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## SENATE BILL NO. 185

Offered January 12, 2000

*A BILL to amend and reenact §§ 56-235.8, 58.1-400.1, 58.1-400.2, 58.1-440.1, 58.1-504, 58.1-2626, as it is currently effective and as it shall become effective, 58.1-2627.1, 58.1-3731, 58.1-3814 and 59.1-199 of the Code of Virginia and to amend the Code of Virginia by adding in Title 58.1 a chapter numbered 29.1, consisting of sections numbered 58.1-2904 through 58.1-2907, relating to natural gas customers.*

Patron—Watkins

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 56-235.8, 58.1-400.1, 58.1-400.2, 58.1-440.1, 58.1-504, 58.1-2626, as it is currently effective and as it shall become effective, 58.1-2627.1, 58.1-3731, 58.1-3814 and 59.1-199 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 58.1 a chapter numbered 29.1, consisting of sections numbered 58.1-2904 through 58.1-2907 as follows:**

§ 56-235.8. (~~Effective until July 1, 2000~~) Retail supply choice for natural gas customers.

A. Notwithstanding any provision of law to the contrary, each public utility authorized to furnish natural gas service in Virginia ("gas utility") is authorized to offer to all of its customers not eligible for transportation service under tariffs in effect on the effective date of this section, direct access to gas suppliers ("retail supply choice") by filing a plan for implementing retail supply choice with the State Corporation Commission for approval. The provisions of this section shall not apply to any retail supply choice pilot program in effect on July 1, 1999. The Commission shall accept such a plan for filing within thirty days of filing if it contains, at a minimum:

1. A schedule for implementing retail supply choice for all of its customers;

2. Tariff revisions, including proposed unbundled rates for firm and interruptible service (which may utilize a cost allocation and rate design formulated to recover the gas utility's nongas fixed costs on a nonvolumetric basis) and terms and conditions of service designed to provide nondiscriminatory open access over its transportation system, comparable to the transportation service provided by the gas utility to itself, to allow competitive suppliers to sell natural gas directly to the gas utility's customers. Any proposed unbundling rates shall include an explanation of the methodology used to develop the rates and a calculation of revenues, by customer class, thereby produced; *Tariff revisions shall also include rate adjustments reflecting the elimination of certain taxes for the tax years beginning on and after January 1, 2001;*

3. A nonbypassable, competitively neutral mechanism for the gas utility to recover from its customers its nonmitigable costs prudently incurred to support its merchant obligation and to facilitate retail supply choice, including reasonable contract obligation costs and transition costs. For the purposes of this section, contract obligation costs are costs associated with acquiring, maintaining or terminating interstate and intrastate pipeline and storage capacity contracts, less revenues generated with mitigating such contract obligations, whether by off-system sales, capacity release, pipeline supplier refunds or otherwise; and transition costs are costs incurred by the gas utility associated with educating the public on retail supply choice and redesigning its facilities, operations and systems to permit retail supply choice;

4. Tariff provisions to balance the receipts and deliveries of gas supplies to retail supply choice customers and allocate the gas utility's gas costs so that the retail supply choice customers are not subsidized by nonretail choice customers;

5. Tariff provisions requiring the gas utility, at a minimum, to offer gas suppliers or retail supply choice customers the right to acquire the gas utility's upstream transmission and/or storage capacity; *provided that, nothing contained herein shall deny the gas utility the right to request Commission approval of such tariff provisions as are designed to ensure the safe and reliable delivery of natural gas to firm service customers on its system, including provisions requiring gas suppliers to accept assignment of upstream transportation and storage capacity, and/or allowing the gas utility to retain a portion of its upstream transportation and storage capacity to ensure safe and reliable natural gas service to its customers.*

6. A code of conduct governing the activities and relationships between the gas utility and gas suppliers to prevent anticompetitive or discriminatory conduct and the unlawful exercise of market power. Such codes of conduct shall incorporate or be consistent with any rule or guideline established

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60 by the Commission; and

61 7. Any other requirement established by Commission rule or regulation.

62 The Commission may, by rule or regulation, impose such additional filing requirements as it deems  
63 necessary in the public interest. The Commission may also require a gas utility to continue to serve as a  
64 gas supplier to its customers after the gas utility's plan becomes effective and under such terms and  
65 conditions as are necessary to protect the public interest.

66 B. The Commission shall review and approve a plan filed by a gas utility unless it determines, after  
67 notice and an opportunity for public hearing, that the plan would:

68 1. Adversely affect the safety or reliability of natural gas service by the gas utility or the provision  
69 of adequate service to the gas utility's customers;

70 2. Result in rates charged by the gas utility that are not just and reasonable rates within the  
71 contemplation of § 56-235.2 or that are in excess of levels approved by the Commission under  
72 § 56-235.6, as the case may be;

73 3. Adversely affect the gas utility's customers not participating in the retail supply choice plan; or

74 4. Unreasonably discriminate against one class of the gas utility's customers in favor of another class  
75 (provided, however, that a gas utility's recovery of nongas fixed costs on a nonvolumetric basis shall not  
76 necessarily constitute unreasonable discrimination).

77 *The Commission shall, after the filing of a retail supply choice plan, approve or disapprove the plan*  
78 *within sixty days. The sixty-day period may be extended by Commission order for an additional period*  
79 *not to exceed thirty days. The retail supply choice plan shall be deemed approved if the Commission*  
80 *fails to act within sixty days or any extended period ordered by the Commission.* The Commission shall  
81 approve a retail supply choice plan filed by a gas utility pursuant to this subsection regardless of  
82 whether it has promulgated rules and regulations pursuant to subsection A. The Commission may also  
83 modify a plan filed by a gas utility to ensure that it conforms to the provisions of this subsection and is  
84 otherwise in the public interest. Plans approved pursuant to this section shall not be placed into effect  
85 before July 1, 2000.

86 C. *The Commission may, on its own motion, direct a gas utility to file a retail supply choice plan,*  
87 *which shall comply with subsection A herein, shall include such other details in the plan as the*  
88 *Commission may require, and does not cause the effects set forth in subsection B above, or the*  
89 *Commission may on its own motion, propose a plan for a gas utility for retail supply choice that*  
90 *complies with the requirements of subsection A and does not cause the effects set forth in subsection B*  
91 *above. The Commission may approve any plans under this subsection after notice to all affected parties*  
92 *and an opportunity for hearing.*

93 D. Once a plan becomes effective pursuant to this section, if the Commission determines, after  
94 notice and opportunity for hearing, that the plan is causing, or is reasonably likely to cause, the effects  
95 set forth in subsection B, it may order revisions to the plan to remove such effects. Any such revisions  
96 to the plan will operate prospectively only.

97 E. If, upon application of at least twenty-five percent of retail supply choice customers or of 500  
98 retail choice customers, whichever number is lesser, or by the gas utility, it is alleged that the  
99 marketplace for retail supply choice customer is not reasonably competitive or results in rates  
100 unreasonably in excess of what would otherwise be charged by the gas utility, or if the Commission  
101 renders such a determination upon its own motion, then the Commission may, after notice, and  
102 opportunity for hearing, terminate the gas utility's retail supply choice program and provide for an  
103 orderly return of the retail choice customers to the gas utility's traditional retail natural gas sales service.  
104 In such event, the gas utility shall be given the opportunity to acquire, under reasonable and competitive  
105 terms and conditions and within a reasonable time period, such upstream transportation and storage  
106 capacity as is necessary for it to provide traditional retail natural gas sales service to former retail supply  
107 choice customers.

108 F. Licensure of gas suppliers.

109 1. No person, other than a gas utility, shall engage in the business of selling natural gas to the  
110 residential and small commercial customers of a gas utility that has an approved plan implementing  
111 retail supply choice unless such person (for the purpose of this section, "gas supplier") holds a license  
112 issued by the Commission. An application for a gas supplier license must be made to the Commission in  
113 writing, be verified by oath or affirmation and be in such form and contain such information as the  
114 Commission may, by rule or regulation, require. For purposes of this subsection, the Commission shall  
115 require a gas supplier to demonstrate that it has the means to provide natural gas to essential human  
116 needs customers. A gas supplier license shall be issued to any qualified applicant within forty-five days  
117 of the date of filing such application, authorizing in whole or in part the service covered by the  
118 application, unless the Commission determines otherwise for good cause shown. A person holding such  
119 a license shall not be considered a "public service corporation," "public service company" or a "public  
120 utility" and shall not be subject to regulation as such; however, nothing contained herein shall be  
121 construed to affect the liability of such a person for any license tax levied pursuant to Article 2

(§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1. No license issued under this chapter shall be transferred without prior Commission approval as being not inconsistent with the public interest. If the Commission determines, after notice and opportunity for public hearing, that a gas supplier has failed to comply with the provisions of this subsection or the Commission's rules, regulations or orders, the Commission may suspend or revoke the gas supplier's license.

2. The Commission shall establish rules and regulations for the implementation of this subsection, provided that:

a. The Commission's rules and regulations shall not govern the rates charged by licensed gas suppliers, except that the Commission's rules and regulations may govern the terms and conditions of service of licensed gas suppliers to protect the gas utility's customers from commercially unreasonable terms and conditions; and

b. The Commission's rules and regulations shall permit an affiliate of the gas utility to be licensed as a gas supplier and to participate in the gas utility's retail supply choice program under the same terms and conditions as gas suppliers not affiliated with the gas utility.

3. The Commission shall also have the authority to issue rules and regulations governing the marketing practices of gas suppliers.

~~EG.~~ Retail customers' private right of action; marketing practices.

1. No gas supplier shall use any deception, fraud, false pretense, misrepresentation, or any deceptive or unfair practices in providing or marketing gas service.

2. Any person who suffers loss (i) as the result of marketing practices, including telemarketing practices, engaged in by any gas supplier providing any service made competitive under this section, or of any violation of rules and regulations issued by the Commission pursuant to subdivision E 3, or (ii) as the result of any violation of subdivision F 1, shall be entitled to initiate an action to recover actual damages, or \$500, whichever is greater. If the trier of fact finds that the violation was willful, it may increase damages to an amount not exceeding three times the actual damages sustained, or \$1,000, whichever is greater. Notwithstanding any other provisions of law to the contrary, in addition to any damages awarded, such person also may be awarded reasonable attorney's fees and court costs.

3. The Attorney General, the attorney for the Commonwealth or the attorney for the city, county or town may cause an action to be brought in the appropriate circuit court for relief of violations referenced in subdivision F 2.

4. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such person or governmental agency initiating an action pursuant to this section may be awarded reasonable attorney's fees and court costs.

5. Any action pursuant to this section shall be commenced within two years after its accrual. The cause of action shall accrue as provided in § 8.01-230. However, if the Commission initiates proceedings, or any other governmental agency files suit for violations under this section, the time during which such proceeding or governmental suit and all appeals therefrom are pending shall not be counted as any part of the period within which an action under this section shall be brought.

6. The circuit court may make such additional orders or decrees as may be necessary to restore to any identifiable person any money or property, real, personal, or mixed, tangible or intangible, which may have been acquired from such person by means of any act or practice violative of subsection F, provided, that such person shall be identified by order of the court within 180 days from the date of any order permanently enjoining the unlawful act or practice.

7. In any case arising under this subsection, no liability shall be imposed upon any gas supplier who shows by a preponderance of the evidence that (i) the act or practice alleged to be in violation of subdivision 1 of this subsection was an act or practice over which the same had no control or (ii) the alleged violation resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid a violation. However, nothing in this section shall prevent the court from ordering restitution and payment of reasonable attorney's fees and court costs pursuant to subdivision 4 of this subsection to individuals aggrieved as a result of an unintentional violation of this subsection.

§ 58.1-400.2. Taxation of *pipeline distribution companies, gas suppliers and electric suppliers.*

A. Any electric supplier, *pipeline distribution company or gas supplier* that is subject to income tax pursuant to the Internal Revenue Code of 1986, as amended, except those organized as cooperatives and exempt from federal taxation under § 501 of the Internal Revenue Code of 1986, as amended, shall be subject to the tax levied pursuant to § 58.1-400.

B. Any electric supplier that operates as a cooperative and is exempt from income tax pursuant to § 501 of the Internal Revenue Code of 1986, shall be subject to tax at the tax rate set forth in § 58.1-400 on all modified net income derived from nonmember sales.

C. The following words and terms, when used in this section, shall have the following meanings:

"Electric supplier" means any corporation, cooperative, partnership or other business entity providing electric service.

183 "Electricity" is deemed tangible personal property for purposes of the corporate income tax pursuant  
184 to Article 10 (§ 58.1-400 et seq.) of this chapter.

185 "*Gas supplier*" means any person licensed by the State Corporation Commission to engage in the  
186 business of selling natural gas.

187 "Members" means those customers of a cooperative who receive allocations of patronage capital from  
188 a cooperative.

189 "Modified net income" means all revenue of a cooperative from the sale of electricity within the  
190 Commonwealth with the following subtractions:

191 1. Revenue attributable to sales of electric power to its members.

192 2. Nonmember share of all ordinary and necessary expenses paid or incurred during the taxable year  
193 in carrying on the sale of electric power to nonmembers. Such nonmember expenses shall be determined  
194 by allocating the amount of such expenses between sales of electricity to members and sales of  
195 electricity to nonmembers. Such allocation shall be applicable to all tax credits available to an electric  
196 supplier.

197 "Nonmember" means those customers which are not members.

198 "Ordinary and necessary expenses paid or incurred" means ordinary and necessary expenses  
199 determined according to generally accepted accounting principles.

200 D. The Department of Taxation shall promulgate all regulations necessary to implement the intent of  
201 this section. This section shall apply to taxable years beginning on and after January 1, 2001.

202 § 58.1-440.1. Accounting-deferred taxes.

203 In the case of a *pipeline distribution company*, a *gas supplier* or an electric supplier, as defined in  
204 § 58.1-400.2, that was subject to the tax imposed under § 58.1-2626 with respect to its gross receipts  
205 received during the year commencing January 1, 2000, and that on or after January 1, 2001, becomes  
206 subject to the corporate income tax pursuant to Article 10 (§ 58.1-400 et seq.) of this chapter, net  
207 income shall be computed by taking into account the following adjustments:

208 In addition to the deductions for depreciation, amortization, or other cost recovery currently allowed  
209 by this Code, there shall be allowed deductions for the amortization of the Virginia tax basis of assets  
210 that are recoverable for financial accounting and/or income tax purposes placed in service prior to the  
211 adjustment date. For purposes of this section, (i) "Virginia tax basis" means the aggregate adjusted book  
212 basis less the aggregate adjusted tax basis of such assets as recorded on the company's books of  
213 accounts as of the last day of the tax year immediately preceding the adjustment date and (ii)  
214 "adjustment date" means the first day of the tax year in which such electric supplier becomes subject to  
215 the tax imposed by § 58.1-400.2 A. The amortization of the Virginia tax basis shall be computed using  
216 the straight-line method over a period of thirty years, beginning on the adjustment date. Gain or loss on  
217 the disposition or retirement of any such asset shall be computed using its adjusted federal tax basis, and  
218 the amortization of the Virginia tax basis shall continue thereafter without adjustment. The Department  
219 of Taxation shall promulgate regulations describing a reasonable method of allocating the Virginia tax  
220 basis in the event that a portion of the ~~electric power supplier's~~ *operations of a pipeline distribution*  
221 *company, gas supplier or electric power supplier* are separated, spun-off, transferred to a separate  
222 company or otherwise disaggregated.

223 *For rate making and or accounting purposes the State Corporation Commission shall not require a*  
224 *pipeline distribution company to amortize these deferred taxes over a period other than the thirty-year*  
225 *period prescribed herein, nor shall the State Corporation Commission require the treatment of*  
226 *accelerated depreciation different from that allowed for federal income taxes,*

227 § 58.1-504. Failure to pay estimated income tax.

228 A. In case of any underpayment of estimated tax by a corporation, except as provided in subsection  
229 D, there shall be added to the tax for the taxable year an amount determined at the rate established for  
230 interest under § 58.1-15, upon the amount of the underpayment (determined under subsection B) for the  
231 period of the underpayment (determined under subsection C).

232 B. For purposes of subsection A, the amount of the underpayment shall be the excess of:

233 1. The amount of the installment which would be required to be paid if the estimated tax were equal  
234 to ninety percent of the tax shown on the return for the taxable year or, if no return was filed, ninety  
235 percent of the tax for such year, over

236 2. The amount, if any, of the installment paid on or before the last date prescribed for payment.

237 C. The period of the underpayment shall run from the date the installment was required to be paid to  
238 whichever of the following dates is the earlier:

239 1. The fifteenth day of the fourth month following the close of the taxable year.

240 2. With respect to any portion of the underpayment, the date on which such portion is paid. For  
241 purposes of this subdivision, a payment of estimated tax on any installment date shall be considered a  
242 payment of any previous underpayment only to the extent such payment exceeds the amount of the  
243 installment determined under subdivision B 1 for such installment date.

244 D. Notwithstanding the provisions of subsections A, B and C, the addition to the tax with respect to

any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser:

1. The tax shown on the return of the corporation for the preceding taxable year, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of twelve months.

2. An amount equal to the tax computed at the rate applicable to the taxable year but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year.

3. An amount equal to ninety percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

a. For the first three months of the taxable year, in the case of the installment required to be paid in the fourth month,

b. For the first three months or for the first five months of the taxable year, in the case of the installment required to be paid in the sixth month,

c. For the first six months or for the first eight months of the taxable year, in the case of the installment required to be paid in the ninth month, and

d. For the first nine months or for the first eleven months of the taxable year, in the case of the installment required to be paid in the twelfth month of the taxable year. For purposes of this subdivision, the taxable income shall be placed on an annualized basis by (i) multiplying by twelve the taxable income referred to in subdivision D 3, and (ii) dividing the resulting amount by the number of months in the taxable year (three, five, six, eight, nine, or eleven, as the case may be) referred to in subsection A.

E. For purposes of subsection B, subdivisions D 2 and D 3, the term "tax" means the excess of the tax imposed by this chapter over the sum of any credits allowable against the tax.

F. The application of this to taxable years of less than twelve months shall be in accordance with regulations prescribed by the Commissioner.

G. ~~Electric~~ *Pipeline distribution companies, gas suppliers, and electric* suppliers as defined in § 58.1-400.2 that become subject to taxation under this chapter and prior thereto paid the annual license tax based on gross receipts, shall make estimated tax payments during the first year they are so subject, and notwithstanding subsection D, any excesses described in subsection B shall constitute an underpayment for such year.

§ 58.1-2626. (Effective until January 1, 2002) Annual state license tax on companies furnishing water, heat, light or power.

A. Every corporation doing in the Commonwealth the business of furnishing water, heat, light or power, whether by means of electricity, gas or steam, except a pipeline transmission company taxed pursuant to § 58.1-2627.1 *or a pipeline distribution company or gas supplier taxed pursuant to § 58.1-2904, et seq.*, shall, for the privilege of doing business within the Commonwealth, pay to the Commonwealth for each tax year an annual license tax equal to one and one-eighth percent its gross receipts, actually received, from all sources up to \$100,000 of such gross receipts and two and three-tenths percent of all such gross receipts in excess of \$100,000. For the tax year 1989 and thereafter the license tax shall be an amount equal to two percent.

B. The state license tax provided in subsection A shall be (i) in lieu of all other state license or franchise taxes on such corporation, and (ii) in lieu of any tax upon the shares of stock issued by it.

C. Nothing herein contained shall exempt such corporation from motor vehicle license taxes, motor vehicle fuel taxes, fees required by § 13.1-775.1 or from assessments for street and other local improvements, which shall be authorized by law, nor from the county, city, town, district or road levies.

D. Nothing herein contained shall annul or interfere with any contract or agreement by ordinance between such corporations and cities and towns as to compensation for the use of the streets or alleys by such corporations.

§ 58.1-2626. (Effective January 1, 2002) Annual state license tax on companies furnishing water, heat, light or power.

A. Every corporation doing in the Commonwealth the business of furnishing water, heat, light or power, whether by means of gas or steam, except (i) a pipeline transmission company taxed pursuant to § 58.1-2627.1, (ii) *a pipeline distribution company or gas supplier taxed pursuant to § 58.1-2904, et seq., or (iii)* an electric supplier as defined in § 58.1-400.2, shall, for the privilege of doing business within the Commonwealth, pay to the Commonwealth for each tax year an annual license tax equal to two percent of its gross receipts, actually received, from all sources.

B. The state license tax provided in subsection A shall be (i) in lieu of all other state license or franchise taxes on such corporation and (ii) in lieu of any tax upon the shares of stock issued by it.

C. Nothing herein contained shall exempt such corporation from motor vehicle license taxes, motor vehicle fuel taxes, fees required by § 13.1-775.1 or from assessments for street and other local improvements, which shall be authorized by law, nor from the county, city, town, district or road levies.

D. Nothing herein contained shall annul or interfere with any contract or agreement by ordinance between such corporations and cities and towns as to compensation for the use of the streets or alleys by such corporations.

§ 58.1-2627.1. Taxation of pipeline companies.

A. Every pipeline distribution company, as defined in § 58.1-2600, *and every gas supplier shall, for the privilege of doing business within the Commonwealth, pay to the Commission an annual license tax set forth in § 58.1-2626 on its gross receipts derived from sales be taxed pursuant to § 58.1-2904 et seq.* in Virginia. Every pipeline transmission company shall pay to the Department on its allocated and apportioned net taxable income, in lieu of a license tax, the tax levied pursuant to Chapter 3 (§ 58.1-300 et seq.) (State Income Tax) of this title. There shall be deducted from such allocated and apportioned net income an amount equal to the percentage that gross profit (operating revenues less cost of purchased gas) derived from sales in this Commonwealth for consumption by the purchaser of natural or manufactured gas is of the total gross profit in the Commonwealth of the taxpayer.

B. The annual report of such company required pursuant to § 58.1-2628 shall be made to the Department, on forms prepared and furnished by the Department, if the company is a pipeline transmission company or to the Commission if a pipeline distribution company. The Department shall assess the value of the property of each pipeline transmission company and the Commission shall assess the value of the property of each pipeline distribution company. The applicable county, city, town and magisterial district property levies shall attach thereto. The powers and duties granted to the Commission by §§ 58.1-2633 B and C and 58.1-2634 shall apply mutatis mutandis to the Department.

C. A company liable for the license tax under subsection A shall not be liable for the tax imposed by Chapter 28 (§ 58.1-2814 et seq.) of this title.

D. When a company qualifies as both a pipeline transmission company and a pipeline distribution company, it shall for property tax valuation purposes be considered a pipeline distribution company.

#### CHAPTER 29.1.

#### NATURAL GAS CONSUMPTION TAX.

§ 58.1-2904. Imposition of tax.

A. *Effective January 1, 2001, there is hereby imposed, in addition to the local consumer utility tax of Article 4 (§ 58.1-3812 et seq.) of Chapter 38 and subject to the adjustments authorized by subdivision A 5 and by § 58.1-3731, a tax on the consumers of natural gas in the Commonwealth based on volume of gas at standard pressure and temperature in units of 100 cubic feet (CCF) delivered by the incumbent distribution company and used per month. Each consumer of natural gas in the Commonwealth shall pay tax on the consumption of all natural gas consumed per month not in excess of 2500 CCF at the following rates: (i) state consumption tax rate of \$0.013 per CCF; (ii) local consumption tax rate of up to \$0.005 per CCF; and (iii) a special regulatory tax rate of up to \$ 0.002 per CCF.*

B. *The tax rates set forth in subsection A are in lieu of and replace the state gross receipts tax (§ 58.1-2626), the special regulatory revenue tax (§ 58.1-2660), and the local license tax (§ 58.1-3731) levied on corporations furnishing heat, light or power by means of natural gas.*

C. *The tax of consumers under this section shall not be imposed on consumers served by a pipeline distribution company owned or operated by a municipality.*

D. *The tax authorized by this chapter shall not apply to use by divisions or agencies of federal, state and local governments.*

§ 58.1-2905. Collection and remittance of tax.

A. *A pipeline distribution company shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such company, the tax shall constitute a debt of the consumer to the Commonwealth. If any consumer refuses to pay the tax, the pipeline distribution company shall notify the Commission and/or localities of the names and addresses of such consumers. After the consumer pays the tax to the pipeline distribution company, the taxes collected shall be deemed to be held in trust by such company until remitted to the Commission and/or localities.*

B. *A pipeline distribution company shall remit monthly to the Commission the amount of tax paid during the preceding month by the pipeline distribution company's consumers, except for the portion which represents the local consumption tax, which portion shall be remitted to the locality in which the natural gas was consumed and shall be based on such locality's license fee rate which it imposed.*

C. *The natural gas consumption tax shall be remitted monthly, on or before the last day of the succeeding month of collection. Those portions of the natural gas consumption tax that related to the state consumption tax and the special regulatory tax shall be remitted to the Commission; the portion that relates to the local consumption tax shall be remitted to the localities. Failure to remit timely will result in a ten percent penalty.*

*D. Taxes on natural gas sales in the year ending December 31, 2000, relating to the local consumption tax, shall be paid in accordance with § 58.1-3731. Monthly payments in accordance with the subsection C shall commence on February 28, 2001.*

*E. The portion of the natural gas consumption tax relating to the local consumption tax replaces and precludes localities from imposing a license tax in accordance with § 58.1-3731 and the business, professional, occupation and license tax in accordance with Chapter 37 (§ 58.1-3700 et seq.) on gas suppliers subsequent to December 31, 2000, except as provided in subsection D. If the license fee rate imposed by a locality is less than the equivalent of the local consumption tax rate component of the consumption tax paid under subsection A of § 58.1-2900, the excess collected by the Commission shall constitute additional state consumption tax revenue and shall be remitted by the Commission to the state treasury.*

*§ 58.1-2906. Natural gas consumption tax relating to the special regulatory tax; notification of changes.*

*The Commission shall notify all pipeline distribution companies collecting the tax on consumers of natural gas of any change in the natural gas consumption tax relating to the special regulatory tax not later than the first day of the second month preceding the month in which the revised rate is to take effect.*

*§ 58.1-2907. Use of natural gas consumption tax relating to special regulatory tax.*

*The natural gas consumption tax relating to the special regulatory tax paid into the treasury under this chapter shall be deposited into a special fund used only by the Commission for the purpose of making appraisals, assessments and collections against natural gas suppliers and public service corporations furnishing heat, light and power by means of natural gas and for the further purposes of the Commission in investigating and inspecting the properties or the services or services of such natural gas suppliers and public service corporations, and for the supervision and administration of all laws relative to such natural gas suppliers and public service corporations, whenever the same shall be deemed necessary by the Commission.*

*§ 58.1-3731. Certain public service corporations; rate limitation.*

*Every county, city or town is hereby authorized to impose a license tax, in addition to any tax levied under Chapter 26 of this title, on (i) telephone and telegraph companies, (ii) water companies, and (iii) heat, light and power companies (except electric suppliers as defined in § 58.1-400.2, pipeline distribution companies and gas suppliers taxed under § 58.1-2904, et seq.) at a rate not to exceed one-half of one percent of the gross receipts of such company accruing from sales to the ultimate consumer in such county, city or town. However, in the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation. After December 31, 2000, the license tax authorized by this section shall not be imposed on electric suppliers (as defined in § 58.1-400.2), except as provided in § 58.1-2901 D.*

*§ 58.1-3814. Water or heat, light and power companies.*

*A. Any county, city or town may impose a tax on the consumers of the utility service or services provided by any water or heat, light and power company or other corporations coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.), which tax shall not be imposed at a rate in excess of twenty percent of the monthly amount charged to consumers of the utility service and shall not be applicable to any amount so charged in excess of fifteen dollars per month for residential customers. Any city, town or county that on July 1, 1972, imposed a utility consumer tax in excess of limits specified herein may continue to impose such a tax in excess of such limits, but no more.*

*B. Any tax enacted pursuant to the provisions of this section, or any change in a tax or structure already in existence, shall not be effective until sixty days subsequent to written notice by certified mail from the county, city or town imposing such tax or change thereto, to the registered agent of the utility corporation that is required to collect the tax.*

*C. Any county, city or town may impose a tax on the consumers of services provided within its jurisdiction by any electric light and power, water or gas company owned by another municipality; provided, that no county shall be authorized under this section to impose a tax within a municipality on consumers of services provided by an electric light and power, water or gas company owned by that municipality. Any county tax imposed hereunder shall not apply within the limits of any incorporated town located within such county which town imposes a town tax on consumers of utility service or services provided by any corporation coming within the provisions of Chapter 26, provided that such town (i) provides police or fire protection, and water or sewer services, provided that any such town served by a sanitary district or service authority providing water or sewer services or served by the county in which the town is located when such service or services are provided pursuant to an agreement between the town and county shall be deemed to be providing such water and sewer services itself, or (ii) constitutes a special school district and is operated as a special school district under a town school board of three members appointed by the town council.*

429 Any county, city or town may provide for an exemption from the tax for any public safety agency as  
430 defined in § 58.1-3813.

431 Any city with a population of not less than 27,000 and not more than 28,500 may provide an  
432 exemption from the tax for any church or religious body entitled to an exemption pursuant to Article 4  
433 (§ 58.1-3650 et seq.) of Chapter 36.

434 Any municipality required to collect a tax imposed under authority of this section for another city or  
435 county or town shall be entitled to a reasonable fee for such collection.

436 D. In a consolidated county wherein a tier-city exists, any county tax imposed hereunder shall apply  
437 within the limits of any tier-city located in such county, as may be provided in the agreement or plan of  
438 consolidation, and such tier-city may impose a tier-city tax on the same consumers of utility service or  
439 services, provided that the combined county and tier-city rates do not exceed the maximum permitted by  
440 state law.

441 E. The tax authorized by this section shall not apply to utility sales of products used as motor  
442 vehicle fuels.

443 F. For taxable years beginning on and after January 1, 2001, any county, city or town may impose a  
444 tax on consumers of electricity provided by electric suppliers as defined in § 58.1-400.2 which shall not  
445 be imposed at a rate in excess of \$.015 (1 1/2 cent) per kWh billed monthly to consumers of electricity  
446 and shall not be applicable to any kilowatt hours billed in excess of 200 kWh per month for residential  
447 customers. In any county, city or town that imposes a consumer utility tax immediately prior to January  
448 1, 2001, (i) on residential customers at a higher rate than the maximum rate on residential customers  
449 under this section because the rate of consumer utility tax it imposed on July 1, 1972, exceeded the  
450 limits specified in subsection A or (ii) on other consumers not subject to the maximum rate set by this  
451 section, the service provider shall convert the dollar amount rate to a kWh rate of tax be based on the  
452 monthly tax that is being collected immediately prior to January 1, 2001. However, nothing in this  
453 section shall be construed to prohibit or limit any county, city or town, after completion of the transition  
454 period on January 1, 2004, from imposing a consumer utility tax on nonresidential customers (as  
455 converted to a per kWh rate basis) in any amounts authorized by this section immediately prior to July  
456 1, 1999. The service provider shall bill the tax to all users to whom it delivers electricity, and shall  
457 remit such tax to the appropriate locality in accordance with § 58.1-2901. The provisions of this  
458 subsection shall be applicable without the necessity of the locality amending or reenacting its existing  
459 ordinance imposing such tax.

460 Subsection B shall apply to any tax on the consumers of electricity enacted or amended pursuant to  
461 this section, except that the notice provided therein shall be given to the registered agent of the service  
462 provider that is required to collect the tax.

463 *G. For taxable years beginning on and after January 1, 2001, any county, city or town may impose*  
464 *a tax on consumers of natural gas provided by pipeline distribution companies and gas suppliers taxed*  
465 *under § 58.1-2904 et seq., except for consumers whose predominant use of natural gas is in the*  
466 *manufacture, provision, or fashioning of goods, which shall not be imposed at a rate in excess of \$0.50*  
467 *per CCF billed monthly to consumers and shall not be applicable to any CCF billed in excess of 6 CCF*  
468 *per month for residential consumers. In any county, city or town that imposed a consumer utility tax*  
469 *immediately prior to January 1, 2001, (i) on residential customers at a higher rate than the maximum*  
470 *rate on residential customers under this section because the rate of consumer utility tax it imposed on*  
471 *July 1, 1972, exceeded the limits specified in subsection A or (ii) on other consumers not subject to the*  
472 *maximum rate set by this section, the pipeline distribution company shall convert the dollar amount rate*  
473 *to a CCF rate of tax based on the monthly tax that is being collected immediately prior to January 1,*  
474 *2001. The provisions of this subsection shall be applicable without the necessity of the locality amending*  
475 *or reenacting its existing ordinance imposing such tax.*

476 *GH. Until the consumer pays the tax to such service provider or pipeline distribution company, the*  
477 *tax shall constitute a debt to the locality. If any consumer refuses to pay the tax, the service provider or*  
478 *pipeline distribution company shall notify the localities of the names and addresses of such consumers.*  
479 *After the consumer pays the tax to the service provider or pipeline distribution company, the taxes shall*  
480 *be deemed to be held in trust by such service provider or pipeline distribution company until remitted to*  
481 *the localities.*

482 § 59.1-199. (Effective until July 1, 2000) Exclusions.

483 Nothing in this chapter shall apply to:

484 A. Any aspect of a consumer transaction which aspect is authorized under laws or regulations of this  
485 Commonwealth or the United States, or the formal advisory opinions of any regulatory body or official  
486 of this Commonwealth or the United States.

487 B. Acts done by the publisher, owner, agent or employee of a newspaper, periodical, or radio or  
488 television station, or other advertising media such as outdoor advertising and advertising agencies, in the  
489 publication or dissemination of an advertisement in violation of § 59.1-200, unless it be proved that such  
490 person knew that the advertisement was of a character prohibited by § 59.1-200.



491 C. Those aspects of a consumer transaction which are regulated by the Federal Consumer Credit  
492 Protection Act, 15 U.S.C. § 1601 et seq.

493 D. Banks, savings institutions, credit unions, small loan companies, public service corporations,  
494 mortgage lenders as defined in § 6.1-409, broker-dealers as defined in § 13.1-501, gas suppliers as  
495 defined in subsection E of § 56-235.8, and insurance companies regulated and supervised by the State  
496 Corporation Commission or a comparable federal regulating body.

497 E. Any aspect of a consumer transaction which is subject to the Landlord and Tenant Act, Chapter  
498 13 (§ 55-217 et seq.) of Title 55 or the Virginia Residential Landlord and Tenant Act, Chapter 13.2  
499 (§ 55-248.2 et seq.) of Title 55, unless the act or practice of a landlord constitutes a misrepresentation or  
500 fraudulent act or practice under § 59.1-200.

501 F. Real estate licensees who are licensed under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1.

502 **2. The amendments to § 58.1-2626 as currently in effect and §§ 58.1-2627.1, 58.1-3731, and**  
503 **58.1-3814 shall take effect on January 1, 2001. The amendments to § 58.1-2626, as that section will**  
504 **take effect on January 1, 2002, will take effect on January 1, 2002.**