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HOUSE BILL NO. 2285**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Finance
on February 2, 2011)

(Patron Prior to Substitute—Delegate James)

A *BILL* to amend the Code of Virginia by adding in Article 10 of Chapter 38 of Title 58.1 a section numbered 58.1-3851.1, relating to tourism zones; tax revenues from tourism project.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 10 of Chapter 38 of Title 58.1 a section numbered 58.1-3851.1 as follows:

§ 58.1-3851.1. *Entitlement to tax revenues from tourism project.*

A. 1. If a locality has established a tourism zone pursuant to § 58.1-3851, has adopted an ordinance establishing a tourism plan as determined by guidelines set forth by the Virginia Tourism Authority, and has adopted an ordinance authorizing a tourism project to meet a deficiency identified in the adopted tourism plan approved by the Virginia Tourism Authority, and the tourism project has been approved by the Secretary of Commerce and Trade for the entitlement set forth in this section, the authorized tourism project shall be entitled to one percent of the state sales tax revenues generated by transactions taking place on the premises of the authorized tourism project. The entitlement shall be contingent on the locality designating certain local sales and use tax revenues to the tourism project pursuant to subsection B and shall be subject to the conditions set forth in subsection C. The purpose of such entitlement shall be to assist the developer with a gap in project funding between the expected development costs and available debt and equity capital. The entitlement shall continue until this gap in funding is paid or refinanced. Entitled sales tax revenues shall be applied to outstanding debt used to construct and equip the authorized tourism project. The State Comptroller shall remit such sales tax revenues to the locality in which the authorized tourism project is located on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues generated by transactions taking place upon the premises of the authorized tourism project. The State Comptroller shall make such remittances to the locality, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). The locality shall provide such amounts to the local industrial development authority or any local or regional political subdivision ("the economic development authority"), the public purpose of which is to assist in economic development. No payments herein shall be made until an agreement exists between the authorized tourism project and the economic development authority.

2. The state sales tax entitlement established in subdivision 1 shall not include any sales tax revenues dedicated pursuant to § 58.1-638 or 58.1-638.1.

B. If a locality has adopted the ordinances required by subdivision A 1 to entitle an authorized tourism project to one percent of state sales tax revenues generated by transactions taking place on the premises of the authorized tourism project, the local governing body of the county or city in which the authorized tourism project is located shall also direct by ordinance that at least one percent of the local sales and use tax revenues, or other local taxes as designated by the ordinance, generated by transactions taking place on the premises of the authorized tourism project shall be applied to outstanding debt used to construct and equip the authorized tourism project. Such revenues shall be remitted in the same manner, for the same time period, and under the same conditions as the remittances paid in accordance with subsection A, *mutatis mutandis*.

C. Prior to any entitlement to tax revenues for an authorized tourism project pursuant to subsection A or B, the owner of such project shall have a minimum of 80 percent of funding for the project in place through debt or equity, enter into a performance agreement with the economic development authority or political subdivision, and enter into an agreement to pay an access fee. The access fee shall be equivalent to the one percent sales tax revenue generated by and returned to the project pursuant to subdivision A 1 and shall be collected by the locality and remitted to the economic development authority on a quarterly basis. The access fee and the sales tax entitlement shall be used to pay the debt service required to finance the construction of the authorized tourism project.

D. In the event that the total amount of sales tax entitlement and the access fee exceeds any annual debt service required to finance the construction of the authorized tourism project, such excess shall be held in an account dedicated for the project until the debt is paid in full or refinanced.

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