

# DEPARTMENT OF TAXATION

## 2009 Fiscal Impact Statement

1. **Patron** Thomas Davis Rust

3. **Committee** House Finance

4. **Title** Transient Occupancy Tax; Fairfax County  
Limitations

2. **Bill Number** HB 2017

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would provide that, beginning July 1, 2010, the additional transient occupancy tax authorized in Fairfax County does not apply within the limits of any town located in Fairfax County that imposes a town transient occupancy tax without the consent of the governing body of such town.

Under current law, in addition to the general two percent transient occupancy tax all counties may levy, Fairfax County may impose an additional transient occupancy tax at a maximum rate of two percent of the amount charged for lodging.

The effective date of this bill is not specified.

**6. Fiscal Impact Estimates are:** Not available. (See Line 8.)

**7. Budget amendment necessary:** No.

**8. Fiscal implications:**

This bill would have no impact on state revenues. To the extent that the towns within Fairfax County exercise the authority granted by this bill and elect not to impose Fairfax County's additional transient occupancy rate, it would result in a decrease in revenues from the additional transient occupancy tax to Fairfax County.

**9. Specific agency or political subdivisions affected:**

Fairfax County  
Towns located in Fairfax County

**10. Technical amendment necessary:** No.

## 11. Other comments:

### Transient Occupancy Tax

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent, upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax, however, does not apply to rooms rented on a continuous basis by the same individual or group for 30 or more continuous days. The tax applies to rooms intended or suitable for dwelling and sleeping. Therefore, the tax does not apply to such rooms used for alternative purposes, such as banquet rooms and meeting rooms.

### Counties Authorized to Impose Transient Occupancy Tax at a Higher Rate

The following counties are authorized to impose a transient occupancy tax at a maximum rate of five percent: Albemarle County, Amherst County, Augusta County, Bedford County, Botetourt County, Caroline County, Carroll County, Craig County, Cumberland County, Dinwiddie County, Floyd County, Franklin County, Gloucester County, Halifax County, James City County, King George County, Loudoun County, Mecklenburg County, Montgomery County, Nelson County, Northampton County, Page County, Patrick County, Prince Edward County, Prince George County, Prince William County, Pulaski County, Rockbridge County, Spotsylvania County, Stafford County, Tazewell County, Wise County, Wythe County and York County. The revenues for the portion of the tax over two percent must be spent on promoting tourism and travel, and marketing of tourism or initiatives that attract travelers to the locality and generate tourism revenues in the locality.

### Counties Authorized to Impose Additional Transient Occupancy Taxes

Beginning January 1, 1991 and ending January 1, 2012, Arlington County is authorized to impose an additional transient occupancy tax at a maximum rate of one-fourth of one percent of the amount of the charge for the occupancy of any room or space occupied, the revenues from which must be spent on promoting tourism and business travel in the county.

The counties of Chesterfield, Hanover, and Henrico may impose an additional transient occupancy tax not to exceed four percent. The revenues from the additional four percent must be used to promote tourism and travel in the Richmond Metropolitan area. These localities may also impose an additional transient occupancy tax not to exceed two percent, the revenues from which must be used for the expansion of the Richmond Centre. These localities are also authorized to impose an additional transient occupancy tax not to exceed one percent. The revenues from the additional one percent tax must be used for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre, and for promoting tourism and travel in the Richmond metropolitan area.

The counties of James City and York are authorized to impose an additional transient occupancy tax not to exceed \$2 per room per night. The revenues from this additional tax will be used to promote tourism in the Historic Triangle area.

Rockbridge County and the Cities of Lexington and Buena Vista may impose an additional transient occupancy tax at a rate not to exceed two percent. The revenues from this tax will be used to fund the Virginia Horse Center Foundation and the Virginia Equine Center Foundation.

Franklin County may impose a transient occupancy tax on certain rentals, such as condominiums, apartments, and townhouses, at a rate not to exceed two percent.

Nelson County may impose a transient occupancy tax on certain rentals, such as condominiums, apartments, and townhouses, at a rate not to exceed five percent. The revenues for the portion of the tax over two percent must be designated for promoting tourism, travel, or business that generates tourism or travel in the locality.

In addition, any county with the county manager plan of government is authorized to impose an additional transient occupancy tax at a maximum rate of two percent, provided the county's governing body approves the construction of a county conference center. The revenues collected from this additional tax must be spent for the design, construction, debt payment, and operation of the conference center.

#### Transient Occupancy Tax in Fairfax County

Fairfax County is authorized to impose an additional transient occupancy tax at a maximum rate of two percent of the charge for occupancy of any room, provided that the board of supervisors of Fairfax County appropriates the additional revenue as follows: 1) no more than 75% of such revenues is designated for tourism promotion; and 2) the remaining portion of such revenues is designated for a nonprofit convention and visitor's bureau. Currently, Fairfax County imposes a transient occupancy tax at a total rate of four percent.

#### Limitations on County License Taxes

Va. Code § 58.1-3711 provides that any county license tax shall not apply within the limits of any town located in that county where the town imposes a town license tax on the same privilege unless the governing body of the town provides that the county license tax shall apply within the limits of the town.

#### Proposal

This bill would provide that, beginning July 1, 2010, the additional transient occupancy tax authorized in Fairfax County does not apply within the limits of any town located in Fairfax County that imposes a town transient occupancy tax without the consent of the governing body of such town.

The effective date of this bill is not specified.

## Other Legislation

**House Bill 1917** and **Senate Bill 858** (identical) would add Giles County to the list of localities that are currently authorized to impose a transient occupancy tax at a maximum rate of five percent.

**House Bill 1947** would authorize Bath County to impose an additional transient occupancy tax at a maximum rate of three percent, the revenue of which would be designated in one-third increments to: 1) tourism initiatives; 2) construction and improvement of historic sites and tourism facilities; and 3) emergency services.

**House Bill 2316** would add Smyth County to the list of localities that are currently authorized to impose a transient occupancy tax at a maximum rate of five percent.

**House Bill 2502** and **Senate Bill 1176** would require that authorized counties, in levying a transient occupancy tax greater than two percent, must consult with representatives of lodging properties within the county.

**Senate Bill 1025** would add Greene County to the list of localities currently authorized to impose a transient occupancy tax at a maximum rate of five percent of the charge for the occupancy of any room or space.

**Senate Bill 1029** would add single-family residences to the list of facilities on which any county may levy a transient occupancy tax.

cc : Secretary of Finance

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