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SENATE BILL NO. 1193

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance on February 2, 2011)

(Patron Prior to Substitute—Senator Norment)

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. For purposes of this section, unless the context requires a different meaning:

"Economic development authority" means a local industrial development authority or a local or regional political subdivision, the public purpose of which is to assist in economic development.

"Gap financing" means debt financing to compensate for a shortfall in project funding between the expected development costs of an authorized tourism project and the debt and equity capital provided by the developer of the project.

B. 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 certified by the State Comptroller as qualifying for the entitlement to tax revenues authorized by 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 enacting an ordinance designating certain local tax revenues to the tourism project pursuant to subsection C and shall be subject to the conditions set forth in subsection D. The purpose of such entitlement shall be to assist the developer with obtaining gap financing and making payments of principal and interest thereon. The entitlement shall continue until the gap financing is paid in full. Entitled sales tax revenues shall be applied solely to payments of principal and interest on the qualified gap financing.

2. On a quarterly basis, the Tax Commissioner shall certify the amount of the entitled sales tax revenues to the Comptroller, who shall remit such revenues to the county or city in which the authorized tourism is located. The county or city shall remit the revenues to the economic development authority. No payments herein shall be made until an agreement exists between the developer of the authorized tourism project and the economic development authority.

3. 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.

C. If a locality has adopted the ordinances required by subdivision B 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 an equivalent amount of other local tax revenues as designated by the ordinance, generated by transactions taking place on the premises of the authorized tourism project shall be applied to the payment of principal and interest on the qualified gap financing. 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 B, mutatis mutandis.

D. Prior to any entitlement to tax revenues for an authorized tourism project pursuant to subsections B and C, 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 B 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 solely to make payments of principal and interest on the qualified gap funding.

E. In the event that the total amount of sales tax entitlement and the access fee exceeds any annual debt service on the qualified gap financing, such excess shall be paid to the principal of the loan until the qualified gap financing is paid in full.