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## SENATE BILL NO. 1401

Offered January 22, 2015

A *BILL to amend and reenact § 58.1-3851.1 of the Code of Virginia, relating to entitlement to tax revenues; tourism projects of regional significance.*

Patrons—Norment and Ruff

Referred to Committee on Finance

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

**1. That § 58.1-3851.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3851.1. Entitlement to tax revenues from tourism project.**

A. For purposes of this section, unless the context requires a different meaning:

"Economic development authority" means a local industrial development authority or a local or regional political subdivision, the public purpose of which is to assist in economic development.

"Gap financing" means debt financing to compensate for a shortfall in project funding between the expected development costs of an authorized tourism project and the debt and equity capital provided by the developer of the project.

"Tourism project of regional significance" means a tourism project that meets the requirements set forth in subdivision B 1 and that additionally represents a new capital investment by a private entity in the Commonwealth of at least \$100 million and, as determined by the Virginia Tourism Authority, supports increased hotel occupancy, new job creation, an increase in the number of out-of-state visitors to the Commonwealth, or other factors of significant fiscal and economic impact. No project that is majority retail in nature shall be deemed a tourism project of regional significance.

B. 1. If a locality has established a tourism zone pursuant to § 58.1-3851, has adopted an ordinance establishing a tourism plan as determined by guidelines set forth by the Virginia Tourism Authority, and has adopted an ordinance authorizing a tourism project to meet a deficiency identified in the adopted tourism plan approved by the Virginia Tourism Authority, and the tourism project *or the tourism project of regional significance* has been certified by the State Comptroller as qualifying for ~~the~~ an entitlement to tax revenues authorized by this section, the authorized tourism project shall be entitled to an amount equal to the revenues generated by a one percent state sales and use tax on transactions taking place on the premises of the authorized tourism project. *For a tourism project of regional significance, the entitlement shall be an amount equal to the revenues generated by a 1.75 percent state sales and use tax on transactions taking place on its premises.* The entitlement shall be contingent on the locality enacting an ordinance designating certain local tax revenues to the tourism project pursuant to subsection C and shall be subject to the conditions set forth in subsection D. The purpose of such entitlement shall be to assist the developer with obtaining gap financing and making payments of principal and interest thereon. The entitlement shall continue until the gap financing is paid in full. Entitled sales tax revenues shall be applied solely to payments of principal and interest on the qualified gap financing.

2. On a quarterly basis, the Tax Commissioner shall certify the amount of the entitled sales tax revenues to the Comptroller, who shall remit such revenues to the county or city in which the authorized tourism project is located. The county or city shall remit the revenues to the economic development authority. No payments herein shall be made until an agreement exists between the developer of the authorized tourism project and the economic development authority.

3. The state sales tax entitlement established in subdivision 1 shall not include any sales tax revenues dedicated pursuant to § 58.1-638 or 58.1-638.1.

C. If a locality has adopted the ordinances required by subdivision B 1 to entitle an authorized tourism project to an amount equal to the revenues generated by a one percent state sales and use tax on transactions taking place on the premises of the authorized tourism project, *or the amount equal to the revenues generated by a 1.75 percent state sales and use tax on transactions taking place on the premises of an authorized tourism project of regional significance*, the local governing body of the county or city in which the authorized tourism project is located shall also direct by ordinance that an amount equal to the revenues generated by at least a one percent local sales and use tax, or an equivalent amount of other local tax revenues as designated by the ordinance, generated by transactions taking place on the premises of the authorized tourism project shall be applied to the payment of principal and interest on the qualified gap financing. Such revenues shall be remitted in the same manner, for the same time period, and under the same conditions as the remittances paid in accordance with subsection B, mutatis mutandis.

D. Prior to any entitlement to tax revenues for an authorized tourism project pursuant to subsections

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59 B and C, the owner of such project shall have a minimum of 80 percent of funding for the project in  
60 place through debt or equity, enter into a performance agreement with the economic development  
61 authority or political subdivision, and enter into an agreement to pay an access fee. The access fee shall  
62 be *an amount* equivalent to the ~~state sales tax~~ revenue generated by ~~and returned to the project pursuant~~  
63 ~~to subdivision B~~ *+ a one percent state sales and use tax on transactions taking place on the premises of*  
64 *the authorized tourism project or tourism project of regional significance* and shall be collected by the  
65 locality and remitted to the economic development authority on a quarterly basis. The access fee and the  
66 sales tax entitlement shall be used solely to make payments of principal and interest on the qualified gap  
67 funding.  
68 E. In the event that the total amount of sales tax entitlement and the access fee exceeds any annual  
69 debt service on the qualified gap financing, such excess shall be paid to the principal of the loan until  
70 the qualified gap financing is paid in full.