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HOUSE BILL NO. 2383

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 58.1-3, 58.1-3826, and 58.1-3827 of the Code of Virginia, relating to transient occupancy tax; administration.

Patrons—Mundon King, Clark, Cole, Henson, Hope and Martinez

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3, 58.1-3826, and 58.1-3827 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or § 58.1-512 ~~or~~, 58.1-2712.2, or 58.1-3826, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports, returns, financial documents or other information filed with the Attorney General pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken, published, or shared with another agency or subdivision of the Commonwealth in the line of duty under state law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by the commissioner of accounts making a settlement of accounts filed in such estate;

6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when requested by the General Assembly or any duly constituted committee of the General Assembly;

7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit of the manufacturer. The information shall only be provided in the following manner: the manufacturer may make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney General, including a copy of the prior written request to the Stamping Agent and any response received, for copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of receipt of the request.

B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such

delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi)

provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services and the Department of Social Services, upon entering into a written agreement, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; and (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan. The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax

181 revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational
182 Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or
183 entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered
184 by the Department of Professional and Occupational Regulation, only after the Department of Professional
185 and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any
186 representative of a condominium unit owners' association, property owners' association or real estate
187 cooperative association, or to the owner of property governed by any such association, the names and
188 addresses of parties having a security interest in real property governed by any such association; however,
189 such information shall be released only upon written request stating the reason for such request, which reason
190 shall be limited to proposing or opposing changes to the governing documents of the association, and any
191 information received by any person under this subsection shall be used only for the reason stated in the
192 written request. The treasurer or other local assessing official may require any person requesting information
193 pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any
194 person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions
195 and penalties prescribed herein as though he were a tax official.

196 Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or
197 other collector of taxes for a county, city or town is authorized to provide information relating to any motor
198 vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to
199 the commissioner of the revenue or other assessing official for such jurisdiction for use by such
200 commissioner or other official in performing assessments.

201 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor
202 vehicle local license decal the year, make, and model and any other legal identification information about the
203 particular motor vehicle for which that local license decal is assigned.

204 E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory
205 unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request,
206 the name, address, and social security number of a taxpayer, necessary for the performance of the
207 Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of
208 the Department of Taxation. The receipt of information by the Tax Commissioner or his agent that may be
209 deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

210 F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any
211 confidential tax document that he knows or has reason to know is a confidential tax document. A confidential
212 tax document is any correspondence, document, or tax return that is prohibited from being divulged by
213 subsection A, B, C, or D and includes any document containing information on the transactions, property,
214 income, or business of any person, firm, or corporation that is required to be filed with any state official by §
215 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or
216 disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of
217 this subsection is guilty of a Class 1 misdemeanor.

218 *G. Information provided by an accommodations intermediary pursuant to subsection F of § 58.1-3826 to*
219 *the commissioner of the revenue, treasurer, or any other local tax or revenue officer or employee of a county,*
220 *city, or town, or any other person to whom such tax information is divulged, shall be confidential pursuant to*
221 *subsection A and shall not be divulged to any other department or official of the locality or any other*
222 *political subdivision of the Commonwealth. Such information shall be used by such officials only for the*
223 *purpose of levying and collecting retail sales and use tax, transient occupancy tax, and any other taxes*
224 *imposed on the sale of accommodations.*

225 **§ 58.1-3826. Scope of transient occupancy tax.**

226 A. The transient occupancy tax imposed pursuant to the authority of this article shall be imposed only for
227 the use or possession of any room or space that is suitable or intended for occupancy by transients for
228 dwelling, lodging, or sleeping purposes.

229 B. For any retail sale of accommodations not facilitated by an accommodations intermediary, the
230 accommodations provider shall collect the tax imposed pursuant to this article, computed on the total price
231 paid for the use or possession of the accommodations, and shall remit the same to the locality and shall be
232 liable for the same.

233 C. For any retail sale of accommodations facilitated by an accommodations intermediary, the
234 accommodations intermediary shall be deemed under this article as a facility making a retail sale of an
235 accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this article,
236 computed on the room charge, and shall remit the same to the locality and shall be liable for the same.

237 D. For any transaction for the retail sale of accommodations involving two or more parties that meet the
238 definition of accommodations intermediary, nothing in this section shall prohibit such parties from making an
239 agreement regarding which party shall be responsible for collecting and remitting the tax, so long as the party
240 so responsible is registered with the locality for purposes of remitting the tax. In such event, the party that
241 agrees to collect and remit the tax shall be the sole party liable for the tax, and the other parties to such

agreement shall not be liable for such tax.

E. In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations provider shall separately state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the accommodations. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodation, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.

F. ~~Subject to applicable laws, an~~ An accommodations intermediary shall submit to a locality the property addresses and gross receipts for all accommodations facilitated by the accommodations intermediary in such locality. Such information shall be submitted monthly.

§ 58.1-3827. Administration of transient occupancy tax.

A. The tax-assessing officer of a county, city, or town shall administer and enforce the assessment of, and the treasurer of such county, city, or town shall collect, transient occupancy taxes from accommodations intermediaries.

B. In administering the assessment of transient occupancy taxes from accommodations intermediaries, the tax-assessing officer of a county, city, or town shall provide adequate information to accommodations intermediaries to enable them to identify transient occupancy rates, the applicable jurisdiction, and any discounts, deductions, or exemptions.

C. Every accommodations intermediary required to collect or pay the transient occupancy tax, on or before the twentieth day of the month following the month in which the tax shall become effective, shall transmit to the tax-assessing officer of a county, city, or town a return showing the gross receipts, any allowable discounts, deductions, or exemptions, and the rate applied to the resultant net receipts and shall remit to the treasurer of such locality the total local transient occupancy tax due, as well as any penalties and interest due, arising from all transactions taxable under this chapter during the preceding calendar month. Where applicable, the return shall also include the number of room nights and the room tax rate applied, the total amount of room tax due, and any regional transportation transient occupancy taxes due. Thereafter, a like return shall be prepared and transmitted to the tax-assessing officer of a county, city, or town by every accommodations intermediary on or before the twentieth day of each month, for the preceding calendar month.

D. *An accommodations provider shall not be required to transmit a return to the tax-assessing officer of a county, city, or town if (i) all retail sales of accommodations owned by the accommodations provider are facilitated by an accommodations intermediary and (ii) the accommodations provider attests to the locality that all such sales were facilitated by an accommodations intermediary. Such attestation shall be effective for 12 months beginning with the month in which the attestation is made, and thereafter, such attestation shall be due annually on a date determined by the locality. However, such accommodations provider shall transmit returns for the retail sale of any accommodations not facilitated by an accommodations intermediary as otherwise required by this article.*