

# VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

## CHAPTER 365

*An Act to amend and reenact § 58.1-662 of the Code of Virginia, relating to disposition of communications sales and use tax revenues.*

[H 765]

Approved April 10, 2010

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

**1. That § 58.1-662 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-662. Disposition of communications sales and use tax revenue; Communications Sales and Use Tax Trust Fund; localities' share.

A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be known as the Communications Sales and Use Tax Trust Fund (the Fund). The Fund shall be established on the books of the Comptroller and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. After transferring moneys from the Fund to the Department of Taxation to pay for the direct costs of administering this chapter, the moneys in the Fund shall be allocated to the Commonwealth's counties, cities, and towns, and distributed in accordance with subsection C, after the payment (i) for the telephone relay service center is made to the Department of Deaf and Hard-of-Hearing in accordance with the provisions of § 51.5-115 and (ii) of any franchise fee amount due to localities in accordance with any cable franchise in effect as of January 1, 2007.

B. The localities' share of the net revenue distributable under this section among the counties, cities, and towns shall be apportioned by the Tax Commissioner and distributed as soon as practicable after the close of each month during which the net revenue was received into the Fund. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received in the state treasury during each month.

C. The net revenue distributable among the counties, cities, and towns shall be apportioned and distributed monthly during the remainder of Fiscal Year 2007 and during each subsequent fiscal year according to the percentage of telecommunications and television cable funds (local consumer utility tax on landlines and wireless, E-911, business license tax in excess of 0.5%, cable franchise fee, video programming excise tax, local consumer utility tax on cable television) they received respectively in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006. However, beginning July 1, 2009, Bath County shall receive monthly distributions equal to the distributions that it would have received if the Auditor of Public Accounts had certified that it had collected \$124,775 of telecommunications and television cable funds in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006, pursuant to the eighth enactment clause of Chapter 780 of the Acts of Assembly of 2006.

Beginning July 1, 2009, any locality that collected telecommunications and television cable funds in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006, that were not certified by the Auditor of Public Accounts pursuant to the eighth enactment clause of Chapter 780 of the Acts of Assembly of 2006 because the amount of such funds was not submitted or because the amount of such funds was submitted incorrectly to the Auditor of Public Accounts by October 1, 2006, may report such collections to the Department of Taxation by either an audited financial statement for Fiscal Year 2006 or a statement of receipts verified in writing by an independent certified public accountant. Beginning with the next distribution from the Fund that is 60 days after the date that the Department of Taxation receives such statement, the locality shall receive monthly distributions equal to the distributions that it would have received if the Auditor of Public Accounts had certified that the locality had collected the reported amounts of telecommunications and television cable funds in Fiscal Year 2006 from local tax rates adopted on or before January 1, 2006, pursuant to the eighth enactment clause of Chapter 780 of the Acts of Assembly of 2006.

The Department of Taxation shall adjust the percentage share of the distribution from the Fund due to each locality entitled to a distribution from the Fund subsequent to any change authorized by this section according to each county's, city's, and town's pro rata distribution from the Fund in fiscal year 2010.

An amount equal to the total franchise fee paid to each locality with a cable franchise existing on the effective date of this section at the rate in existence on January 1, 2007, shall be subtracted from the amount owed to such locality prior to the distribution of moneys from the Fund.

*The Department of Taxation shall adjust the percentage share of distribution from the Fund due to each locality entitled to a distribution from the Fund upon a ruling by the Tax Commissioner in favor of a county, city, or town, provided that any such ruling in favor of a county, city, or town shall not result*

*in more than an aggregate of \$100,000 being redistributed from all other counties, cities, and towns. Counties, cities, and towns are authorized to request such ruling. The Tax Commissioner shall issue no such ruling changing the current distribution in favor of a county, city, or town unless the county, city, or town provides evidence to the Tax Commissioner that it had collected telecommunications and television cable funds (local consumer utility tax on landlines and wireless, E-911, business license tax in excess of 0.5 percent, cable franchise fee, video programming excise tax, local consumer utility tax on cable television) in fiscal year 2006 from local tax rates adopted on or before January 1, 2006.*

D. For the purposes of the Comptroller making the required transfers, the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each month certifying the communications sales and use tax revenues generated in the preceding month. Within three calendar days of receiving such certification, the Comptroller shall make the required transfers to the Communications Sales and Use Tax Trust Fund.

E. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next month or for subsequent months.

**2. That notwithstanding the pro rata distribution from the Communications Sales and Use Tax Trust Fund as provided in subsection C of § 58.1-662 of the Code of Virginia, beginning July 1, 2010, such distribution shall be adjusted such that (i) Accomack County shall receive monthly distributions from the Fund equal to the distributions it would receive if the Auditor of Public Accounts had certified that the county had received \$1,111,376 of telecommunications and television cable funds in fiscal year 2006, and (ii) Northampton County shall receive monthly distributions from the Fund equal to the distributions it would receive if the Auditor of Public Accounts had certified that the county had received \$549,025 of telecommunications and television cable funds in fiscal year 2006.**