

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

## CHAPTER 652

*An Act to declare certain fees and taxes imposed pursuant to Chapter 896 of the Acts of Assembly of 2007 null and void and to provide for the refund of such fees and taxes to the person or entity that paid such fee or tax.*

[H 1578]

Approved March 25, 2008

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

**1.** *§ 1. Notwithstanding any contrary provision of law, the following fees and taxes imposed by the Northern Virginia Transportation Authority (Authority) pursuant to Chapter 896 of the Acts of Assembly of 2007 are declared null and void in accordance with the Supreme Court of Virginia's decision dated February 29, 2008, wherein these fees and taxes were declared to be unconstitutional:*

- 1. The congestion relief fee pursuant to § 58.1-802.1 of the Code of Virginia.*
- 2. The registration fee pursuant to § 46.2-755.1 of the Code of Virginia.*
- 3. The initial vehicle registration fee pursuant to § 46.2-755.2 of the Code of Virginia.*
- 4. The motor vehicle rental tax pursuant to § 58.1-2402.1 of the Code of Virginia.*
- 5. The transient occupancy tax pursuant to § 58.1-3825.1 of the Code of Virginia.*
- 6. The safety inspection fee pursuant to § 46.2-1167.1 of the Code of Virginia.*
- 7. The sales and use tax on motor vehicle repairs pursuant to subsection K of § 58.1-605 and subsection H of § 58.1-606 of the Code of Virginia.*

*All vendors, agencies, clerks, or other entities authorized to collect such fees and taxes shall cease collection of such fees and taxes immediately and shall remit or refund any such fees or taxes collected in accordance with the provisions of § 2.*

*§ 2. Any fees or taxes specified in § 1 that have been collected shall be returned to the person or entity that paid such fee or tax. The return of such fees and taxes shall be accomplished in the following manner:*

*For the congestion relief fee pursuant to § 58.1-802.1, any taxes previously paid to the Authority by the clerk of circuit court shall be returned to the applicable clerk no later than May 1, 2008. All taxes collected by the clerk of circuit court shall be returned by the clerks to the persons or entities that acted as settlement agent as defined in § 6.1-2.10 of the Code of Virginia within 60 days from the effective date of this act. Notwithstanding any contrary provision of law, such taxes shall be returned to the persons or entities entitled thereto by no later than 90 days from the date of receipt of such taxes from the clerk of circuit court. The settlement agent shall exercise due diligence in the return of such taxes. The applicable clerk of circuit courts shall jointly develop guidelines within 60 days of the effective date of this act for handling such taxes and make such guidelines available in the clerk's office and on the clerk's website to the settlement agents and the general public. The clerk of circuit court shall not be liable to the persons or entities entitled to receive the overpayment of such taxes, provided the clerk complies with the provisions of this act. The settlement agent shall not be liable to the persons or entities entitled to receive such taxes provided the settlement agent complies with this act, and other applicable state and federal laws governing the activities of settlement agents.*

*For the registration fee pursuant to § 46.2-755.1 and the initial vehicle registration fee pursuant to § 46.2-755.2, all vendors who collected any such fees shall pay such fees to the Department of Motor Vehicles no later than 30 business days following the enactment of this legislation. All fees collected by the Department of Motor Vehicles or its agents shall be returned by the Department of Motor Vehicles to the person or entity that paid the fee in accordance with guidelines that the Commissioner of the Department of Motor Vehicles shall develop no later than April 1, 2008. Such guidelines shall be available to the public upon request after April 1, 2008.*

*For the motor vehicle rental tax pursuant to § 58.1-2402.1, the transient occupancy tax pursuant to § 58.1-3825.1, the safety inspection fee pursuant to § 46.2-1167.1, and the sales and use tax on motor vehicle repairs pursuant to subsection K of § 58.1-605 and subsection H of § 58.1-606, all affected vendors shall pay any fees or taxes collected according to its established payment schedule but no later than 30 business days following the effective date of this act, to the designated collection agent as follows: to the Department of Motor Vehicles for the motor vehicle rental tax, the local governing body or the Authority for the transient occupancy tax, the Authority for the safety inspection fee, and the Department of Taxation for the sales and use tax on motor vehicle repairs. Subject to audit and certification by the vendor, the vendor shall be entitled to retain any fees or taxes collected that were paid by the vendor on behalf of the person or entity who is not the vendor. If any vendor retains any fees or taxes they shall be required to provide such information necessary to implement the provisions of this act.*

*Any such payments received by the collection agent shall immediately become unclaimed property as defined in § 55-210.2 of the Code of Virginia. Notwithstanding any contrary provision of law, the collection agent shall have 40 business days following the effective date of this act to remit such property to the State Treasurer. For purposes of such remittance, the collection agent shall be exempt from the abandonment period provisions of § 55-210.9 of the Code of Virginia and the requirements of § 55-210.12 of the Code of Virginia. All such property received by the State Treasurer shall be managed in accordance with the requirements of the Uniform Disposition of Unclaimed Property Act under Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia; provided, however, that the State Treasurer may establish separate guidelines to facilitate and expedite the return of such property, none of which shall require a vendor to provide identifying information about any owner of the unclaimed property except for instances where the vendor retains any portion of any taxes or fees collected.*

*§ 3. In the event the Authority has received or receives any payment of the fees and taxes listed in § 1, excluding the congestion relief fee, made directly from a vendor pursuant to the provisions of Chapter 896 of the Acts of Assembly of 2007, such payments shall be deemed unclaimed property as defined in § 55-210.2 of the Code of Virginia. Accordingly, and notwithstanding any contrary provision of law, the Authority shall have 40 business days following the effective date of this act to remit such property currently in its possession to the State Treasurer. For any property received after such period, the Authority shall have 10 business days to remit such property to the State Treasurer. For purposes of such remittance, the Authority shall be exempt from the abandonment period provisions of § 55-210.9 Code of Virginia, and the requirements of § 55-210.12 of the Code of Virginia. All such property received by the State Treasurer shall be managed in accordance with the requirements of the Uniform Disposition of Unclaimed Property Act under Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia; provided, however, that the State Treasurer may establish separate guidelines to facilitate and expedite the return of such property, none of which shall require a vendor to provide identifying information about any owner of the unclaimed property except as outlined in § 2 of this act.*

*§ 4. In the event that the clerks of the court, settlement agents, or the Department of Motor Vehicles are not able to return a portion of such fees and taxes pursuant to § 2 by September 30, 2008, such unreturned fees and taxes shall be deemed unclaimed property, as defined in § 55-210.2 of the Code of Virginia. Notwithstanding any contrary provision of law, such property shall be reported and remitted to the State Treasurer on or before November 1, 2008. For purposes of such remittance, the Department of Motor Vehicles and the settlement agents or clerks of the court shall be exempt from the abandonment period provisions of § 55-210.2:1 or 55-210.9, as applicable, of the Code of Virginia. The holder of any such funds shall otherwise comply with the provisions of the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia. All such property received by the State Treasurer shall be managed in accordance with the requirements of the Uniform Disposition of Unclaimed Property Act under Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia; provided, however, that the State Treasurer may establish separate guidelines to facilitate and expedite the return of such property.*

**2. That an emergency exists and this act is in force from its passage.**