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HOUSE BILL NO. 2388

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact § 58.1-3703 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 15.2-940.1, relating to local license tax incentives and grants for certain businesses.

 Patron—May

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3703 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-940.1 as follows:

§ 15.2-940.1. Grants or contractual payments to certain businesses for economic development.

Any locality may provide grants or contractual payments or benefits to any business primarily engaged in providing electronic payments processing services for financial institutions that first have a definite place of business, as defined in § 58.1-3700.1, on or after July 1, 2008, within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, and upon whose property a special improvements tax is being levied under § 15.2-4607; provided the locality determines that the economic or other benefit to the locality warrants such grants or contractual payments or benefits.

§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority.

A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed \$100 for any locality with a population greater than 50,000, \$50 for any locality with a population of 25,000 but no more than 50,000 and \$30 for any locality with a population smaller than 25,000. For purposes of this section, population may be based on the most current final population estimates of the Weldon Cooper Center for Public Service of the University of Virginia. Such governing body may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations in (i) subsection C and (ii) subsection A of § 58.1-3706, provided such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount not to exceed \$50 by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

B. Any county, city or town by ordinance may exempt in whole or in part from the license tax (i) the design, development or other creation of computer software for lease, sale or license; and (ii) private businesses and industries entering into agreements for the establishment, installation, renovation, remodeling, or construction of satellite classrooms for grades kindergarten through three on a site owned by the business or industry and leased to the school board at no costs pursuant to § 22.1-26.1; and (iii) businesses primarily engaged in providing electronic payments processing services for financial institutions that first have a definite place of business, as defined in § 58.1-3700.1, on or after July 1, 2008, within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, and upon whose property a special improvements tax is being levied under § 15.2-4607.

C. No county, city, or town shall impose a license fee or levy any license tax:

1. On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in § 58.1-3731 or as permitted by other provisions of law;

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;

3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the

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59 publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating
60 or conducting any radio or television broadcasting station or service;

61 4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at
62 wholesale at the place of manufacture;

63 5. On a person engaged in the business of severing minerals from the earth for the privilege of
64 selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712
65 and 58.1-3713;

66 6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for
67 resale unless such wholesaler has a definite place of business or store in such county, city or town. This
68 subdivision shall not be construed as prohibiting any county, city or town from imposing a local license
69 tax on a peddler at wholesale pursuant to § 58.1-3718;

70 7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of
71 such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel
72 trailer parks, lodging houses, rooming houses and boardinghouses; however, any county, city or town
73 imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the
74 provisions of this subdivision;

75 8. [Repealed.]

76 9. On or measured by receipts for management, accounting, or administrative services provided on a
77 group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural
78 cooperative association under the provisions of Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1,
79 or a member or subsidiary or affiliated association thereof, to other members of the same group. This
80 exemption shall not exempt any such corporation from such license or other tax measured by receipts
81 from outside the group;

82 10. On or measured by receipts or purchases by an entity which is a member of an affiliated group
83 of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated
84 entities from such license or other tax measured by receipts or purchases from outside the affiliated
85 group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax
86 on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the
87 fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity.
88 Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in
89 this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the
90 affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are
91 manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

92 11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title
93 or on any agent of such company;

94 12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this
95 title;

96 13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for
97 which the taxicab driver operates;

98 14. On any blind person operating a vending stand or other business enterprise under the jurisdiction
99 of the Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in
100 § 51.5-98;

101 15. [Expired.]

102 16. [Repealed.]

103 17. On an accredited religious practitioner in the practice of the religious tenets of any church or
104 religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely
105 in praying for others upon accreditation by such church or religious denomination;

106 18. (a) On or measured by receipts of a charitable nonprofit organization except to the extent the
107 organization has receipts from an unrelated trade or business the income of which is taxable under
108 Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "charitable nonprofit
109 organization" means an organization which is described in Internal Revenue Code § 501 (c) (3) and to
110 which contributions are deductible by the contributor under Internal Revenue Code § 170, except that
111 educational institutions shall be limited to schools, colleges and other similar institutions of learning.

112 (b) On or measured by gifts, contributions, and membership dues of a nonprofit organization.
113 Activities conducted for consideration which are similar to activities conducted for consideration by
114 for-profit businesses shall be presumed to be activities that are part of a business subject to licensure.
115 For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal
116 income tax under Internal Revenue Code § 501 other than charitable nonprofit organizations;

117 19. On any venture capital fund or other investment fund, except commissions and fees of such
118 funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality
119 in which the real estate is located provided the locality is otherwise authorized to tax such businesses
120 and rental of real estate;

121 20. On total assessments paid by condominium unit owners for common expenses. "Common
122 expenses" and "unit owner" have the same meanings as in § 55-79.41; or

123 21. On or measured by receipts of a qualifying transportation facility directly or indirectly owned or
124 title to which is held by the Commonwealth or any political subdivision thereof or by the United States
125 as described in § 58.1-3606.1 and developed and/or operated pursuant to a concession under the
126 Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

127 **2. That the provisions of this act shall expire on June 30, 2016.**