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HOUSE BILL NO. 729

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Watts  
on February 10, 2020)

(Patron Prior to Substitute—Delegate Watts)

A BILL to amend and reenact §§ 33.2-2509, 58.1-802.3, 58.1-811, as it is currently effective, 58.1-816, 58.1-1743, and 58.1-1744 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-802.4, relating to transportation funding.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-2509, 58.1-802.3, 58.1-811, as it is currently effective, 58.1-816, 58.1-1743, and 58.1-1744 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-802.4 as follows:

§ 33.2-2509. Northern Virginia Transportation Authority Fund.

There is hereby created in the state treasury a special nonreverting fund for Planning District 8 to be known as the Northern Virginia Transportation Authority Fund, referred to in this chapter as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to § §§ 58.1-638, 58.1-802.3, and 58.1-816, any other funds that may be appropriated by the General Assembly, and any funds that may be received for the credit of the Fund from any other source shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

The amounts dedicated to the Fund pursuant to § §§ 58.1-638, 58.1-802.4, and 58.1-816 shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Authority as soon as practicable for use in accordance with § 33.2-2510. If the Authority determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation projects pursuant to § 33.2-2510, the Authority may invest such excess moneys to the same extent as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

§ 58.1-802.3. Regional transportation improvement fee.

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional WMATA capital fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city that is a member of the Northern Virginia Transportation Authority is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be ~~\$0.15~~ \$0.10 for each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.

The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.

No such deed, instrument, or other writing shall be admitted to record unless certification of the clerk wherein first recorded has been affixed thereto that the fee imposed pursuant to this section has been paid.

Fees imposed by this section shall be collected by the clerk of the court. For fees collected in a county or city located in a transportation district established pursuant to Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 that as of January 1, 2018, meets the criteria established in § 33.2-1936 shall be transferred to the state treasury as soon as practicable and deposited into the fund established in § 33.2-3401. The fees collected in any other county or city in which the fee is imposed shall be retained by the county or city, and shall be used solely for transportation purposes.

§ 58.1-802.4. Regional congestion relief fee.

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional congestion relief fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in any county or city in a planning district described in this section is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser

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60 or any other person, by such purchaser's direction. The fee shall be imposed in a planning district  
 61 established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has  
 62 a population of two million or more, as shown by the most recent United States Census, has not less  
 63 than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 50  
 64 million riders per year across all transit systems within the planning district or (ii) as shown by the  
 65 most recent United States Census, meets the population criteria set forth in clause (i) and also meets the  
 66 vehicle registration and ridership criteria set forth in clause (i). The rate of the fee, when the  
 67 consideration or value of the interest, whichever is greater, equals or exceeds \$100, shall be \$0.10 for  
 68 each \$100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at  
 69 the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or  
 70 encumbrance. In any case in which the fee is imposed pursuant to clause (ii), such fee shall be effective  
 71 beginning on the July 1 immediately following the calendar year in which all of the criteria under such  
 72 clause have been met.

73 The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of  
 74 the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.

75 No such deed, instrument, or other writing shall be admitted to record unless certification of the  
 76 clerk wherein first recorded has been affixed thereto that the fee imposed pursuant to this section has  
 77 been paid.

78 Fees imposed by this section shall be collected by the clerk of the court and deposited into the state  
 79 treasury as soon as practicable. Such fees shall then be deposited into special funds established by law.  
 80 In the case of Planning District 8, the revenue generated and collected therein shall be deposited into  
 81 the fund established in § 33.2-2509. For additional planning districts that may become subject to this  
 82 section, funds shall be established by appropriate legislation.

83 **§ 58.1-811. (Contingent expiration date) Exemptions.**

84 A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate  
 85 or lease of real estate:

86 1. To an incorporated college or other incorporated institution of learning not conducted for profit,  
 87 where such real estate is intended to be used for educational purposes and not as a source of revenue or  
 88 profit;

89 2. To an incorporated church or religious body or to the trustee or trustees of any church or religious  
 90 body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively  
 91 for religious purposes, or for the residence of the minister of any such church or religious body;

92 3. To the United States, the Commonwealth, or to any county, city, town, district, or other political  
 93 subdivision of the Commonwealth;

94 4. To the Virginia Division of the United Daughters of the Confederacy;

95 5. To any nonstock corporation organized exclusively for the purpose of owning or operating a  
 96 hospital or hospitals not for pecuniary profit;

97 6. To a corporation upon its organization by persons in control of the corporation in a transaction  
 98 which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it  
 99 exists at the time of the conveyance;

100 7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a  
 101 transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal  
 102 Revenue Code as it exists at the time of liquidation;

103 8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited  
 104 liability company upon a merger or consolidation to which two or more such entities are parties, or in a  
 105 reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

106 9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a  
 107 parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal  
 108 Revenue Code as amended;

109 10. To a partnership or limited liability company, when the grantors are entitled to receive not less  
 110 than 50 percent of the profits and surplus of such partnership or limited liability company, provided that  
 111 the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the  
 112 company to avoid recordation taxes;

113 11. From a partnership or limited liability company, when the grantees are entitled to receive not less  
 114 than 50 percent of the profits and surplus of such partnership or limited liability company, provided that  
 115 the transfer from a limited liability company is not subsequent to a transfer of control of the assets of  
 116 the company to avoid recordation taxes;

117 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of  
 118 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust  
 119 instrument, when no consideration has passed between the grantor and the beneficiaries;

120 13. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal  
 121 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect

122 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise  
123 would be unable to afford to buy a home through conventional means;

124 14. When it is a deed of partition, or any combination of deeds simultaneously executed and having  
125 the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

126 15. When it is a deed transferring property pursuant to a decree of divorce or of separate  
127 maintenance or pursuant to a written instrument incident to such divorce or separation.

128 B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

129 1. Given by an incorporated college or other incorporated institution of learning not conducted for  
130 profit;

131 2. Given by the trustee or trustees of a church or religious body or given by an incorporated church  
132 or religious body, or given by a corporation mentioned in § 57-16.1;

133 3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or  
134 operating a hospital or hospitals not for pecuniary profit;

135 4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a  
136 debt payable to any other local governmental entity or political subdivision;

137 5. Securing a loan made by an organization described in subdivision A 13;

138 6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower  
139 whose household income does not exceed 80 percent of the area median household income established  
140 by the U.S. Department of Housing and Urban Development, for the purpose of erecting or  
141 rehabilitating a home for such borrower, including the purchase of land for such home; or

142 7. Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

143 C. The tax imposed by § 58.1-802 and the fee fees imposed by §§ 58.1-802.3 and 58.1-802.4 shall  
144 not apply to any:

145 1. Transaction described in subdivisions A 6 through 12, 14, and 15;

146 2. Instrument or writing given to secure a debt;

147 3. Deed conveying real estate from an incorporated college or other incorporated institution of  
148 learning not conducted for profit;

149 4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town,  
150 district, or other political subdivision thereof;

151 5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other  
152 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable  
153 pursuant to § 58.1-802 or subject to the fee under § 58.1-802.3; or

154 6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an  
155 incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

156 D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or  
157 grantors and a grantee or grantees when no consideration has passed between the parties. Such deed  
158 shall state therein that it is a deed of gift.

159 E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the  
160 Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

161 F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.3, 58.1-807, 58.1-808, and  
162 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The  
163 Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy,  
164 where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of  
165 preserving wilderness, natural, or open space areas.

166 G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees  
167 mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

168 H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual  
169 right, if the release is contained within a single deed that performs more than one function, and at least  
170 one of the other functions performed by the deed is subject to the recordation tax.

171 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,  
172 release, or other document recorded in connection with a concession pursuant to the Public-Private  
173 Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

174 J. No recordation tax shall be required for the recordation of any transfer on death deed or any  
175 revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act  
176 (§ 64.2-621 et seq.) when no consideration has passed between the parties.

177 K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any  
178 deed of distribution when no consideration has passed between the parties. Such deed shall state therein  
179 on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution"  
180 means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from  
181 the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or  
182 bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the

183 settlor in accordance with a dispositive provision in the trust instrument; (iii) that carries out the exercise  
 184 of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust  
 185 Decanting Act (§ 64.2-779.1 et seq.).

186 **§ 58.1-816. Distribution of recordation tax to cities and counties.**

187 A. 1. Effective ~~October 1, 1993~~ *July 1, 2020*, ~~twenty million dollars~~ of the taxes imposed under  
 188 §§ 58.1-801 through 58.1-809 ~~which that~~ are actually paid into the state treasury, *(i) \$20 million* shall be  
 189 distributed among the counties and cities of ~~this the~~ Commonwealth, *except for the counties and cities*  
 190 *located in Planning District 8*, in the manner provided in subsection B of ~~this section~~ and *(ii) \$40*  
 191 *million shall be deposited into the fund established pursuant to § 33.2-2509. Effective July 1, 1994, such*  
 192 *annual distribution shall increase to forty million dollars.*

193 B. Subject to any transfers required under §§ 33.2-2400 and 58.1-816.1, the share of the state taxes  
 194 distributable under this section among the counties and cities shall be apportioned and distributed  
 195 quarterly to each county or city by the Comptroller by multiplying the amount to be distributed by a  
 196 fraction in which the numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809  
 197 and actually paid into the state treasury ~~which that~~ are attributable to deeds and other instruments  
 198 recorded in the county or city and the denominator is the amount of taxes imposed under §§ 58.1-801  
 199 through 58.1-809 actually paid into the state treasury. All distributions pursuant to this section shall be  
 200 made on a quarterly basis within ~~thirty~~ *30* days of the end of the quarter. Such quarterly distribution  
 201 shall equal ~~ten million dollars~~ *\$10 million*. Each clerk of the court shall certify to the Comptroller,  
 202 within ~~fifteen~~ *15* days after the end of the quarter, all amounts collected under §§ 58.1-801 through  
 203 58.1-809 and actually paid into the state treasury ~~which that~~ are attributable to deeds and other  
 204 instruments recorded in such county or city.

205 C. All moneys distributed to counties and cities pursuant to this section shall be used for (i)  
 206 transportation purposes, including, without limitation, construction, administration, operation,  
 207 improvement, maintenance and financing of transportation facilities, or (ii) public education.

208 As used in this section, ~~the term~~ "transportation facilities" ~~shall include~~ *includes* all  
 209 transportation-related facilities including, but not limited to, all highway systems, public transportation or  
 210 mass transit systems as defined in § 33.2-100, airports as defined in § 5.1-1, and port facilities as  
 211 defined in § 62.1-140. Such term shall be liberally construed for purposes of this section.

212 D. If any revenues distributed to a county or city under subsection C of ~~this section~~ are applied or  
 213 expended for any transportation facilities under the control and jurisdiction of any state agency, board,  
 214 commission, or authority, such transportation facilities shall be constructed, operated, administered,  
 215 improved, and maintained in accordance with laws, rules, regulations, policies, and procedures governing  
 216 such state agency, board, commission, or authority; however, in the event these revenues, or a portion  
 217 thereof, are expended for improving or constructing highways in a county ~~which that~~ is subject to the  
 218 provisions of § 33.2-338, such expenditures shall be undertaken in the manner prescribed in that statute.

219 E. In the case of any distribution to a county or city in which an office sharing agreement pursuant  
 220 to §§ 15.2-1637 and 15.2-3822 is in effect, the Comptroller shall divide the distribution among the office  
 221 sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall  
 222 certify to the Comptroller, within ~~fifteen~~ *15* days after the end of the quarter, all amounts collected  
 223 under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury ~~which that~~ are attributable  
 224 to deeds and other instruments recorded on behalf of each county and city.

225 **§ 58.1-1743. Transportation district transient occupancy tax.**

226 In addition to all other fees and taxes imposed under law, there is hereby imposed an additional  
 227 transient occupancy tax at the rate of ~~two~~ *three* percent of the amount of the charge for the occupancy  
 228 of any room or space occupied in any county or city located in a transportation district established  
 229 pursuant to Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 that as of January 1, 2018, meets the criteria  
 230 established in § 33.2-1936.

231 The tax imposed under this section shall be imposed only for the occupancy of any room or space  
 232 that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

233 The tax imposed under this section shall be administered by the locality in which the room or space  
 234 is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, mutatis  
 235 mutandis, except as herein provided. The revenue generated and collected from the tax shall be  
 236 deposited by the local treasurer into the state treasury pursuant to § 2.2-806 and transferred by the  
 237 Comptroller into special funds established by law. In the case of the Northern Virginia Transportation  
 238 District, the revenue generated and collected therein shall be deposited into the fund established in  
 239 § 33.2-3401. For additional transportation districts that may become subject to this section, funds shall  
 240 be established by appropriate legislation.

241 **§ 58.1-1744. Local transportation transient occupancy tax.**

242 In addition to all other fees and taxes imposed under law, there is hereby imposed an additional  
 243 transient occupancy tax at the rate of ~~two~~ *three* percent of the amount of the charge for the occupancy  
 244 of any room or space occupied in any county or city that is (i) a member of the Northern Virginia

245 Transportation Authority *and (ii)* that is not described in § 58.1-1743.

246 The tax imposed under this section shall be imposed only for the occupancy of any room or space  
247 that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

248 The tax imposed under this section shall be administered by the locality in which the room or space  
249 is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, mutatis  
250 mutandis, except as herein provided. The revenue generated and collected from the tax shall be  
251 deposited by the local treasurer ~~and may be used only for public transportation purposes.~~ *Two-thirds of*  
252 *the revenue collected pursuant to this section shall be used only for public transportation purposes, and*  
253 *the remaining revenue may be used for any transportation purpose.*