

064039716

SENATE BILL NO. 5012

Offered April 19, 2006

A BILL to amend and reenact §§ 15.2-4832, 58.1-611.1, 58.1-802, 58.1-811 as it shall become effective on July 1, 2006, 58.1-812, and 58.1-813 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 15.2-4838.1, 58.1-605.1, and 58.1-606.1, by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1, and by adding sections numbered 58.1-802.1 and 58.1-3825.1, and to repeal Article 22 (§ 58.1-540 et seq.) of Chapter 3 of Title 58.1, relating to the administration and funding of transportation in Northern Virginia; revenue.

Patrons—Colgan and Chichester

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4832, 58.1-611.1, 58.1-802, 58.1-811 as it shall become effective on July 1, 2006, 58.1-812, and 58.1-813 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.1, 58.1-605.1, and 58.1-606.1, by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1, and by adding sections numbered 58.1-802.1 and 58.1-3825.1 as follows:

§ 15.2-4832. Composition of Authority; membership; terms.

The Authority shall consist of ~~4~~20 members as follows:

The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

~~Two~~Four members of the House of Delegates who reside in different counties or cities embraced by the Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

~~One member~~Two members of the Senate who ~~resides in a county or city~~reside in different counties or cities embraced by the Authority, appointed by the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation; and

One mayor of a town that is within any county embraced by the Authority, appointed by the Governor, with future appointees to this position rotated equally among all such towns; and

Two citizens who reside in counties and cities embraced by the Authority, appointed by the Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation Board who resides in a county or city embraced by the Authority. The remaining gubernatorial appointment shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management and shall be a resident of a county or city embraced by the Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to the Authority.

Legislative members shall serve terms coincident with their terms of office. The gubernatorial appointee who is not a member of the Commonwealth Transportation Board shall serve for a term of four years. The mayor of a town member shall serve for a term of two years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

In addition, the following persons shall serve as nonvoting members of the Authority: the Director of the Virginia Department of Rail and Public Transportation, or his designee, and the Commonwealth Transportation Commissioner, or his designee.

The Authority shall appoint the chairman and vice-chairman.

§ 15.2-4838.1. Use of certain revenues by the Authority.

All moneys received by the Authority pursuant to subsection C of §§ 58.1-605.1 and 58.1-606.1, subsection B of § 58.1-802.1, and § 58.1-3825.1 shall be used by the Authority solely for the primary benefit of those counties and cities that are imposing all of the taxes and fees set forth in such subsections and sections.

Notwithstanding any other provision of this chapter, all moneys received by the Authority pursuant to subsection C of §§ 58.1-605.1 and 58.1-606.1, subsection B of § 58.1-802.1, and § 58.1-3825.1 shall be used as follows:

1. First, each fiscal year an amount shall be distributed to the Washington Metropolitan Area

59 *Transit Authority (WMATA) to provide funds to the Authority that is equal to such amount as may be*
60 *required under federal law for the payment of certain federal funds to WMATA. The Authority shall*
61 *make such annual distribution from such revenues (i) only to the extent required under federal law for*
62 *the payment of federal funds to WMATA, and (ii) only if the Counties of Arlington and Fairfax and the*
63 *City of Alexandria are imposing all of the taxes and the fees authorized pursuant to §§ 58.1-605.1,*
64 *58.1-606.1, 58.1-802.1, and 58.1-3825.1 on and after March 1, 2007;*

65 *2. The next \$30 million received by the Authority in each fiscal year shall be distributed to the*
66 *Virginia Railway Express for capital projects directly relating to transportation by rail, and only if*
67 *Prince William County is imposing all of the taxes and the fees authorized pursuant to §§ 58.1-605.1,*
68 *58.1-606.1, 58.1-802.1, and 58.1-3825.1 on and after March 1, 2007; and*

69 *3. All other remaining revenues from subsection C of §§ 58.1-605.1 and 58.1-606.1, subsection B of*
70 *§ 58.1-802.1, and § 58.1-3825.1 shall be used by the Authority solely for transportation projects for the*
71 *localities that are embraced by the Authority as determined by the Authority subject to all conditions*
72 *under this chapter.*

73 *§ 58.1-605.1. Additional local sales tax.*

74 *A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing*
75 *bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria,*
76 *Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local retail sales tax at*
77 *the rate of 0.50% to generate revenue for transportation, provided that the governing body of the county*
78 *or city appropriates the revenues collected from such tax to the Northern Virginia Transportation*
79 *Authority established under § 15.2-4830. Such tax shall be added to the rate of the local sales tax*
80 *imposed pursuant to the authority granted under § 58.1-605 and shall be subject to all the provisions of*
81 *this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622*
82 *shall be allowed for the tax described under this subsection. Such tax shall be administered and*
83 *collected by the Tax Commissioner in the same manner and subject to the same penalties as provided*
84 *for the state sales tax.*

85 *B. Any ordinance imposing the local retail sales tax authorized under this section shall be effective*
86 *on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A*
87 *certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received*
88 *within 10 days after its adoption.*

89 *C. The revenue generated and collected pursuant to the tax authorized under this section, less the*
90 *applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under*
91 *the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern*
92 *Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the*
93 *special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use*
94 *such funds solely for the purposes as provided in § 15.2-4838.1.*

95 *D. No locality imposing the local retail sales tax pursuant to this section shall cease to impose such*
96 *tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a*
97 *transportation project within the boundaries of the locality, (ii) has entered into a binding commitment*
98 *to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or*
99 *incurred other evidence of debt that has not been satisfied or paid in full and that relates to a*
100 *transportation project undertaken by the Authority within the boundaries of the locality.*

101 *§ 58.1-606.1. Additional local use tax.*

102 *A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing*
103 *bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria,*
104 *Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local use tax at the rate*
105 *of 0.50% to generate revenue for transportation, provided that the governing body of the county or city*
106 *appropriates the revenues collected from such tax to the Northern Virginia Transportation Authority*
107 *established under § 15.2-4830. Such tax shall be added to the rate of the local use tax imposed pursuant*
108 *to the authority granted under § 58.1-606 and shall be subject to all the provisions of this chapter and*
109 *the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed*
110 *for the tax described under this subsection. Such tax shall be administered and collected by the Tax*
111 *Commissioner in the same manner and subject to the same penalties as provided for the state use tax.*

112 *B. Any ordinance imposing the local use tax authorized under this section shall be effective on the*
113 *first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified*
114 *copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within*
115 *10 days after its adoption.*

116 *C. The revenue generated and collected pursuant to the tax authorized under this section, less the*
117 *applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under*
118 *the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern*
119 *Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the*
120 *special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use*

121 such funds solely for the purposes as provided in § 15.2-4838.1.

122 D. No locality imposing the local use tax pursuant to this section shall cease to impose such tax so
123 long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation
124 project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a
125 transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other
126 evidence of debt that has not been satisfied or paid in full and that relates to a transportation project
127 undertaken by the Authority within the boundaries of the locality.

128 § 58.1-611.1. Rate of tax on sales of food purchased for human consumption.

129 A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be
130 levied and distributed as follows:

131 1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be
132 three percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the
133 revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
134 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
135 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half
136 percent shall be used for general fund purposes.

137 2. On and after July 1, 2005, the tax rate on such food shall be one and one-half percent of the gross
138 sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the
139 rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the
140 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and
141 D of § 58.1-638.

142 B. The provisions of this section shall not affect the imposition of tax on food purchased for human
143 consumption pursuant to §§ 58.1-605 ~~and~~, 58.1-605.1, 58.1-606, and 58.1-606.1.

144 C. As used in this section, "food purchased for human consumption" has the same meaning as "food"
145 defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted
146 pursuant to that Act, except it shall not include seeds and plants which produce food for human
147 consumption. For the purpose of this section, "food purchased for human consumption" shall not include
148 food sold by any retail establishment where the gross receipts derived from the sale of food prepared by
149 such retail establishment for immediate consumption on or off the premises of the retail establishment
150 constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not
151 limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises
152 of that retail establishment. For purposes of this section, "retail establishment" means each place of
153 business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a
154 certificate of registration pursuant to § 58.1-613.

155 § 58.1-639.1. Exemptions for local sales and use tax.

156 Any exemption set forth in this chapter, or established pursuant to the administrative process under
157 § 58.1-609.11, for a state sales or use tax or a local sales or use tax under § 58.1-605 or 58.1-606 shall
158 also apply to the taxes imposed pursuant to §§ 58.1-605.1 and 58.1-606.1.

159 § 58.1-802. Additional tax paid by grantor; collection.

160 A. In addition to any other tax imposed under the provisions of this chapter, a tax is hereby imposed
161 on each deed, instrument, or writing by which lands, tenements or other realty sold is granted, assigned,
162 transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such
163 purchaser's direction. The rate of the tax, when the consideration or value of the interest exceeds \$100,
164 shall be ~~50~~ 10 cents for each ~~\$500~~ \$100 or fraction thereof, exclusive of the value of any lien or
165 encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is
166 sold subject to such lien or encumbrance. No increase in the city or county recordation tax authorized
167 by § 58.1-814 shall be deemed authorized by this section.

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

170 No such deed, instrument or other writing shall be admitted to record without certification of the
171 clerk of the court wherein first recorded having been affixed thereto that the tax imposed by this section
172 has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

173 B. Taxes imposed by this section shall be collected as provided in § 58.1-812 and the clerk shall
174 return taxes collected hereunder one-half into the state treasury and one-half into the treasury of the
175 locality.

176 The local portion of the tax imposed by this section on property which is located in more than one
177 jurisdiction shall be collected by the clerk in proportion to the value of the property located in each such
178 locality when recorded therein.

179 Every clerk of court collecting taxes under this section for the county or city which he serves shall
180 be entitled to compensation for such service at five percent of the amount so collected and paid, with
181 such compensation based on a rate of 10 cents for each \$100 or fraction thereof as determined

182 pursuant to subsection A.

183 § 58.1-802.1. *Additional local tax paid by grantor; collection.*

184 A. *In addition to the tax imposed by § 58.1-802 and any other fee, tax, or other charge imposed*
185 *under law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince*
186 *William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park may, by*
187 *ordinance, impose a tax on each deed, instrument, or writing by which lands, tenements or other realty*
188 *sold (located in the county or city) is granted, assigned, transferred, or otherwise conveyed to, or vested*
189 *in the purchaser, or any other person, by such purchaser's direction. The rate of the tax, when the*
190 *consideration or value of the interest exceeds \$100, shall be 30 cents for each \$100 or fraction thereof,*
191 *exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether*
192 *such lien is assumed or the realty is sold subject to such lien or encumbrance.*

193 *The tax imposed pursuant to the authority granted under this section shall be paid by the grantor (or*
194 *any person who signs on behalf of the grantor) of any deed, instrument or writing that is subject to the*
195 *tax imposed pursuant to this section.*

196 *In any county or city in which such tax is imposed, no such deed, instrument or other writing shall*
197 *be admitted to record without certification of the clerk of the court wherein first recorded having been*
198 *affixed thereto that such tax has been paid. The clerk shall include within the certificate the amount of*
199 *such tax collected thereon.*

200 B. *The tax shall be collected pursuant to subsection B of § 58.1-802. The clerk shall return all taxes*
201 *collected pursuant to the authority granted under this section as follows: (i) taxes collected at the rate*
202 *of 20 cents for each \$100 or fraction thereof shall be returned by the clerk into the treasury of the*
203 *locality, and such revenues shall be appropriated by the locality to the Northern Virginia Transportation*
204 *Authority established under § 15.2-4830 as soon as practical for use solely for the purposes as provided*
205 *in § 15.2-4838.1; and (ii) taxes collected at the rate of 10 cents for each \$100 or fraction thereof shall*
206 *be returned by the clerk into the treasury of the locality, and such funds shall be used solely for local*
207 *or regional projects relating directly to transportation. Such transportation projects may include debt*
208 *service payments on obligations and other evidences of debt issued or entered into to finance or fund*
209 *transportation projects, but only for such obligations or debt that has not been authorized and is not*
210 *outstanding as of July 1, 2006.*

211 *The tax imposed pursuant to the authority granted under this section on property which is located in*
212 *more than one jurisdiction shall be collected by the clerk in proportion to the value of the property*
213 *located in each locality when recorded therein.*

214 C. *No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed*
215 *authorized by this section.*

216 D. *No locality imposing the additional tax pursuant to this section shall cease to impose such tax so*
217 *long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation*
218 *project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a*
219 *transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other*
220 *evidence of debt that has not been satisfied or paid in full and that relates to a transportation project*
221 *undertaken by the Authority within the boundaries of the locality.*

222 § 58.1-811. *Exemptions.*

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

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

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

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

233 4. *To the Virginia Division of the United Daughters of the Confederacy;*

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

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

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

242 8. *To the surviving or new corporation, partnership or limited liability company upon merger or*
243 *consolidation of two or more corporations, partnerships or limited liability companies, or in a*

244 reorganization within the meaning of § 368 (a) (1) (C) and (F) of the Internal Revenue Code as
245 amended;

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

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

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

257 12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of
258 the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust
259 instrument, when no consideration has passed between the grantor and the beneficiaries; and to the
260 original beneficiaries of a trust from the trustees holding title under a deed in trust;

261 13. When the grantor is the personal representative of a decedent's estate or trustee under a will or
262 inter vivos trust of which the decedent was the settlor, other than a security trust defined in § 55-58.1,
263 and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to
264 transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive
265 provision in the trust instrument; or

266 14. When the grantor is an organization exempt from taxation under § 501 (c) (3) of the Internal
267 Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect
268 or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise
269 would be unable to afford to buy a home through conventional means, located in a county with a
270 population of not less than 28,500 and not more than 28,650 or a city with a population of not less than
271 66,000 and not more than 70,000.

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

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

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

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

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

281 5. Securing a loan made by an organization described in subdivision 14 of subsection A of this
282 section.

283 C. The ~~tax~~ taxes imposed by §§ 58.1-802 and 58.1-802.1 shall not apply to any:

284 1. Transaction described in subdivisions 6 through 13 of subsection A of this section;

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

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

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

290 5. Conveyance of real estate to the Commonwealth or any county, city, town, district or other
291 political subdivision thereof, if such political unit is required by law to reimburse the parties taxable
292 pursuant to § 58.1-802 or 58.1-802.1; or

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

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

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

300 F. The taxes imposed by §§ 58.1-801, 58.1-802, 58.1-802.1, 58.1-807, 58.1-808 and 58.1-814 shall
301 not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy
302 or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of
303 gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness,
304 natural or open space areas.

305 G. The words "trustee" or "trustees," as used in subdivision 2 of subsection A, subdivision 2 of
306 subsection B, and subdivision 6 of subsection C, include the trustees mentioned in § 57-8 and the
307 ecclesiastical officers mentioned in § 57-16.

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

311 I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement,
312 release, or other document recorded in connection with a concession pursuant to the Public-Private
313 Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

314 § 58.1-812. Payment prerequisite to recordation; exceptions; assessment and collection of tax; penalty
315 for misrepresentation.

316 A. Except as otherwise provided in this chapter, no deed, deed of trust, contract or other instrument
317 shall be admitted to record without the payment of the tax imposed thereon by law and the fee pursuant
318 to § 58.1-817, as applicable. However, after payment of the tax imposed by this chapter, *and any tax*
319 *imposed pursuant to the authority granted under § 58.1-802.1*, when an instrument is first offered for
320 recordation, such instrument may thereafter be recorded in the office of any other clerk without the
321 payment of any tax except any local recordation tax as provided in Article 1 (§ 58.1-3800 et seq.) of
322 Chapter 38 of this title. Any instrument may also be recorded free of tax and fee in the office of the
323 clerk where such instrument was originally recorded when the record containing such instrument has
324 been destroyed.

325 B. The tax on every deed, deed of trust, contract or other instrument shall be determined and
326 collected by the clerk in whose office the instrument is first offered for recordation. The clerk may
327 ascertain the consideration of the deed or of the instrument, the actual value of the property conveyed,
328 and the qualification of the deed or instrument for any exemption claimed by inquiry, affidavit,
329 declaration or other extrinsic evidence acceptable to the clerk. The fee shall be \$1 on every recorded
330 deed pursuant to § 58.1-817 and shall be collected by the clerk in whose office the deed is offered for
331 recordation.

332 C. Any person who knowingly misrepresents any of the information requested by the clerk of court
333 pursuant to this section shall be guilty of a Class 2 misdemeanor.

334 § 58.1-813. Collection of tax by Department.

335 The Department may assess and collect any tax imposed by this chapter *or imposed pursuant to the*
336 *authority granted under § 58.1-802.1*, which has remained uncollected for thirty days. The Department,
337 prior to collecting such tax, shall give notice to the clerk of court in whose office the tax was to be
338 collected. The Department may then proceed to assess and collect the unpaid tax in the same manner
339 and by the same methods used for the collection of any state tax administered by the Department.

340 Any local tax collected hereunder in conjunction with the collection of a state tax by the Department
341 shall be deposited into the state treasury. The Comptroller shall, by warrant drawn on the Treasurer of
342 Virginia, remit to the proper city or county any amounts due to such city or county.

343 § 58.1-3825.1. *Additional transient occupancy tax in certain counties and cities in Northern Virginia.*

344 *In addition to such transient occupancy taxes as are authorized by this chapter, the Counties of*
345 *Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church,*
346 *Manassas, and Manassas Park may impose an additional transient occupancy tax at the rate of 5% of*
347 *the amount of charge for the occupancy of any room or space occupied, provided that the governing*
348 *body of the city or county appropriates the revenues collected from such tax to the Northern Virginia*
349 *Transportation Authority established under § 15.2-4830.*

350 **2. That Article 22 (§ 58.1-540 et seq.) of Chapter 3 of Title 58.1 of the Code of Virginia is**
351 **repealed.**

352 **3. That each county or city that imposes taxes or fees pursuant to § 58.1-605.1, 58.1-606.1,**
353 **58.1-802.1, or 58.1-3825.1 of the Code of Virginia shall for each fiscal year in which it imposes**
354 **such taxes or fees expend or disburse for transportation purposes an amount (computed without**
355 **regard to any revenues generated in the fiscal year from such taxes or fees) that is at least equal**
356 **to the total amount expended or disbursed for transportation purposes by the county or city in its**
357 **fiscal year that began in calendar year 2005.**

358 **4. That any revenues distributed to the Northern Virginia Transportation Authority pursuant to**
359 **§ 58.1-605.1, 58.1-606.1, clause (i) of subsection B of § 58.1-802.1, or § 58.1-3825.1 of the Code of**
360 **Virginia, or collected by a locality pursuant to clause (ii) of subsection B of § 58.1-802.1 of the**
361 **Code of Virginia, shall not be used to calculate or reduce the share of local, federal, and state**
362 **revenues otherwise available to any county or city set forth in subsection A of § 58.1-605.1 or**
363 **subsection A of § 58.1-606.1 of the Code of Virginia or otherwise available to the Northern**
364 **Virginia Transportation District. Further, such revenues and moneys shall not be included in any**
365 **computation of, or formula for, a locality's ability to pay for public education, upon which**
366 **appropriations of state revenues to local governments for public education are determined.**

367 5. That no provision of this act shall become effective unless under legislation passed by a session
368 of the General Assembly held in 2006 that becomes law (i) an authority is created on or after
369 April 1, 2006, pursuant to law other than the provisions of Chapter 48.3 (§ 15.2-4831 et seq.) of
370 Title 15.2, for purposes including but not limited to controlling, operating, tolling, constructing,
371 and acquiring transportation facilities in the Hampton Roads region and each county and city that
372 is included in such authority is authorized to impose a local general retail sales tax, in addition to
373 the tax set forth under § 58.1-605, with the revenues therefrom required to be appropriated to
374 such authority and (ii) taxes collected pursuant to Chapter 25 (§ 58.1-2500 et seq.) of Title 58.1 of
375 the Code of Virginia attributable to any policy of motor vehicle insurance as defined in § 38.2-124
376 of the Code of Virginia are dedicated to the Transportation Trust Fund established under
377 § 33.1-23.03:1 of the Code of Virginia and specific nongeneral fund fees and/or taxes, in effect as
378 of January 1, 2006, are increased, or new nongeneral fund fees and/or taxes are established,
379 sufficiently to generate an annual amount of revenue equivalent to at least 15 percent of the fiscal
380 year 2007-2008 Commonwealth Transportation revenue included in Senate Bill 5002, as introduced
381 during Special Session I of the 2006 General Assembly, and which amount of revenue shall be
382 distributed annually through a transportation formula.

INTRODUCED

SB5012