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SENATE BILL NO. 342

Senate Amendments in [] — January 28, 2010

A BILL to amend and reenact § 58.1-3819 of the Code of Virginia, relating to transient occupancy tax.

Patron Prior to Engrossment—Senator Hanger

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3819 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3819. Transient occupancy tax.

A. Any county, by duly adopted ordinance, may levy a transient occupancy tax on hotels, motels, boarding houses, travel campgrounds, *single-family residences*, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe. Such tax shall not exceed two percent of the amount of charge for the occupancy of any *single-family residence*, room, or space occupied; however, York County, Albemarle County, Nelson County, Mecklenburg County, Gloucester County, Spotsylvania County, Stafford County, Loudoun County, Bedford County, Cumberland County, Floyd County, King George County, Wise County, Botetourt County, Prince Edward County, Rockbridge County, Caroline County, Dinwiddie County, Page County, Wythe County, James City County, Franklin County, Tazewell County, Augusta County, Prince William County, Craig County, Prince George County, Patrick County, Pulaski County, Halifax County, Montgomery County, Carroll County, Northampton County, Amherst County, Giles County, Smyth County, and Greene County may levy a transient occupancy tax not to exceed five percent, and any excess over two percent shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality. If any locality has enacted an additional transient occupancy tax pursuant to subsection C of § 58.1-3823, then the governing body of the locality shall be deemed to have complied with the requirement that it consult with local tourism industry organizations, including lodging properties. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to attract travelers to the locality and generate tourism revenues in the locality.

B. The tax imposed hereunder shall not apply to *single-family residences*, rooms, or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding houses, travel campgrounds, *single-family residences*, and other facilities offering guest rooms. In addition, that portion of any tax imposed hereunder in excess of two percent shall not apply to travel campgrounds in Stafford County.

C. For purposes of this section, a *single-family residence* means a single-family residence that is advertised for rental to the general public.

D. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy such a transient occupancy tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.

E. Any county, city or town which requires local hotel and motel businesses, or any class thereof, to collect, account for and remit to such locality a local tax imposed on the consumer, may allow such businesses a commission for such service in the form of a deduction from the tax remitted. Such commission shall be provided for by ordinance, which shall set the rate thereof, no less than three percent, not to exceed five percent of the amount of tax due and accounted for. No commission shall be allowed if the amount due was delinquent.

F. All transient occupancy tax collections shall be deemed to be held in trust for the county, city or town imposing the tax.

[G. Nothing herein, including any ordinance imposing a tax, pursuant to this section, shall be deemed to alter, modify, or affect the designation of *single-family residences* as a residential use under (i) state law, (ii) county, city, or town zoning ordinances, or (iii) property owner covenants.]

[H. All provisions of this section shall also apply to any (i) developer of time-shares who offers for rental time-shares for continuous occupancy for fewer than 30 consecutive days, or (ii) other person not described in this section offering guest rooms or time-shares for rental for fewer than 30 consecutive days, which guest rooms or time-shares are advertised for rental to the general public. For purposes of this subsection, time-shares mean the same as such term is defined under § 55-362.]

ENGROSSED

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