weeks in a newspaper of general circulation in the county or city where the cemetery is located pursuant to subsection D.

D. Notice required to be published pursuant to subsections B and C shall contain the name and business address of the cemetery and the name of the last record owner of the interment rights and shall state the intent of the cemetery owner to declare the interment rights abandoned. If no response is received by the cemetery by or on behalf of the record owner or his heirs or assigns within 120 days after publication of the last required notice, the interment rights shall be deemed abandoned and shall revert to the owner of the cemetery. If a written response is received by the cemetery, the interment rights shall not be deemed abandoned and such rights shall continue for an additional 50 years from the date the response was received by the cemetery.

E. If, within 30 years after the interment rights have been deemed abandoned, the record owner, or his heirs or assigns, can prove to the cemetery or a court of competent jurisdiction that he is entitled to the interment rights, the cemetery shall, at no cost, provide a right of interment similar to the one that was abandoned.

1997, c. [74](#); 2012, c. [691](#).

Article 5 - Acquisition of Abandoned Lots in Cities and Certain Towns

§ 57-39.2. Reversion of unoccupied cemetery lots in cities and certain towns; rebuttable presumption.

The ownership of or right or interest in any unoccupied cemetery lot in any cemetery located in any city or in any town in the Counties of Scott and Wythe, or in any town in any county having the urban county executive form of government, which cemetery is under the ownership and charge of such city or town, or any corporation, association, or trustees, shall, upon abandonment, revert to such city, town, corporation, association, or trustees having ownership and charge of the cemetery containing any such lot. The continued failure to maintain or care for an unoccupied cemetery lot for a period of at least 30 years shall establish a rebuttable presumption that such lot has been abandoned.

1962, c. 264; §§ 57-39.2 through 57-39.7, 1964, c. 111; 1985, c. 414; 1986, c. 118; 1985, c. 414; 2020, c. [669](#).

§ 57-39.3. Proceedings; determination of abandonment.

Any city, town, corporation, association, or trustees having ownership and charge of a cemetery that is located in a city, or town in a county, as provided in § [57-39.2](#), may file a petition in the circuit court within whose jurisdiction the cemetery is situated, setting forth its ownership of the cemetery and facts relating to the continued failure by the owner of an unoccupied cemetery lot in such cemetery to maintain and care for such lot for at least 30 consecutive years immediately preceding, and requesting an order adjudging any such lot to be abandoned. Upon the filing of such petition, the court upon proper motion shall set a date for a hearing.

1962, c. 264; 1964, c. 111; 1986, c. 118; 2020, c. [669](#).

§ 57-39.4. Notice to owner of record; publication.

At least 20 days before the date fixed for the hearing, a notice declaring that the unoccupied cemetery lot has been presumed to be abandoned and setting forth the date fixed for the hearing shall be (i)(a) served personally upon the recorded owner thereof, or his heirs, if the recorded owner is known by the cemetery to be dead and upon such heirs whose names and addresses have been filed with the cemetery, or (b) served by mailing the notice by registered mail to the last known address of the recorded owner thereof, or his heirs, if the recorded owner is known by the cemetery to be dead and to such heirs whose names and addresses have been filed with the cemetery, and (ii) published once a week for four consecutive weeks in a newspaper having general circulation in the city or town in which the cemetery is located. It shall be the duty of such recorded owner or his heirs to appear and answer to the allegations of a petition filed pursuant to § [57-39.3](#). Any such appearance and answer shall rebut the presumption of abandonment.

1962, c. 264; 1964, c. 111; 2020, c. [669](#).

§ 57-39.5. Judicial determination; conveyance of title.

At the hearing authorized by § [57-39.4](#), the proofs of the parties or the petition in the event of the failure of the recorded owner or his heirs to appear and answer shall be presented, and the court shall determine if the unoccupied cemetery lot set forth in the petition has been abandoned. If the court enters a decree adjudging such lot to be abandoned, it shall further provide that the city, town, corporation, association, or trustees having ownership and charge of the cemetery containing any such lot shall have the right to sell such lot and to use the proceeds for the purposes provided by this article.

1962, c. 264; 1964, c. 111; 2020, c. [669](#).

§ 57-39.6. Sale of abandoned cemetery lot.

At any time after entry of the decree adjudicating any unoccupied cemetery lot to be abandoned pursuant to § [57-39.5](#), the city, town, corporation, association, or trustees having ownership and charge of the cemetery containing any such lot may sell such lot in accordance with the rules and regulations of the cemetery then in force governing generally the sale of cemetery lots. Any proceeds derived from this sale shall first be used to defray the costs and expenses incurred in any abandonment proceedings. Unless otherwise directed by the court, the remaining balance shall be placed in a special

fund, known as the "Perpetual Care Fund" of the cemetery, to be used by the cemetery solely for the future maintenance, care, and upkeep of the cemetery.

1962, c. 264; 1964, c. 111; 2020, c. [669](#).

§ 57-39.7. Applicability; abandonment determination limited in certain circumstances.

Sections [57-39.2](#) through [57-39.6](#) shall be construed to apply to and authorize a determination of abandonment of any unoccupied part of a cemetery lot. In any proceeding to determine the abandonment of an unoccupied part of a cemetery lot, the court shall also determine what part, if any, shall be considered as having been abandoned. Such sections shall not be construed to apply to and authorize a determination of abandonment of (i) that part of a cemetery lot wherein there has been an interment, (ii) any cemetery lot or part thereof to which unrestricted fee simple title has been conveyed by a cemetery, or (iii) any cemetery lot or part thereof for which perpetual care has been provided by contract with the city, town, corporation, association, or trustees having ownership and charge of the cemetery containing any such lot or part thereof.

1962, c. 264; 1964, c. 111; 1985, c. 414; 2020, c. [669](#).

Article 6 - PRE-NEED BURIAL CONTRACTS -- CONSUMER PROTECTION

§§ 57-39.8 through 57-39.18. Repealed.

Repealed by Acts 1989, c. 631.

Article 7 - CREMATION

§ 57-39.19. Application of Title 32.1, Chapter 8, Article 4.

The provisions of Article 4 (§ [32.1-305](#) et seq.) of Chapter 8 of Title 32.1 shall apply to the cremation of any dead human body.

1979, c. 724.

Article 8 - PET CEMETERIES

§ 57-39.20. Definitions.

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

"Burial right" means the right of interment.

"Interment" means the disposition of pet remains by earth burial, entombment in a mausoleum, or inurnment in a columbarium.

"Operator" means any person engaged in the business of selling or offering for sale any burial or interment right in a pet cemetery and representing to the public that such cemetery, single burial or interment right therein will be perpetually cared for.

"Perpetual care fund" means a fund created to provide income to a pet cemetery to provide care, maintenance, administration and embellishment of the pet cemetery.

"Pet" means an animal that has been adapted or tamed to live in intimate association with or for the pleasure of people and includes but is not limited to dogs, cats, birds, rabbits, and hamsters.

"Pet cemetery" means land, together with any structures, facilities, or buildings appurtenant thereto provided to members of the public for use or reservation for use for the individual interment, above or below ground, of pet remains. "Pet cemetery" does not include land used exclusively for landfilling or the communal burial of pets, but does include an area where a portion of the land is used for the communal burial of pets.

1996, c. [957](#).

§ 57-39.21. Duty to file declaration of land use restriction.

The owner of any land used or to be used as a pet cemetery shall file in the office of the clerk of the circuit court for the locality where the land is located a declaration restricting the use of the land to use as a pet cemetery. The owner shall execute the declaration in the same manner and with the same effect as a conveyance of an interest in land. The clerk shall record the declaration in the deed book and index it in the name of the owner. The restriction established in such a recorded declaration may be removed only as provided in § [57-39.24](#). Unless a restriction is so removed, no person shall use land restricted pursuant to this section for any purpose other than as a pet cemetery.

1996, c. [957](#).

§ 57-39.22. Certain representations unlawful; perpetual care trust fund required.

A. Effective July 1, 1996, it shall be unlawful to sell or offer for sale in the Commonwealth any burial right in a pet cemetery, and in connection therewith to represent to the public, in any manner, express or implied, that the entire pet cemetery or any burial or interment right therein will be perpetually cared for, unless adequate provision has been made for the perpetual care of the cemetery and all burials and interment rights therein as to which such representation has been made.

B. Each pet cemetery operator shall establish in a bank, savings and loan or other federally insured investment banking institution doing business in the Commonwealth an irrevocable trust fund in the amount of at least \$12,000 before the first lot, parcel of land, burial or interment right is sold. This fund shall be designated the perpetual care fund.

C. The moneys of a perpetual care fund shall be invested as provided by § [2.2-4519](#), Article 9 (§ [64.2-780](#) et seq.) of Chapter 7 of Title 64.2, and §§ [64.2-1502](#) through [64.2-1506](#), except as provided otherwise herein.

D. The income from the perpetual care fund shall be used only for the maintenance, supervision, improvement, and preservation of the grounds, lots, markers, memorials, buildings, equipment, statutory, and other real and personal property of the pet cemetery and for the payment of real property taxes. Annual reports of all the assets and investments of the perpetual care fund shall be prepared and maintained by the operator, and shall be available for inspection at reasonable times to any owner of a burial right in the pet cemetery. Such records shall be subject to examination by the commissioner of revenue.

1996, c. [957](#); 1999, c. [772](#).

§ 57-39.23. Change of address required from owner of burial right.

It shall be the duty of a purchaser of a burial right in a pet cemetery to notify the operator of a change in address.

1996, c. [957](#).

§ 57-39.24. Removal of restriction on land.

A. After a declaration has been filed pursuant to § [57-39.21](#), the restriction may be removed in accordance with this section by order of the circuit court for the locality where the land is located in a proceeding brought by the pet cemetery owner or his heirs or assigns.

B. The circuit court may remove the restriction on the land upon proof satisfactory to the court that either of the following has occurred:

1. No interments have been made in the land from which the restriction is sought to be removed; or
2. If, after notice sent by registered mail, return receipt requested, to the last known address of a person who owns a burial right in a pet cemetery, the owner of the pet cemetery has received from such persons written authorization, acknowledged before a notary public, to remove the restriction from the land. If no response is received by the cemetery owner after thirty days from the date of the notice, consent to remove the restriction from the land shall be presumed. Any person granting this authorization who wishes to have a pet that is already interred in the pet cemetery removed and reinterred elsewhere shall so state on the authorization, and the pet cemetery owner shall provide proof of this removal and reinterment. A pet cemetery owner need not obtain the authorization described in this subdivision from a person who has purchased a burial right in the pet cemetery but who has not yet used that right for the interment of a pet, if the owner refunds to the purchaser or his heirs or assigns all moneys taken for the burial right, plus interest accrued in six-month increments, at a rate equal to the Federal Reserve Board discount rate as of January 1 of each year, beginning January 1, 1996.

C. A holder of a lien on the restricted land may object to the removal of the restriction, and the circuit court shall consider any such objection before issuing an order to remove the restriction.

D. An order issued by the circuit court removing a restriction pursuant to this section shall be filed in the office of the clerk of the circuit court for the locality where the land is located. The clerk shall record the order in the deed book.

1996, c. [957](#).

§ 57-39.25. Violation a misdemeanor.

It shall be unlawful for any person to violate the provisions of § [57-39.22](#) of this article. Any such violation shall be deemed a Class 3 misdemeanor, and any person convicted of such violation shall be punished in accordance with the provisions of § [18.2-11](#).

1996, c. [957](#).

Chapter 4 - SOLICITATION OF CONTRIBUTIONS [Repealed]

§§ 57-40 through 57-47. Repealed.

Repealed by Acts 1974, c. 574.

Chapter 5 - SOLICITATION OF CONTRIBUTIONS

§ 57-48. Definitions.

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

"Board" means the Board of Agriculture and Consumer Services.

"Charitable organization" means any person that is or holds itself out to be organized or operated for any charitable purpose, or any person that solicits or obtains contributions solicited from the public.

"Charitable organization" does not include (i) any church or convention or association of churches, primarily operated for nonsecular purposes and no part of the net income of which inures to the direct benefit of any individual; (ii) any political party as defined in § [24.2-101](#) or any political campaign committee or political action committee or other political committee required by state or federal law to file a report or statement of contributions and expenditures; or (iii) any authorized individual who solicits, by authority of such organization, solely on behalf of a registered or exempt charitable organization or on behalf of an organization excluded from the definition of charitable organization.

"Charitable purpose" means any charitable, benevolent, humane, philanthropic, patriotic, or eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any public official or instigating, prosecuting, or intervening in litigation.

"Charitable sales promotion" means advertised sales that feature the names of both the commercial co-venturer and the charitable or civic organization and that state that the purchase or use of the goods, services, entertainment, or any other thing of value that the commercial co-venturer normally sells will benefit the charitable or civic organization or its purposes. To qualify as a charitable sales promotion, the consumer must pay the same price for the thing of value as the commercial co-venturer usually charges without the charitable sales promotion and the consumer retains the thing of value.

"Civic organization" means any local service club, veterans post, fraternal society or association, volunteer fire or rescue group, or local civic league or association of 10 or more persons not organized for profit but operated exclusively for educational or charitable purposes as defined in this section, including the promotion of community welfare, and the net earnings of which are devoted exclusively to charitable, educational, recreational, or social welfare purposes.

"Commercial co-venturer" means any person who (i) is organized for profit, (ii) is regularly and primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic organizations or charitable purposes, and (iii) conducts an advertised charitable sales promotion for a specified limited period of time.

"Commissioner" means the Commissioner of Agriculture and Consumer Services or a member of his staff to whom he may delegate his duties under this chapter.

"Contribution" means any gift, bequest, devise, or other grant of any money, credit, financial assistance, or property of any kind or value, including the promise to contribute, except payments by the membership of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, and except money, credit, financial assistance, or property received from any governmental authority. "Contribution" does not include any donation of blood or any gift made pursuant to Article 2 (§ [32.1-289.2](#) et seq.) of Chapter 8 of Title 32.1.

"Department" means the Department of Agriculture and Consumer Services.

"Federated fund-raising organization" means any federation of independent charitable organizations that have voluntarily joined together, including but not limited to a United Fund or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

"File with the Commissioner" means depositing the originals of the documents required to be filed, along with the payment of the appropriate fee and all supporting documents with the Department or submitting the required documents and any appropriate attachments and fees by utilizing an online filing system approved by the Commissioner.

"Fund-raising expenses" means the expenses of all activities that constitute or are an integral and inseparable part of a solicitation.

"Membership" means those persons to whom, for payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold offices. "Membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

"Parent organization" means that part of a charitable organization that coordinates, supervises, or exercises control over policy, fund raising, and expenditures or assists or advises one or more chapters, branches, or affiliates.

"Person" means any individual, organization, trust, foundation, association, partnership, corporation, society, or other group or combination acting as a unit.

"Professional fund-raising counsel" means any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of, any charitable or civic organization, but who actually solicits no contributions as a part of such services. A bona fide salaried officer or employee of a registered or exempt charitable organization or the bona fide salaried officer

or employee of a registered parent organization shall not be deemed to be a professional fund-raising counsel.

"Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable or civic organization, whether such solicitation is performed personally or through his agents, servants, or employees or through agents, servants, or employees who are specially employed by or for a charitable or civic organization and are engaged in the solicitation of contributions under the direction of such person or any person who, for a financial or other consideration, plans, conducts, manages, carries on, advises, or acts as a consultant to a charitable or civic organization in connection with the solicitation of contributions but does not qualify as a professional fund-raising counsel. A bona fide salaried officer or employee of a registered or exempt charitable organization or a bona fide salaried officer or employee of a registered parent organization shall not be deemed to be a professional solicitor.

"Sale," "sell," and "sold" mean the transfer of any property or the rendition of any service to any person in exchange for consideration, including any purported contribution without which such property would not have been transferred or such services would not have been rendered.

"Solicit" and "solicitation" mean the request or appeal, directly or indirectly, for any contribution on the plea or representation that such contribution will be used for a charitable purpose, including, without limitation, the following methods of requesting such contribution:

1. Any oral or written request;
2. Any announcement to the press, over the radio or television, or by telephone or telegraph concerning an appeal or campaign to which the public is requested to make a contribution for any charitable purpose connected therewith;
3. The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support; or
4. The sale of, offer, or attempt to sell, any advertisement, advertising space, subscription, ticket, or any service or tangible item in connection with which any appeal is made for any charitable purpose or where the name of any charitable or civic organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be donated to any charitable purpose.

"Solicitation," as defined in this section, shall be deemed to occur when the request is made, at the place the request is received, whether or not the person making the same actually receives any contribution.

"Terrorists and terrorist organizations" means any person, organization, group, or conspiracy who assists or has assisted terrorist organizations, as provided in 18 U.S.C. § 2339B, or who commits or attempts to commit acts of terrorism, as defined in § [18.2-46.4](#).

1974, c. 574; 1979, cc. 124, 595, 598; 1983, c. 374; 1984, c. 268; 1988, c. 322; 1990, c. 711; 1996, c. [461](#); 2003, cc. [576](#), [977](#), [1009](#); 2005, c. [329](#); 2007, cc. [92](#), [907](#); 2013, c. [24](#).

§ 57-49. Registration of charitable organizations; prohibition against support of terrorists.

A. Every charitable organization, except as otherwise provided in this chapter, which intends to solicit contributions within the Commonwealth, or have funds solicited on its behalf, shall, prior to any solicitation, file an initial registration statement with the Commissioner upon forms acceptable to him.

Each registration statement shall thereafter be refiled on or before the fifteenth day of the fifth calendar month of the next and each following fiscal year in which such charitable organization is engaged in solicitation activities within the Commonwealth. It shall be the duty of the president, chairman or principal officer of such charitable organization to file the statements required under this chapter. A charitable organization's registration statement may alternatively be filed online on a website approved by the Commissioner. Such statement shall contain the following information:

1. The name of the organization and the purpose for which it was organized.
2. The principal address of the organization, the address of any offices in the Commonwealth and its designated agent for process within the Commonwealth. If no such agent is designated, the organization shall be deemed to have designated the Secretary of the Commonwealth. If the organization does not maintain an office, the name and address of the person having custody of its financial records.
3. The names and addresses of any chapters, branches or affiliates in the Commonwealth.
4. The place where and the date when the organization was legally established, the form of its organization, and a reference to any determination of its tax-exempt status under the Internal Revenue Code.
5. The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer.
6. A copy of a balance sheet and income and expense statement, with the opinion of any independent public accountant, for the organization's immediately preceding fiscal year; a copy of a financial statement certified by an independent public accountant covering, in a consolidated report, complete information as to all the preceding year's fund-raising activities of the charitable organization, showing kind and amount of funds raised, fund-raising expenses and allocation of disbursement of funds raised; or a copy of Internal Revenue Service Form 990. The report required by this subdivision shall comply with the accounting standards prescribed pursuant to § [57-53](#). Any organization whose annual gross revenue qualifies such organization to file Form 990-N (also referred to as the e-Postcard) with the Internal Revenue Service may submit a balance sheet and income and expense statement verified under oath or affirmation by the treasurer of the organization.

7. A statement indicating the amount of funds expended during the preceding fiscal year to pay for the administrative expenses of the charitable organization and a computation of such expenses as a percentage of the total expenses of the charitable organization.
8. A statement indicating the amount of funds expended during the preceding fiscal year that was dedicated to providing charitable services and a computation of such expenses as a percentage of the total expenses of the charitable organization.
9. A statement showing the computation of the percentages provided for in § [57-58](#).
10. A statement indicating whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others.
11. A statement indicating whether the organization is authorized by any other governmental authority to solicit contributions and whether it, or any officer, professional fund-raiser or professional solicitor thereof, is or has ever been enjoined by any court or otherwise prohibited from soliciting contributions in any jurisdiction.
12. The general purpose or purposes for which the contributions to be solicited shall be used.
13. The name or names under which it intends to solicit contributions.
14. The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions.
15. The names of the individuals or officers of the organization responsible for the final distribution of the contributions.
16. A statement indicating whether the organization, or any officer, professional fund-raiser or professional solicitor thereof, has ever been convicted of a felony and, if so, a description of the pertinent facts.
17. A copy of the current articles of incorporation, bylaws, or other governing documents. If current copies are already on file with the Commissioner, only amendments, if any, shall be filed in years after the initial registration.
18. A description of the types of solicitation to be undertaken.

A1. Every registration statement shall include the following language:

"No funds have been or will knowingly be used, directly or indirectly, to benefit or provide support, in cash or in kind, to terrorists, terrorist organizations, terrorist activities, or the family members of any terrorist."

A2. No person shall be registered by the Commonwealth or by any locality to solicit funds that are intended to benefit or support terrorists, terrorist organizations or terrorist activities. No person shall be registered by the Commonwealth or by any locality to solicit funds that are intended to benefit or support a family member of any terrorist, unless a court of competent jurisdiction within the

Commonwealth, upon petition of an interested person, finds by clear and convincing evidence that, for a period of at least three years next preceding any act of terrorism committed by such terrorist or terrorist organization, the family members to whom the benefit of the contributions shall inure have been living separate and apart from the terrorist or terrorist organization, and the family members have not provided any financial support, in cash or in kind, to the terrorist or terrorist organization for the same period of time.

B. Each chapter, branch or affiliate, except an independent member agency of a federated fund-raising organization, shall separately report the information required by this section or report the information to its parent organization which shall then furnish such information as to itself and all of its state affiliates, chapters and branches in a consolidated form. All affiliated organizations included in a consolidated registration statement shall be considered as one charitable organization for all purposes of this chapter. If a consolidated registration statement is filed, all statements thereafter filed shall be upon the same basis unless permission to change is granted by the Commissioner.

C. Each federated fund-raising organization shall report the information required by this section in a consolidated form. Any federated fund-raising organization may elect to exclude from its consolidated report information relating to the separate fund-raising activities of all of its independent member agencies. No member agency of a federated fund-raising organization shall be required to report separately any information contained in such a consolidated report. Any separate solicitations campaign conducted by, or on behalf of, any such member agency shall nevertheless be subject to all other provisions of this chapter.

D. The registration forms shall be signed by the chief fiscal officer and by another authorized officer of the charitable organization. If the registration forms are filed online using a website approved by the Commissioner, the charitable organization shall follow the procedures on that website for signing the forms.

E. Every charitable organization which submits an independent registration to the Commissioner shall pay an annual registration fee of (i) \$30 if its gross contributions for the preceding year do not exceed \$25,000; (ii) \$50 if its gross contributions exceed \$25,000 but do not exceed \$50,000; (iii) \$100 if its gross contributions exceed \$50,000 but do not exceed \$100,000; (iv) \$200 if its gross contributions exceed \$100,000 but do not exceed \$500,000; (v) \$250 if its gross contributions exceed \$500,000 but do not exceed \$1 million; and (vi) \$325 if its gross contributions exceed \$1 million. A parent organization filing on behalf of one or more chapters, branches or affiliates or a federated fund-raising organization filing on behalf of its member agencies shall pay a single annual registration fee for itself and such chapters, branches, affiliates or member agencies included in the registration statement. Organizations with no prior financial history filing an initial registration shall be required to pay an initial fee of \$100. Organizations with prior financial history filing an initial registration shall be required to pay an initial fee of \$100 in addition to the annual registration fee. Any organization which allows its registration to lapse, without requesting an extension of time to file, shall be required to resubmit an initial registration. An extension may be granted upon receipt of a written request.

1974, c. 574; 1975, c. 221; 1979, c. 595; 1984, c. 268; 1986, c. 31; 1987, c. 561; 1988, c. 322; 1990, c. 711; 1993, cc. 577, 583; 1995, cc. [170](#), [205](#); 2003, cc. [576](#), [977](#), [1009](#); 2005, c. [329](#); 2012, c. [313](#); 2017, c. [763](#); 2018, c. [268](#).

§ 57-50. Reciprocal agreements with other states; online filing.

A. The Commissioner may enter into a reciprocal agreement with the appropriate authority of any other state for the purpose of exchanging information with respect to charitable organizations, professional fund-raising counsel and professional solicitors. Pursuant to such agreements, the Commissioner may accept information filed by a charitable organization, professional fund-raising counsel and professional solicitor with the appropriate authority of another state in lieu of the information required to be filed in accordance with the provisions of this chapter, if such information is substantially similar to the information required under this chapter. The Commissioner may also grant exemption from the requirement for the filing of [an] annual registration statement with him to charitable organizations organized under the laws of another state, having their principal place of business in such other state, having funds derived principally from sources outside the Commonwealth, and having been granted exemption from the filing of registration statements by such other state, if such state has a statute similar in substance to the provisions of this chapter and participates in a reciprocal agreement pursuant to this section.

B. The Commissioner may also enter into a memorandum of understanding or other similar agreement with the appropriate authority of any other state or federal agency for the purpose of providing charitable organizations, professional fund-raising counsel or professional solicitors with the option of filing their annual registration statements online on a website approved by all states that are parties to the memorandum of understanding. The Commissioner may accept such online filing in lieu of the information required to be filed in accordance with the provisions of this chapter if the procedures for online filing provide for submitting substantially similar information to that required by this chapter. The information provided by charitable organizations, professional fund-raising counsel or professional solicitors at the approved website as a result of their completion of the online registration statement shall be shared with the appropriate authority of any state or federal agency that is a party to the memorandum of understanding.

1974, c. 574; 1979, c. 595; 2005, c. [329](#).

§ 57-51. Nonresident registration.

(a) Any unregistered charitable organization, professional fund-raising counsel or professional solicitor, having his or its principal place of business without this Commonwealth or organized under and by virtue of the laws of a foreign state who or which shall solicit contributions from people in this Commonwealth, shall be deemed to have irrevocably appointed the Secretary of the Commonwealth as his or its agent upon whom may be served any summons, subpoena, subpoena duces tecum or other process directed to such charitable organization, or any partner, principal, officer, or director thereof or to such professional fund-raising counsel or professional solicitor. Service shall be made by leaving two copies of the process, notice, order or demand, together with any fee required by law, in the office

of the Secretary of the Commonwealth, together with an affidavit giving the last known post-office address of the defendant and such service shall be sufficient if notice of such service and a copy of the process, notice, order or demand are forthwith sent by registered mail, with return receipt requested, by the Secretary of the Commonwealth or one of his staff to the defendant at the specified address. An affidavit by the Secretary of the Commonwealth showing compliance herewith shall be filed with the papers in the suit, action or proceeding.

(b) Any charitable organization, having no office or place of business within this Commonwealth and soliciting in this Commonwealth from without the Commonwealth solely by telephone or telegraph, direct mail or advertising in national media, and any professional fund-raising counsel or professional solicitor engaged by such an organization, shall file with the Commissioner any report which would otherwise be required of it or request the Commissioner to determine that such organization is exempt under § [57-50](#) or § [57-60](#).

1974, c. 574; 1979, c. 595; 1984, c. 268.

§ 57-52. Publication of warnings concerning certain charitable and civic organizations.

If the Commissioner determines that any charitable or civic organization not registered with his office and not exempt from registration, irrespective of whether such organization is subject to the jurisdiction of this Commonwealth, has solicited or may be soliciting in this Commonwealth, directly or indirectly, by any means including without limitation, by telephone or telegraph, by direct mail or by advertising in national media, he may, after ten days' written notice mailed to the charitable or civic organization, cause to be printed in one or more newspapers published in this Commonwealth a notice in substantially the following form:

WARNING--UNREGISTERED CHARITABLE SOLICITATION

The organization named below has solicited contributions from Virginia citizens for allegedly charitable purposes. It has not registered with or been granted the appropriate exempt status by the Commissioner as required by law. Contributors are cautioned that their contributions to such organization may be used for noncharitable purposes.

1974, c. 574; 1979, c. 595; 1983, c. 374; 1988, c. 322.

§ 57-52.1. Publication of warnings concerning solicitation by professional solicitors.

If the Commissioner determines that any charitable or civic organization has contracted with a professional solicitor to solicit on its behalf and that the professional solicitor may be soliciting or has solicited in this Commonwealth, directly or indirectly, by any means including, without limitation, by telephone or telegraph, by direct mail or by advertising in national media, and the professional solicitor has not registered with the Commissioner as required by § [57-61](#), the Commissioner may, after five days' written notice mailed to the charitable or civic organization, cause to be printed in one or more newspapers published in this Commonwealth a notice on substantially the following form:

WARNING--UNREGISTERED CHARITABLE SOLICITATION BY PROFESSIONAL SOLICITOR

The charitable or civic organization named below has contracted with a professional solicitor to solicit on its behalf. The professional solicitor has not registered with the Commonwealth of Virginia as required by law. Contributors are cautioned that their contributions may be used for noncharitable purposes.

1987, c. 561.

§ 57-53. Records to be kept by charitable organizations.

Every charitable organization shall keep true fiscal records for all fiscal years beginning on and after January 1, 1975, in accordance with the standards and practices set out in Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations adopted and approved in December, 1964, by the National Health Council and National Social Welfare Assembly, and as may be modified from time to time by the National Health Council and the National Assembly for Policy and Development, or in accordance with the standards and practices set out in Uniform Chart of Accounts and Definitions for Hospitals as approved by, and as may be modified by, the American Hospital Association, or in accordance with such other uniform standards of accounting as the Commissioner may find to be as appropriate. A copy of such standards shall be maintained on file in the office of the Commissioner. Such records shall be retained for a period of at least three years after the end of the period of registration to which they relate.

1974, c. 574; 1979, c. 595.

§ 57-54. Contracts between charitable or civic organizations and professional fund-raising counsel or professional solicitors.

- A. Every contract or agreement between professional fund-raising counsel and a charitable or civic organization must be in writing and shall be filed with the Commissioner within ten days after such contract or written agreement is entered into.
- B. Every contract, or a written statement of the nature of the arrangement to prevail in the absence of a contract, between a professional solicitor and a charitable or civic organization shall be filed with the Commissioner at least ten days prior to commencement of the contract.
- C. All agreements and arrangements between professional fund-raising counsel and charitable or civic organizations must be reduced to writing before executed or acted upon.

1974, c. 574; 1979, c. 595; 1983, c. 374; 1988, c. 322.

§ 57-55. Repealed.

Repealed by Acts 1980, c. 445.

§ 57-55.1. Repealed.

Repealed by Acts 1990, c. 711.

§ 57-55.2. Charitable solicitation disclosure.

Every professional solicitor who solicits contributions from a prospective contributor in the Commonwealth: (i) shall identify himself and his employer; (ii) shall disclose that he is a paid solicitor; and

(iii) shall further disclose, in writing, the fact that a financial statement for the last fiscal year is available from the Department of Agriculture and Consumer Services.

1987, c. 561; 2013, c. [24](#).

§ 57-55.2:1. Solicitations by for-profit organizations.

A. Every solicitor for an organization which is for-profit which solicits contributions from a prospective contributor in the Commonwealth shall disclose that the organization is not exempt from taxation under § 501(c) of the Internal Revenue Code.

B. For every contribution received for five dollars or more, a for-profit organization shall, within thirty days following receipt, send a written statement to such contributor disclosing that the organization is not exempt from taxation under § 501(c) of the Internal Revenue Code.

1993, c. 240.

§ 57-55.3. Disclosure regarding financial statement required.

Every charitable organization required to be registered pursuant to § [57-49](#) and every professional solicitor required to be registered pursuant to § [57-61](#) soliciting contributions from prospective contributors shall disclose to the potential donor contemporaneously at the point of a written request or on a written receipt for donations made in response to an oral request that a financial statement is available from the Department of Agriculture and Consumer Services upon request.

1990, c. 930; 2003, c. [576](#); 2013, c. [24](#).

§ 57-55.4. Collection receptacles; required disclosures.

No (i) business as defined in § [58.1-3700.1](#), other than a charitable or civic organization to which contributions are deductible under § 170 of the Internal Revenue Code, or (ii) professional solicitor shall place or maintain a receptacle in public view for the purpose of collecting donated clothing, household items, or other items for future resale unless such person or professional solicitor places on the receptacle a permanent sign or label in a prominent place that includes the following information printed in letters that are no less than three inches in height and no less than one-half inch in width and in a color that contrasts with the color of the receptacle, which sign or label shall be placed immediately below the opening in the receptacle used to deposit donations:

1. The name, business address, and telephone number of the person engaged in such business or the professional solicitor; and
2. a. For a receptacle placed or maintained by a person engaged in such business, a statement that reads: "This donation receptacle is operated by a for-profit business. Items donated here support a for-profit business."; or
- b. For a receptacle placed or maintained by the professional solicitor, a statement that reads: "This donation receptacle is operated by a professional solicitor. Items donated here support, in part, the professional solicitor, which is a for-profit entity."

Enforcement of a violation of this section shall be limited to subsections B through E of § [57-59](#).

2015, c. [476](#).

§ 57-56. Information filed to become public records.

Registration statements, reports, professional fund-raising counsel contracts or professional solicitor contracts and all other documents and information required to be filed under this chapter shall become public records in the office of the Commissioner, and shall be open to the general public for inspection at such time and under such conditions as the Commissioner may prescribe. A charge not exceeding one dollar per page may be made for any copy of such documents and information as may be furnished any person by the Commissioner.

1974, c. 574; 1979, c. 595.

§ 57-57. Prohibited acts.

A. No charitable organization shall use or exploit the fact of registration under this chapter so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by this Commonwealth. The use of the following statement shall not be deemed a prohibited exploitation, "Registered with the Commissioner as required by law. Registration does not imply endorsement of a public solicitation for contributions."

B. No person shall, in connection with the solicitation of contributions or the sale of tangible personal property or services represent, or lead anyone by any manner, means, practice or device whatsoever to believe, that the person on whose behalf such solicitation or sale is being conducted is a bona fide charitable organization or that the proceeds of such solicitation or sale will be used for charitable purposes, if he has reason to believe such not to be the fact.

C. No person shall, in connection with the solicitation of contributions or the sale of tangible personal property or services for charitable purposes, represent or lead anyone by any manner, means, practice or device whatsoever to believe, that any other person sponsors or endorses such solicitation of contributions, sale of tangible personal property or services for charitable purposes or approves of such charitable purposes or a charitable organization connected therewith when such other person has not given written consent to the use of his name for these purposes.

Any member of the board of directors or trustees of a charitable organization or any other person who has agreed either to serve or to participate in any voluntary capacity in the campaign shall be deemed thereby to have given his consent to the use of his name in said campaign. Nothing contained in this section shall prevent the publication of names of contributors without their written consents, in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

D. No person shall denominate any membership fee or purchase price of goods or services sold, as a contribution or as a donation or in any other manner represent or imply that the member or the purchaser of such goods or services will be entitled to an income tax deduction for his cost or any portion thereof unless:

1. A signed opinion of counsel or an Internal Revenue Service ruling or determination letter holding such cost to be deductible has been obtained; or
2. The member or purchaser is informed in writing that such cost may not be deductible.

No person shall represent or imply that a contributor will be entitled to an income tax deduction for his contribution unless a signed opinion of counsel or an Internal Revenue Service ruling or determination letter holding gifts to such organization to be deductible has been obtained.

E. No person shall make any representation that he is soliciting contributions for or on behalf of a charitable or civic organization or shall use or display any emblem, device or printed matter belonging to or associated with a charitable or civic organization for the purpose of soliciting or inducing contributions from the public without first being authorized to do so by the charitable or civic organization.

F. No professional solicitor shall solicit in the name of or on behalf of any charitable or civic organization unless such solicitor has:

1. Written authorization of two officers of such organization, a copy of which shall be filed with the Commissioner. Such written authorization shall bear the signature of the solicitor and shall expressly state on its face the period for which it is valid, which shall not exceed one year from the date issued.
2. Such authorization with him when making solicitations and exhibits it on request to persons solicited, police officers, or agents of the Commissioner.

G. No charitable or civic organization shall accept any contribution exceeding \$5 in cash or tangible property without providing, on request of the donor, a written receipt acknowledging such contribution on behalf of the organization.

H. No person, and no organization of which such person is an officer, professional fund-raising counsel or professional solicitor, shall solicit within this Commonwealth if:

1. Such person has been convicted in any jurisdiction of embezzlement, larceny or other crime involving the obtaining of money or property by false pretenses or the misapplication of funds impressed with a trust, unless such person has received a pardon for such offense or the public is informed of such conviction in a manner approved in writing by the Commissioner before any solicitation occurs; or
2. Such person has ever been enjoined by any court or otherwise prohibited from soliciting in any jurisdiction, unless the Commissioner first determines in writing that such person is entitled to solicit in such jurisdiction at the time of soliciting within this Commonwealth or that the reason for such injunction or prohibition does not involve moral turpitude.

I. No person shall solicit within this Commonwealth for the benefit of any other person located without the Commonwealth, if such other person refuses to supply any information which the Commissioner deems necessary to assure himself that the provisions of this chapter are complied with. A solicitation

shall be deemed to be on behalf of every person who or which receives, directly or indirectly, more than 10 percent of the gross amount collected.

J. No charitable or civic organization shall allow a professional solicitor to solicit on its behalf if the professional solicitor has not registered pursuant to § [57-61](#).

K. No charitable or civic organization, professional fund-raising counsel or professional solicitor shall solicit in this Commonwealth without being duly registered or granted the appropriate exempt status under this chapter.

L. No person shall employ in any solicitation or collection of contributions for a charitable purpose any device, scheme or artifice to defraud or obtain money or property by any misrepresentation or misleading statement.

M. No officer, agent, director or trustee of any charitable or civic organization, professional fund-raising counsel or professional solicitor shall refuse or fail, after notice, to produce to the Commissioner any books and records of such organization.

N. No person shall use or permit the use of the funds raised by a charitable solicitation for any purpose other than the solicited purpose or, with respect to funds raised by general appeals, the general purposes of the charitable or civic organization on whose behalf the solicitation was made.

O. No person shall knowingly and willfully make any false statements in any registration application or statement, report or other disclosure required by this chapter.

P. No professional solicitor shall solicit on behalf of a charitable or civic organization unless the charitable or civic organization has registered or been granted the appropriate exempt status under this chapter.

Q. No person shall represent, in any solicitation, that tickets to events will be donated for use by another unless he complies with the following requirements:

1. He shall have obtained commitments, in writing, from persons or charitable or civic organizations stating that they will accept donated tickets and specifying the number of persons for whom they are willing to accept tickets;
2. He shall not collect or accept more contributions for donated tickets than the number of ticket commitments he has received from persons or charitable or civic organizations;
3. He shall have printed in advance on each ticket the exact number of persons to be admitted by the ticket and the dollar price or value of each ticket;
4. He shall distribute the tickets in a timely fashion to those having given commitments; and
5. He shall maintain during the solicitation and for a period of three years thereafter: (i) records reflecting the name and address of each contributor and the amount of money and number of tickets donated by each such contributor; and (ii) the written commitments of each person or charitable or civic organ-

ization to accept tickets and specifying the number of persons on whose behalf tickets were to be accepted, as required in subdivision 1 of subsection Q of this section.

R. No person shall knowingly use or permit the use of funds raised by a solicitation or by contribution to benefit or provide support, directly or indirectly, in cash or in kind, to terrorists, terrorist organizations, terrorist activities or to family members of any terrorist.

1974, c. 574; 1979, c. 595; 1983, c. 374; 1987, c. 561; 1988, c. 322; 1990, c. 711; 2003, cc. [977](#), [1009](#).

§ 57-58. Ratio of fund-raising expenses to contributions to be included in registration statement.

Each charitable organization shall, as a part of its registration statement, compute the percentage that its fund-raising expenses for its preceding fiscal year bore to its support received directly from the public during such year.

Each federated fund-raising organization shall clearly disclose on any registration the percentage that is withheld from a donation designated for a member agency.

1974, c. 574; 2003, c. [810](#).

§ 57-59. Enforcement of chapter; seizure of property connected with terrorism; penalties.

A. Any person who willfully and knowingly violates or causes to be violated any provision of this chapter, or who willfully and knowingly gives false or incorrect information to the Commissioner in filing statements or reports required by this chapter, whether such report or statement is verified or not, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished for the first offense by a fine of not less than \$100 and not more than \$1,000 or by confinement in jail for not more than six months, or both, and for the second and any subsequent offense by a fine of not less than \$500 and not more than \$2,500 or by confinement in jail for not more than one year, or both.

The following property shall be subject to lawful seizure by any law-enforcement officer charged with enforcing the provisions of this chapter: all moneys or other property, real or personal, together with any interest or profits derived from the investment of such money and used in substantial connection with an act of terrorism as defined in § [18.2-46.4](#). All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ [19.2-386.1](#) et seq.) of Title 19.2.

B. Whenever the Commissioner has reasonable cause to believe that a violation of this chapter may have occurred, the Commissioner, upon his own motion or upon complaint of any person, may investigate any charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor to determine whether such charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor has violated the provisions of this chapter. In the conduct of such investigation, the Commissioner may:

1. Require or permit any person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all facts and circumstances concerning the matter to be investigated.
2. Administer oaths or affirmations and, upon his motion or upon request of any party, subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is

relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangibles and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

Any proceedings or hearings by the Commissioner under this chapter, where witnesses are subpoenaed and their attendance is required for evidence to be taken or any matter is to be produced to ascertain material evidence, shall take place within the City of Richmond.

Upon failure to obey a subpoena and upon reasonable notice to all persons affected thereby, the Commissioner may apply to the Circuit Court of the City of Richmond for an order imposing punishment for contempt of the subpoena or compelling compliance.

C. Whenever the Attorney General has reasonable cause to believe that any person has operated, is operating or is about to operate in violation of the provisions of this chapter, the Attorney General may issue a civil investigative demand. The provisions of § [59.1-9.10](#) shall apply mutatis mutandis to civil investigative demands issued pursuant to this subsection.

D. Whenever the Attorney General, or any attorney for the Commonwealth or the attorney for any city, county or town has reason to believe that any charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor has operated, is operating or is about to operate in violation of the provisions of this chapter, the Attorney General, attorney for the Commonwealth or the attorney for any city, county or town, in addition to all other actions authorized by law, may bring an action in the name of the Commonwealth against such charitable or civic organization, commercial co-venturer, professional fund-raising counsel or professional solicitor, or their officers, directors, or other agents to enjoin the continuation of such violation, solicitation or collection, or the engaging therein, or the conducting of any acts in furtherance thereof and for such other relief as the court deems appropriate.

E. In any action brought under subsection D, the court may also award to the Commonwealth a civil penalty of not more than \$5,000 per violation, to be paid to the Literary Fund, reasonable expenses incurred by the state or local agency in investigating and preparing the case, not to exceed \$250 per violation, and attorney's fees. Such expenses and attorney's fees shall be paid into the general fund of the Commonwealth or of the county, city, or town which such attorney represented.

1974, c. 574; 1979, c. 595; 1983, c. 374; 1987, c. 561; 1990, c. 711; 1991, c. 710; 1999, c. [81](#); 2000, c. [755](#); 2003, cc. [576](#), [977](#), [1009](#).

§ 57-60. Exemptions.

A. The following persons shall be exempt from the registration requirements of § [57-49](#), but shall otherwise be subject to the provisions of this chapter:

1. Educational institutions that are accredited by the Board of Education, by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, the

Association Montessori Internationale, the American Montessori Society, the Virginia Independent Schools Association, or the Virginia Association of Independent Schools, any foundation having an established identity with any of the aforementioned educational institutions, and any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families.

2. Persons requesting contributions for the relief of any individual specified by name at the time of the solicitation when all of the contributions collected without any deductions whatsoever are turned over to the named beneficiary for his use.

3. Charitable organizations that do not intend to solicit and receive, during a calendar year, and have not actually raised or received, during any of the three next preceding calendar years, contributions from the public in excess of \$5,000, if all of their functions, including fund-raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of or is paid to any officer or member. Nevertheless, if the contributions raised from the public, whether all of such are or are not received by any charitable organization during any calendar year, shall be in excess of \$5,000, it shall, within 30 days after the date it has received total contributions in excess of \$5,000, register with and report to the Commissioner as required by this chapter.

4. Organizations that solicit only within the membership of the organization by the members thereof.

5. Organizations that have no office within the Commonwealth, that solicit in the Commonwealth from without the Commonwealth solely by means of telephone or telegraph, direct mail or advertising in national media, and that have a chapter, branch, or affiliate within the Commonwealth that has registered with the Commissioner.

6. Organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and that are organized wholly as Area Health Education Centers in accordance with § [32.1-122.7](#).

7. Health care institutions defined herein as any facilities that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, and that are (i) licensed by the Department of Health or the Department of Behavioral Health and Developmental Services; (ii) designated by the Health Care Financing Administration (HCFA) as federally qualified health centers; (iii) certified by the HCFA as rural health clinics; or (iv) wholly organized for the delivery of health care services without charge; and any supporting organization that exists solely to support any such health care institutions. For the purposes of clause (iv), "delivery of health care services without charge" includes the delivery of dental, medical or other health services where a reasonable minimum fee is charged to cover administrative costs.

8. Civic organizations as defined herein.

9. Agencies providing or offering to provide debt management plans for consumers that are licensed pursuant to Chapter 20 (§ [6.2-2000](#) et seq.) of Title 6.2.

10. Agencies designated by the Virginia Department for Aging and Rehabilitative Services pursuant to subdivision A 6 of § [51.5-135](#) as area agencies on aging.

11. Labor unions, labor associations and labor organizations that have been granted tax-exempt status under § 501(c)(5) of the Internal Revenue Code.

12. Trade associations that have been granted tax-exempt status under § 501(c)(6) of the Internal Revenue Code.

13. Organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and that are organized wholly as regional emergency medical services councils in accordance with § [32.1-111.4:2](#).

14. Nonprofit organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and that solicit contributions only through (i) grant proposals submitted to for-profit corporations, (ii) grant proposals submitted to other nonprofit organizations that have been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, or (iii) grant proposals submitted to organizations determined to be private foundations under § 509(a) of the Internal Revenue Code.

B. A charitable organization shall be subject to the provisions of §§ [57-57](#) and [57-59](#), but shall otherwise be exempt from the provisions of this chapter for any year in which it confines its solicitations in the Commonwealth to five or fewer contiguous cities and counties, and in which it has registered under the charitable solicitations ordinance, if any, of each such city and county. No organization shall be exempt under this subsection if, during its next preceding fiscal year, more than 10 percent of its gross receipts were paid to any person or combination of persons, located outside the boundaries of such cities and counties, other than for the purchase of real property, or tangible personal property or personal services to be used within such localities. An organization that is otherwise qualified for exemption under this subsection that solicits by means of a local publication, or radio or television station, shall not be disqualified solely because the circulation or range of such medium extends beyond the boundaries of such cities or counties.

C. No charitable or civic organization shall be exempt under this section unless it submits to the Commissioner, who in his discretion may extend such filing deadline prospectively or retrospectively for good cause shown, on forms to be prescribed by him, the name, address and purpose of the organization and a statement setting forth the reason for the claim for exemption. Parent organizations may file consolidated applications for exemptions for any chapters, branches, or affiliates that they believe to be exempt from the registration provisions of this chapter. If the organization is exempted, the Commissioner shall issue a letter of exemption, which may be exhibited to the public. A registration fee of \$10 shall be required of every organization requesting an exemption after June 30, 1984. The letter of exemption shall remain in effect as long as the organization continues to solicit in accordance with its claim for exemption.

D. Nothing in this chapter shall be construed as being applicable to the American Red Cross or any of its local chapters.

1974, c. 574; 1975, c. 221; 1979, cc. 55, 595, 598, 626; 1980, c. 559; 1983, c. 374; 1984, c. 268; 1991, c. 184; 1995, c. [312](#); 1996, c. [461](#); 1997, c. [162](#); 1998, cc. [104](#), [232](#); 1999, c. [1021](#); 2000, c. [921](#); 2002, c. [85](#); 2003, c. [576](#); 2004, cc. [580](#), [790](#); 2005, c. [316](#); 2009, cc. [813](#), [840](#); 2010, cc. [680](#), [794](#); 2011, c. [534](#); 2012, cc. [803](#), [835](#); 2015, cc. [502](#), [503](#).

§ 57-61. Registration of professional fund-raising counsels and solicitors.

A. No person shall act as a professional fund-raising counsel or professional solicitor for a charitable or civic organization, unless he has first registered with the Commissioner. Applications for registration shall be in writing under oath or affirmation in the form prescribed by the Commissioner and contain such information as he may require. The application shall be accompanied by an annual fee of \$100 for the professional fund-raising counsel. The fee for a professional solicitor shall be \$500. Any professional solicitor who fails to register prior to any solicitation shall be required to pay a late filing fee of \$250. A partnership or corporation which is a professional fund-raising counsel or professional solicitor, may register for and pay a single fee on behalf of all its members, officers, agents and employees.

B. Each professional solicitor shall, at the time of making application, file with and have approved by the Commissioner a bond in which the applicant shall be the principal obligor in the sum of \$20,000 with one or more sureties satisfactory to the Commissioner, whose liability in the aggregate as such sureties will at least equal \$20,000, and maintain the bond in effect so long as the registration is in effect. The bond shall run to the Commonwealth of Virginia for the use of the bonds in reimbursement for any penalties or losses resulting from malfeasance, nonfeasance or misfeasance in the conduct of solicitation activities. A partnership or corporation which is a professional solicitor may file a consolidated bond on behalf of all its members, officers, agents and employees.

C. Each registration shall be valid throughout the Commonwealth of Virginia for a period of one year from the date of issue and may be renewed for additional one-year periods upon written application, under oath or affirmation, in the form prescribed by the Commissioner and the payment of the fee prescribed herein.

D. At least ten days prior to the commencement of each solicitation campaign, the solicitor shall file with the Commissioner a copy of the contract entered into with any charitable or civic organization and shall file a completed "Solicitation Notice" on forms prescribed by the Commissioner. The Solicitation Notice shall be in writing and under oath, and shall include a description of the solicitation event or campaign, the projected starting and ending dates of the campaign, and the location and telephone number from which the solicitation will be conducted. The charitable or civic organization on whose behalf the solicitor is acting shall certify that the Solicitation Notice and accompanying material are true and complete.

E. Professional solicitors shall file a final accounting report with the Commissioner after the completion of the solicitation campaign, showing all funds collected and such other information as the Commissioner may require. The final accounting report shall be filed within ninety days of the

campaign's completion. Professional solicitors may file a written request with the Commissioner for an extension, not to exceed ninety days, for filing the final accounting report. The extension period shall be calculated from the first day following the expiration of the initial ninety-day period for filing the report.

A late filing fee of twenty-five dollars shall be imposed for each thirty-day period, or any portion thereof, that an extension request or the final accounting report is not timely filed with the Commissioner. No late fees shall be imposed for the period between the date the extension request is filed with the Commissioner through 180 days following the completion of the solicitation campaign. An additional late filing fee of twenty-five dollars shall be imposed for each thirty-day period, or any portion thereof, that the final accounting report is not filed with the Commissioner, calculated from the end of any extension period. The late filing fees shall be in addition to all other penalties authorized by law.

F. The solicitor shall maintain during each solicitation campaign and for not less than three years after its completion, the following records: (i) the name and address of each contributor and the date and amount of the contribution, provided that the Commissioner shall not disclose this information except to the extent necessary for investigative or law-enforcement purposes; (ii) the name and residence address of each employee, agent, or other person involved in the solicitation; (iii) records of all expenses incurred in the course of the solicitation campaign; and (iv) the account number and location of all bank accounts where receipts from the campaign will be deposited.

G. All funds collected by the solicitor shall be deposited in a bank account. The bank account shall include the name of the charitable or civic organization with whom the solicitor has contracted. The professional solicitor shall promptly provide to the charitable or civic organization a copy of all monthly bank statements.

H. Any change in information filed with the Commissioner pursuant to this section shall be reported in writing to the Commissioner within seven days after the change occurs.

1974, c. 574; 1979, c. 595; 1983, c. 374; 1984, c. 268; 1987, c. 561; 1988, c. 322; 1990, c. 711; 1996, c. [461](#); 1999, c. [40](#).

§ 57-61.1. Time and effect of registration.

A. Registrations by charitable organizations, professional solicitors, and professional fund-raising counsel are effective, if complete, upon receipt by the Commissioner. Incomplete registration forms and registration forms lacking required accompanying documents are not effective until completed or until the required accompanying documents are received by the Commissioner. No person shall be considered registered under this chapter for any purpose until his registration is complete.

B. If the Commissioner at any time determines that (i) the requirements of § [57-49](#) or § [57-61](#) have not been met or (ii) the registrant is violating any requirement of §§ [57-54](#), [57-55.2](#) or § [57-57](#) or any regulations adopted pursuant to § [57-66](#), then the Commissioner may suspend the registration until the registrant meets the requirements or complies and provides evidence thereof satisfactory to the

Commissioner. The suspension may be based upon an informal conference pursuant to § [2.2-4019](#) of the Administrative Process Act (§ [2.2-4000](#) et seq.).

C. If the Commissioner finds that the public health, safety or welfare requires urgent action, and if he also finds reasonable cause to believe that the registrant has failed to comply with § [57-49](#) or § [57-61](#) or is violating §§ [57-54](#), [57-55.2](#) or § [57-57](#) or any regulations adopted pursuant to § [57-66](#), then the Commissioner may provide advance notice of as little as twenty-four hours for the conduct of the informal conference under § [2.2-4019](#) of the Administrative Process Act.

1987, c. 561; 1988, c. 322; 1990, c. 711.

§ 57-61.2. Commercial co-ventures.

A. No commercial co-venturer shall conduct any charitable sales promotion in the Commonwealth on behalf of a charitable or civic organization unless the charitable or civic organization is duly registered or granted the appropriate exempt status as provided by this chapter.

B. Prior to any charitable sales promotion in the Commonwealth, the commercial co-venturer shall have a written agreement with the charitable or civic organization on whose behalf the charitable sales promotion is to be conducted. Such agreement shall be signed by an authorized representative of the commercial co-venturer and two officers of the charitable or civic organization.

C. The commercial co-venturer shall maintain all records in connection with the charitable sales promotion for a period of three years after the end date of the charitable sales promotion. All such records shall be made available to the Commissioner upon request.

2003, c. [576](#).

§ 57-62. Liability imposed by other laws not decreased.

Nothing contained in this chapter shall be construed as making lawful any act or omission which is now unlawful, or as decreasing the liability, civil or criminal, of any person, imposed by existing laws.

1974, c. 574.

§ 57-63. Local ordinances.

A. The governing body of any city, town or county may by ordinance not inconsistent with this chapter provide for the regulation and licensing of charitable or civic organizations soliciting within the city, town or county, and for penalties for violation thereof, subject to the following limitations:

1. No local license tax or fee in excess of ten dollars shall be required of any charitable organization.
2. No charitable organization exempt from registration under subdivision A 1, A 4, A 6 or A 7 of § [57-60](#) shall be required to be licensed. Any such organization may obtain a local license, without payment of any license tax or fee, upon compliance with all such requirements of the local ordinance as would have been applicable had it been registered with the Commissioner during each year in which it obtained an exemption letter under subsection C of § [57-60](#).

3. No charitable organization that has registered with the Commissioner for the current and next preceding three years, or exempt for such years under § [57-50](#), shall be required to provide any financial information.

4. No charitable or civic organization that solicits within the Commonwealth from a place outside the Commonwealth solely by telephone, telegraph, direct mail or advertising in national media, and having no chapter, branch, area or office within the Commonwealth, shall be required to be licensed.

5. No museum that has registered with the Commissioner as required by § [57-49](#) and that has been granted tax-exempt status under § 501(c) (3) of the Internal Revenue Code shall be required to comply with the regulation or licensing provisions of any local charitable solicitations ordinance.

6. If a charitable or civic organization shall designate by power of attorney filed with the Commissioner one or more persons authorized to sign on its behalf, the signature, verification or affirmation of any such persons shall be sufficient for all purposes of any local charitable solicitations ordinance.

B. Any ordinance adopted pursuant to this section may provide, inter alia, for procedures whereby charitable organizations may, for valid reasons, after an administrative hearing, be denied a local license or whereby a license may be revoked. Valid reasons for denial or revocation of a local license may be defined to include, without limitation, the expenditure of charitable assets for noncharitable purposes, any misrepresentation to the public or to any prospective donor, and any violation of state or local law. Any charitable organization which is denied a license may, within fifteen days from the date of such denial, apply for relief to the circuit court of such city or county or of the county in which such town is located. If the court is satisfied that the denial was for any reason erroneous, it shall provide such relief as may be appropriate.

C. No ordinance, or amendment thereto, adopted pursuant to this section shall be valid for any calendar year beginning after December 31, 1978, unless, before September 1 of that year, there shall have been filed with the Commissioner, on forms to be prescribed by him, information deemed by him to be sufficient for the purpose of advising charitable or civic organizations of the necessity for them to be licensed by such city, town or county.

D. No charitable organization shall be required to comply with the provisions of local ordinances if such organization has registered with the Commissioner or if such organization is a chapter, branch or affiliate included in the consolidated report of an organization or federated organization registered with the Commissioner, except that such charitable organization shall not be exempted from that portion of any local ordinance that requires such organization to register its name, the names of its solicitors and the dates and times that they will be soliciting in the locality.

1974, c. 574; 1977, c. 401; 1979, cc. 55, 595; 1983, cc. 282, 374; 1985, c. 82; 1998, cc. [104](#), [232](#); 2002, c. [85](#).

§ 57-64. Out-of-state enforcement proceedings.

Any state of the United States shall have the right to sue in the courts of Virginia to enforce the civil provisions of any statute thereof general in application regulating charitable solicitations, when the like right is accorded this Commonwealth by such state, whether such right is granted by statutory authority or as a matter of comity.

1974, c. 574.

§ 57-65. Fees and charges.

All fees and charges collected by the Commissioner as provided in this chapter shall be paid into a special fund of the state treasury. Such funds shall be used to finance the administration and operation of this program.

1974, c. 574; 1975, c. 221; 1979, c. 595; 1984, c. 268.

§ 57-66. Rules and regulations; model ordinance.

The Board shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter, or other applicable laws, or the Constitution of the Commonwealth, or the Constitution of the United States, for the enforcement of the provisions of this chapter and for the achievement of uniform regulation of charitable solicitations throughout the Commonwealth. The Commissioner shall promulgate a model ordinance which may be used by localities in their regulation of charitable solicitations.

1974, c. 574; 1979, c. 595.

§ 57-67. Application to court for relief.

Any person aggrieved by any final order of the Commissioner is entitled to judicial review in accordance with the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.). Either party may appeal any final order of such court to the Court of Appeals in the same manner as provided by law in cases of appeals of right.

1974, c. 574; 1979, c. 595; 1984, c. 703; 1986, c. 615.

§ 57-68. Repealed.

Repealed by Acts 2015, c. [709](#), cl. 2.

§ 57-69. Effective date.

Notwithstanding any other section of this chapter to the contrary, no charitable organization, professional fund-raising counsel, or professional solicitor shall be required to register with the Commissioner hereunder until July 1, 1978.

1975, c. 221; 1977, c. 401; 1979, c. 595.