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## HOUSE BILL NO. 1578

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation  
on March 11, 2008)

(Patron Prior to Substitute—Delegate May)

A BILL 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.

**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. Such taxes shall be considered an overpayment pursuant to § 6.1-2.13 of the Code of Virginia, and shall be handled in the same manner as any other overpayment except that the settlement agent shall have up to 90 days from the date of receipt of such taxes from the clerk of circuit court to complete the return of such overpayments to the persons entitled thereto. The clerk of circuit court shall develop guidelines within 90 days of the effective date of this act for handling such overpayments 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.

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

60 defined in § 55-210.2 of the Code of Virginia. Notwithstanding any contrary provision of law, the  
61 collection agent shall have 40 business days following the effective date of this act to remit such  
62 property to the State Treasurer. For purposes of such remittance, the collection agent shall be exempt  
63 from the abandonment period provisions of § 55-210.9 of the Code of Virginia and the requirements of  
64 § 55-210.12 of the Code of Virginia. All such property received by the State Treasurer shall be  
65 managed in accordance with the requirements of the Uniform Disposition of Unclaimed Property Act  
66 under Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia; provided, however, that the  
67 State Treasurer may establish separate guidelines to facilitate and expedite the return of such property,  
68 none of which shall require a vendor to provide identifying information about any owner of the  
69 unclaimed property except for instances where the vendor retains any portion of any taxes or fees  
70 collected.

71 § 3. In the event the Authority has received or receives any payment of the fees and taxes listed in  
72 § 1, excluding the congestion relief fee, made directly from a vendor pursuant to the provisions of  
73 Chapter 896 of the Acts of Assembly of 2007, such payments shall be deemed unclaimed property as  
74 defined in § 55-210.2 of the Code of Virginia. Accordingly, and notwithstanding any contrary provision  
75 of law, the Authority shall have 40 business days following the effective date of this act to remit such  
76 property currently in its possession to the State Treasurer. For any property received after such period,  
77 the Authority shall have 10 business days to remit such property to the State Treasurer. For purposes  
78 of such remittance, the Authority shall be exempt from the abandonment period provisions of § 55-210.9  
79 Code of Virginia, and the requirements of § 55-210.12 of the Code of Virginia. All such property  
80 received by the State Treasurer shall be managed in accordance with the requirements of the Uniform  
81 Disposition of Unclaimed Property Act under Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code  
82 of Virginia; provided, however, that the State Treasurer may establish separate guidelines to facilitate  
83 and expedite the return of such property, none of which shall require a vendor to provide identifying  
84 information about any owner of the unclaimed property except as outlined in §2 of this act.

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

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