

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2982

BY DELEGATE UPSON

[Passed March 10, 2018; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to
3 allowing certain winners of State Lottery draw games to remain anonymous; providing that
4 a person entitled to collect proceeds exceeding one million dollars from a winning draw
5 game ticket may remain anonymous in regards to his or her name, personal contact
6 information, and likeness; establishing a procedure by which a draw game winner may
7 request anonymity from the State Lottery Director; providing that a draw game winner who
8 elects to remain anonymous must remit 5 percent of his or her winnings to the State Lottery
9 Fund; establishing an effective date; and providing that information provided when a draw
10 game winner elects to remain anonymous is exempt from disclosure under the Freedom
11 of Information Act.

Be it enacted by the Legislature of West Virginia:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-15a. Option for winners of draw games to remain anonymous.

1 (a) A person entitled to collect proceeds exceeding one million dollars from a winning draw
2 game ticket may remain anonymous: *Provided*, That such anonymity only applies to the person's
3 name, personal contact information, and likeness.

4 (b) If the person entitled to collect proceeds exceeding one million dollars from a winning
5 draw game ticket desires to remain anonymous, he or she shall contact the State Lottery Director
6 in writing or appear at the state lottery headquarters in person, concerning his or her desire to
7 remain anonymous: *Provided*, That such a request only permits that the person's name, personal
8 contact information, and likeness remain anonymous. At the time of his or her request to remain
9 anonymous, the person shall provide his or her contact information, including any personal
10 telephone number, residential address, and electronic mail address.

11 (c) Any request to remain anonymous may be made by certified mail addressed to the
12 West Virginia State Lottery Director, P.O. Box 2067, Charleston, West Virginia 25327, by
13 electronic mail to an email address that is to be established by West Virginia State Lottery prior
14 to the effective date of this section, or in person at the state lottery headquarters. Once
15 established, the secure email address shall be posted on the West Virginia Lottery's website prior
16 to the effective date of this section.

17 (d) Upon receiving a request to remain anonymous, the director shall contact the person
18 requesting anonymity and schedule an appointment to meet at any county, regional, or state
19 lottery office to confirm the winning number and to otherwise make arrangements to protect the
20 anonymity of the requesting person.

21 (e) If a person elects to remain anonymous pursuant to this section, he or she shall remit
22 5 percent of his or her winnings to the State Lottery Fund.

23 (f) The requirements of this section are effective on January 1, 2019.

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-4. Exemptions.

1 (a) There is a presumption of public accessibility to all public records, subject only to the
2 following categories of information which are specifically exempt from disclosure under this article:

3 (1) Trade secrets, as used in this section, which may include, but are not limited to, any
4 formula, plan pattern, process, tool, mechanism, compound, procedure, production data, or
5 compilation of information which is not patented which is known only to certain individuals within
6 a commercial concern who are using it to fabricate, produce, or compound an article or trade or
7 a service or to locate minerals or other substances, having commercial value, and which gives its
8 users an opportunity to obtain business advantage over competitors;

9 (2) Information of a personal nature such as that kept in a personal, medical, or similar
10 file, if the public disclosure of the information would constitute an unreasonable invasion of
11 privacy, unless the public interest by clear and convincing evidence requires disclosure in this
12 particular instance: *Provided*, That this article does not preclude an individual from inspecting or
13 copying his or her own personal, medical, or similar file;

14 (3) Test questions, scoring keys, and other examination data used to administer a
15 licensing examination, examination for employment, or academic examination;

16 (4) (A) Records of law-enforcement agencies that deal with the detection and investigation
17 of crime and the internal records and notations of such law-enforcement agencies which are
18 maintained for internal use in matters relating to law enforcement;

19 (B) Records identifying motor vehicles used, and the agencies using them, for undercover
20 investigation activities conducted by state law-enforcement agencies or other agencies that are
21 authorized by this code to use undercover or unmarked vehicles;

22 (5) Information specifically exempted from disclosure by statute;

23 (6) Records, archives, documents, or manuscripts describing the location of undeveloped
24 historic, prehistoric, archaeological, paleontological, and battlefield sites or constituting gifts to
25 any public body upon which the donor has attached restrictions on usage or the handling of which
26 could irreparably damage the record, archive, document, or manuscript;

27 (7) Information contained in or related to examination, operating or condition reports
28 prepared by, or on behalf of, or for the use of any agency responsible for the regulation or
29 supervision of financial institutions, except those reports which are by law required to be published
30 in newspapers;

31 (8) Internal memoranda or letters received or prepared by any public body;

32 (9) Records assembled, prepared, or maintained to prevent, mitigate, or respond to
33 terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety
34 or the public health;

35 (10) Those portions of records containing specific or unique vulnerability assessments or
36 specific or unique response plans, data, databases and inventories of goods or materials collected
37 or assembled to respond to terrorist acts; and communication codes or deployment plans of law-
38 enforcement or emergency response personnel;

39 (11) Specific intelligence information and specific investigative records dealing with
40 terrorist acts or the threat of a terrorist act shared by and between federal and international law-
41 enforcement agencies, state and local law-enforcement, and other agencies within the
42 Department of Military Affairs and Public Safety;

43 (12) National security records classified under federal executive order and not subject to
44 public disclosure under federal law that are shared by federal agencies and other records related
45 to national security briefings to assist state and local government with domestic preparedness for
46 acts of terrorism;

47 (13) Computing, telecommunications, and network security records, passwords, security
48 codes, or programs used to respond to or plan against acts of terrorism which may be the subject
49 of a terrorist act;

50 (14) Security or disaster recovery plans, risk assessments, tests, or the results of those
51 tests;

52 (15) Architectural or infrastructure designs, maps, or other records that show the location
53 or layout of the facilities where computing, telecommunications, or network infrastructure used to
54 plan against or respond to terrorism are located or planned to be located;

55 (16) Codes for facility security systems; or codes for secure applications for facilities
56 referred to in subdivision (15) of this subsection;

57 (17) Specific engineering plans and descriptions of existing public utility plants and
58 equipment;

59 (18) Customer proprietary network information of other telecommunications carriers,
60 equipment manufacturers and individual customers, consistent with 47 U.S.C. §222;

61 (19) Records of the Division of Corrections, Regional Jail and Correctional Facility
62 Authority and the Division of Juvenile Services relating to design of corrections, jail and detention
63 facilities owned or operated by the agency, and the policy directives and operational procedures
64 of personnel relating to the safe and secure management of inmates or residents, that if released,
65 could be used by an inmate or resident to escape a facility, or to cause injury to another inmate,
66 resident, or to facility personnel;

67 (20) Information related to applications under §61-7-4 of this code, including applications,
68 supporting documents, permits, renewals, or any other information that would identify an applicant
69 for or holder of a concealed weapon permit: *Provided*, That information in the aggregate that does
70 not identify any permit holder other than by county or municipality is not exempted: *Provided*,
71 *however*, That information or other records exempted under this subdivision may be disclosed to
72 a law-enforcement agency or officer: (i) To determine the validity of a permit, (ii) to assist in a
73 criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes;

74 (21) Personal information of law-enforcement officers maintained by the public body in the
75 ordinary course of the employer-employee relationship. As used in this paragraph, “personal
76 information” means a law-enforcement officer’s social security number, health information, home
77 address, personal address, personal telephone numbers, and personal email addresses and
78 those of his or her spouse, parents, and children as well as the names of the law-enforcement
79 officer’s spouse, parents, and children; and

80 (22) Information provided by a person when he or she elects to remain anonymous after
81 winning a draw game prize, pursuant to §29-22-15a of this code.

82 (b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the
83 term “terrorist act” means an act that is likely to result in serious bodily injury or damage to property
84 or the environment and is intended to:

85 (1) Intimidate or coerce the civilian population;

86 (2) Influence the policy of a branch or level of government by intimidation or coercion;

87 (3) Affect the conduct of a branch or level of government by intimidation or coercion; or

88 (4) Retaliate against a branch or level of government for a policy or conduct of the
89 government.

90 (c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section
91 do not make subject to the provisions of this chapter any evidence of an immediate threat to public
92 health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the
93 attention of a public entity in the course of conducting a vulnerability assessment response or
94 similar activity.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor