

# DEPARTMENT OF TAXATION

## 2010 Fiscal Impact Statement

1. **Patron** Lynwood W. Lewis, Jr.

2. **Bill Number** HB 1356

**House of Origin:**

☐ Introduced

☐ Substitute

☐ Engrossed

3. **Committee** Senate Finance

4. **Title** Business, Professional, and Occupational License Tax; Campgrounds and Bed and Breakfast Establishments

**Second House:**

☒ In Committee

☐ Substitute

☐ Enrolled

### 5. **Summary/Purpose:**

This bill would specifically add campgrounds and bed and breakfast establishments to the list of businesses renting real property that are subject to the Business, Professional, and Occupational License ("BPOL") Tax.

Under current law, no locality may impose a license fee or tax for engaging in the business of renting real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses, and boardinghouses. However, any locality that imposed such a license tax before January 1, 1974, is not precluded from the levy of such tax.

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 additional localities impose the Business, Professional, and Occupational License ("BPOL") Tax on campgrounds and bed and breakfast establishments because these establishments are specifically listed as being taxable businesses, this bill would have an unknown positive impact on local revenues. In Fiscal Year 2008, the BPOL tax generated more than \$661.8 million for the counties, cities, and towns that imposed the tax. The BPOL tax is imposed in all 39 cities, 47 of the 95 counties, and many of the towns of the Commonwealth.

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

All localities

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

## 11. Other comments:

### BPOL Tax

The Business, Professional and Occupational License (BPOL) tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax generally is the gross receipts of the business. The BPOL tax is a tax on gross receipts, not net income. Under current BPOL law, any locality may charge a license fee in an amount not to exceed:

- \$50 for any locality with a population of 25,000 and greater
- \$30 for any locality with a population smaller than 25,000

The locality may not assess a license tax on gross receipts upon which it charges a license fee. Additionally, the locality may not impose a license tax on a business with gross receipts:

- less than \$100,000 in any locality with a population greater than 50,000
- less than \$50,000 in any locality with a population of 25,000 but no more than 50,000.

Any business with gross receipts in excess of these thresholds may be subject to license tax at a rate not to exceed the rates set forth below:

- Contracting - sixteen cents per \$100 of gross receipts
- Retail sales - twenty cents per \$100 of gross receipts
- Financial, real estate and professional services - fifty eight cents per \$100 of gross receipts
- Repair, personal and business services, and all other businesses - thirty six cents per \$100 of gross receipts.

Localities that imposed a higher rate structure on January 1, 1978 are allowed to continue to impose the tax at those rates.

### Rental of Real Property

Localities are prohibited from imposing the BPOL Tax on any person, firm, or corporation for engaging in the business of renting real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses, and boardinghouses.

An advisory opinion of the Tax Commissioner, Public Document 07-141 (9/05/2007), addressed a taxpayer who owned a second home that the taxpayer rented out for periods of less than 30 days for approximately one-third of the year. The taxpayer occupied the property for the remainder of the year. The opinion stated that persons who rent their private residences to others are exempt from both the BPOL tax and fee.

## Proposal

This bill would specifically add campgrounds and bed and breakfast establishments to the list of businesses renting real property that are subject to the Business, Professional, and Occupational License ("BPOL") Tax.

The effective date of this bill is not specified.

## Similar Legislation

**House Bill 57** would prohibit any locality from imposing the BPOL tax if it did not impose the tax on January 1, 2010 and would prohibit any locality from increasing its BPOL tax rates after January 1, 2010.

**House Bill 409** would require that any contractor applying for or renewing a business license in any locality must furnish either i) satisfactory proof that he is duly licensed or certified, or ii) a written statement supported by an affidavit that he is not subject to licensure or certification.

**House Bill 713** would require that the Commissioner of the Revenue verify that every taxpayer seeking a local business license who is subject to the state licensing requirements of the Department of Professional and Occupational Regulation has obtained a state license.

**House Bill 985** and **Senate Bill 90** would exclude amounts paid to an independent registered representative as a commission on any sale or purchase of a security from the gross receipts of a security broker or security dealer for the purposes of the BPOL tax.

**House Bill 1347** would provide exemptions from the Retail Sales and Use Tax and BPOL Tax for aviation companies that facilitate and support the United States Department of Defense.

cc : Secretary of Finance

Date: 2/18/2010 AM  
DLAS File Name: HB1356FE161