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HOUSE BILL NO. 812

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend and reenact § 58.1-3 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 17.1-208.1, relating to the electronic dissemination of public records.

Patron—Almand

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 17.1-208.1 as follows:

Upon request by a law-enforcement officer, the publisher shall redact all personal information as defined in § 2.2-3801 (including name, address, telephone number, electronic mail address and social security number) about him contained in records and papers of the circuit courts that are made public pursuant to § 17.1-208 and published and disseminated by means of computer networks and the global information system known as the Internet. Any person who violates the provisions of this subsection is guilty of a Class 2 misdemeanor.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to § 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken or published in the line of duty under the law;
3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;
4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the

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59 designated guarantor; (iv) provide current address information upon request to state agencies and
60 institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk
61 of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and
62 costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia
63 Employment Commission, after entering into a written agreement, such tax information as may be
64 necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the
65 Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may
66 be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic
67 beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information
68 as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to
69 the Department of the Treasury for its confidential use such tax information as may be necessary to
70 facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation
71 Commission, upon entering into a written agreement, such tax information as may be necessary to
72 facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive
73 Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax
74 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi)
75 provide to the Executive Secretary of the Charitable Gaming Commission such tax information as may
76 be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who
77 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing
78 and Community Development for its confidential use such tax information as may be necessary to
79 facilitate the administration of the Enterprise Zone Act (§ 59.1-270 et seq.); (xiii) provide current name
80 and address information to private collectors entering into a written agreement with the Tax
81 Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its
82 political subdivisions; however, the Tax Commissioner is not authorized to provide such information to
83 a private collector who has used or disseminated in an unauthorized or prohibited manner any such
84 information previously provided to such collector; and (xiv) provide current name and address
85 information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of
86 cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring
87 an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal
88 Sale or Distribution of Cigarettes Act. The Tax Commissioner is further authorized to enter into written
89 agreements with duly constituted tax officials of other states and of the United States for the inspection
90 of tax returns, the making of audits, and the exchange of information relating to any tax administered by
91 the Department of Taxation. Any person to whom tax information is divulged pursuant to this section
92 shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

93 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
94 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
95 stating the reason for such request, the chief executive officer of any county or city with information
96 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
97 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
98 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
99 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
100 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
101 profession or occupation administered by the Department of Professional and Occupational Regulation,
102 only after the Department of Professional and Occupational Regulation exhausts all other means of
103 obtaining such information; and (iii) provide to any representative of a condominium unit owners'
104 association, property owners' association or real estate cooperative association, or to the owner of
105 property governed by any such association, the names and addresses of parties having a security interest
106 in real property governed by any such association; however, such information shall be released only
107 upon written request stating the reason for such request, which reason shall be limited to proposing or
108 opposing changes to the governing documents of the association, and any information received by any
109 person under this subsection shall be used only for the reason stated in the written request. The treasurer
110 or other local assessing official may require any person requesting information pursuant to clause (iii) of
111 this subsection to pay the reasonable cost of providing such information. Any person to whom tax
112 information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties
113 prescribed herein as though he were a tax official.

114 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
115 motor vehicle local license decal the year, make, and model and any other legal identification
116 information about the particular motor vehicle for which that local license decal is assigned.

117 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
118 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
119 written request, the name, address, and social security number of a taxpayer, necessary for the
120 performance of the Commissioner's official duties regarding the administration and enforcement of laws

121 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
122 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
123 Commissioner of the obligations under this section.

124 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
125 any confidential tax document which he knows or has reason to know is a confidential tax document. A
126 confidential tax document is any correspondence, document, or tax return that is prohibited from being
127 divulged by subsection A, B, C, or D of this section or by § 59.1-282.4. This prohibition shall not apply
128 if such confidential tax document has been divulged or disseminated pursuant to a provision of law
129 authorizing disclosure.

130 *However, notwithstanding the provisions of this section, if any tax document is lawfully divulged or*
131 *disseminated and published by means of a computer network or the global information system known as*
132 *the Internet, the publisher of any of the contents of the document shall, upon request of a*
133 *law-enforcement officer, redact all personal information as defined in § 2.2-3801 (including name,*
134 *address, telephone number, electronic mail address and social security number) that is associated with*
135 *him. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.*