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**HOUSE BILL NO. 662**

Offered January 9, 2008

Prefiled January 8, 2008

*A BILL to amend and reenact § 58.1-3 of the Code of Virginia, relating to the protection of information provided to the Department of Conservation and Recreation on land preservation tax credits for individuals and corporations pursuant to the land preservation tax credit program.*

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 Patron—Lewis
 

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 Referred to Committee on Finance
 

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**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 person to whom tax information is divulged pursuant to § 58.1-512 or 58.1-2712.2, 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 6 (§ 3.1-336.3 et seq.) of Chapter 18 of Title 3.1. 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;
  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.
- 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, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in § 63.2-100; (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

INTRODUCED

HB662

59 state agencies and institutions for their confidential use in facilitating the collection of accounts  
60 receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the  
61 collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the  
62 Commissioner of the Virginia Employment Commission, after entering into a written agreement, such  
63 tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid  
64 benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement,  
65 such tax information as may be necessary to facilitate the collection of state and local taxes and the  
66 administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery  
67 Department such tax information as may be necessary to identify those lottery ticket retailers who owe  
68 delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax  
69 information as may be necessary to facilitate the location of owners and holders of unclaimed property,  
70 as defined in § 55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written  
71 agreement, such tax information as may be necessary to facilitate the collection of taxes and fees  
72 administered by the Commission; (x) provide to the Executive Director of the Potomac and  
73 Rappahannock Transportation Commission for its confidential use such tax information as may be  
74 necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Director of  
75 the Department of Charitable Gaming such tax information as may be necessary to identify those  
76 applicants for registration as a supplier of charitable gaming supplies who have not filed required returns  
77 or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development  
78 for its confidential use such tax information as may be necessary to facilitate the administration of the  
79 remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone  
80 Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private  
81 collectors entering into a written agreement with the Tax Commissioner, for their confidential use when  
82 acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax  
83 Commissioner is not authorized to provide such information to a private collector who has used or  
84 disseminated in an unauthorized or prohibited manner any such information previously provided to such  
85 collector; (xiv) provide current name and address information as to the identity of the wholesale or retail  
86 dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at  
87 retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for  
88 violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to  
89 the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information  
90 as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the  
91 Director of the Department of Human Resource Management, upon entering into a written agreement,  
92 such tax information as may be necessary to identify persons receiving workers' compensation indemnity  
93 benefits who have failed to report earnings as required by § 65.2-712; and (xvii) provide to any  
94 commissioner of the revenue, director of finance, or any other officer of any county, city, or town  
95 performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the  
96 collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates  
97 of registration of all dealers registered for such tax. The Tax Commissioner is further authorized to enter  
98 into written agreements with duly constituted tax officials of other states and of the United States for the  
99 inspection of tax returns, the making of audits, and the exchange of information relating to any tax  
100 administered by the Department of Taxation. Any person to whom tax information is divulged pursuant  
101 to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a  
102 tax official.

103 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the  
104 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request  
105 stating the reason for such request, the chief executive officer of any county or city with information  
106 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of  
107 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the  
108 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of  
109 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross  
110 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a  
111 profession or occupation administered by the Department of Professional and Occupational Regulation,  
112 only after the Department of Professional and Occupational Regulation exhausts all other means of  
113 obtaining such information; and (iii) provide to any representative of a condominium unit owners'  
114 association, property owners' association or real estate cooperative association, or to the owner of  
115 property governed by any such association, the names and addresses of parties having a security interest  
116 in real property governed by any such association; however, such information shall be released only  
117 upon written request stating the reason for such request, which reason shall be limited to proposing or  
118 opposing changes to the governing documents of the association, and any information received by any  
119 person under this subsection shall be used only for the reason stated in the written request. The treasurer  
120 or other local assessing official may require any person requesting information pursuant to clause (iii) of

121 this subsection to pay the reasonable cost of providing such information. Any person to whom tax  
122 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties  
123 prescribed herein as though he were a tax official.

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

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

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

139 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published  
140 any confidential tax document which he knows or has reason to know is a confidential tax document. A  
141 confidential tax document is any correspondence, document, or tax return that is prohibited from being  
142 divulged by subsection A, B, C, or D of this section *and includes any document containing information*  
143 *on the transactions, property, income, or business of any person, firm, or corporation that is required to*  
144 *be filed with any state or local official by § 58.1-512.* This prohibition shall not apply if such  
145 confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing  
146 disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2  
147 misdemeanor.