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HOUSE BILL NO. 1219

Offered January 24, 2000

A BILL to amend and reenact § 58.1-3 of the Code of Virginia, relating to secrecy of information.

Patrons—McClure; Senator: Mims

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3 of the Code of Virginia is 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 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. Any person violating the provisions of this section shall be guilty of a Class 2 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 or published in the line of duty under the 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.

B. 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. 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.

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 written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (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 Alcoholic Beverage Control Board, 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 State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to

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60 the Department of the Treasury for its confidential use such tax information as may be necessary to
61 facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation
62 Commission, upon entering into a written agreement, such tax information as may be necessary to
63 facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive
64 Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax
65 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi)
66 provide to the Executive Secretary of the Charitable Gaming Commission such tax information as may
67 be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who
68 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing
69 and Community Development for its confidential use such tax information as may be necessary to
70 facilitate the administration of the Enterprise Zone Act (§ 59.1-270 et seq.); and (xiii) provide current
71 name and address information to private collectors entering into a written agreement with the Tax
72 Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its
73 political subdivisions; however, the Tax Commissioner is not authorized to provide such information to
74 a private collector who has used or disseminated in an unauthorized or prohibited manner any such
75 information previously provided to such collector. The Tax Commissioner is further authorized to enter
76 into written agreements with duly constituted tax officials of other states and of the United States for the
77 inspection of tax returns, the making of audits, and the exchange of information relating to any tax
78 administered by the Department of Taxation. Any person to whom tax information is divulged pursuant
79 to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a
80 tax official.

81 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
82 commissioner of revenue or other assessing official is authorized to: (i) provide, upon written request
83 stating the reason for such request, the chief executive officer of any county or city with information
84 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
85 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
86 local sales and use tax revenues payable to the county or city. ~~The commissioner of revenue is~~
87 ~~authorized to;~~ (ii) provide to the Department of Professional and Occupational Regulation for its
88 confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to
89 a criminal investigation of an unlawful practice of a profession or occupation administered by the
90 Department of Professional and Occupational Regulation, only after the Department of Professional and
91 Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any
92 representative of a condominium unit owners' association, property owners' association or real estate
93 cooperative association, or to the owner of property governed by any such association, the names and
94 addresses of parties having a security interest in real property governed by any such association;
95 however, such information shall be released only upon written request stating the reason for such
96 request, which reason shall be limited to proposing or opposing changes to the governing documents of
97 the association, and any information received by any person under this subsection shall be used only for
98 the reason stated in the written request. The commissioner of the revenue or other local assessing
99 official may require any person requesting information pursuant to clause (iii) of this subsection to pay
100 the reasonable cost of providing such information. Any person to whom tax information is divulged
101 pursuant to this section subsection shall be subject to the prohibitions and penalties prescribed herein as
102 though he were a tax official.

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

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

113 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
114 any confidential tax document which he knows or has reason to know is a confidential tax document. A
115 confidential tax document is any correspondence, document, or tax return that is prohibited from being
116 divulged by subsection A, B, C, or D of this section or by § 59.1-282.4. This prohibition shall not apply
117 if such confidential tax document has been divulged or disseminated pursuant to a provision of law
118 authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2
119 misdemeanor.