

DEPARTMENT OF TAXATION

2022 Fiscal Impact Statement

1. **Patron** Ryan T. McDougale
3. **Committee** Senate Finance and Appropriations
4. **Title** Local License Taxes; Limitation of Authority

2. **Bill Number** SB 385
House of Origin:
 X **Introduced**
 Substitute
 Engrossed

Second House:
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would prohibit a locality from imposing a license tax on a director of a bank or trust company that is subject to the bank franchise tax. Under current law, localities that impose a Business Professional and Occupational License (BPOL) tax are prohibited from imposing such a tax on bank or trust company that is subject to the bank franchise tax.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

6. **Budget amendment necessary:** No.
7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)
8. **Fiscal implications:**

Administrative Costs

This bill could have an unknown impact on local administrative costs. This bill would have no impact on state administrative costs.

Revenue Impact

This bill could have an unknown impact on local revenues in localities that impose a BPOL tax. This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Localities that impose license taxes or fees

10. **Technical amendment necessary:** No.

11. Other comments:

Local License Taxes

Under current law, localities that impose a Business Professional and Occupational License (BPOL) tax are prohibited from imposing such a tax on bank or trust company that is subject to the bank franchise tax.

The BPOL tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The BPOL tax is currently imposed in all 39 cities, 48 of the 95 counties, and many of the towns of the Commonwealth. The measure or basis of the BPOL tax generally is the gross receipts of the business. However, current law allows localities to assess the BPOL tax on either gross receipts or the Virginia taxable income of a business.

Under current BPOL law, any locality may charge a license fee in an amount not to exceed:

- \$50 for any locality with a population of 25,000 or greater
- \$30 for any locality with a population smaller than 25,000

The locality may not assess a license tax on gross receipts upon which it charges a license fee. Additionally, the locality may not impose a license tax on a business with gross receipts:

- less than \$100,000 in any locality with a population greater than 50,000
- less than \$50,000 in any locality with a population of 25,000 but no more than \$50,000.

Any business with gross receipts in excess of these thresholds may be subject to license tax at a rate not to exceed the rates set forth below:

- Contracting - sixteen cents per \$100 of gross receipts
- Retail sales - twenty cents per \$100 of gross receipts
- Financial, real estate and professional services - fifty eight cents per \$100 of gross receipts
- Repair, personal and business services, and all other businesses - thirty six cents per \$100 of gross receipts.

Bank Franchise Tax

An annual Bank Franchise tax is imposed on a bank's net capital at the rate of \$1 per \$100. Counties, cities and towns are authorized to impose a local Bank Franchise Tax on banks at an amount equal to 80 percent of the state tax. A credit against the state tax is allowed for these local taxes. Therefore, banks pay a total Bank Franchise Tax of \$1 per \$100 on their net capital, but it is effectively split 80 percent to localities and 20 percent to the state.

Proposal

This bill would prohibit a locality from imposing a license tax on a director of a bank or trust company that is subject to the bank franchise tax.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

Similar Legislation

House Bill 1084 is identical to this bill.

House Bill 380 would prohibit any county, city, or town from imposing any license tax or fee, other than any severance tax levied as a license tax, in any taxable year beginning on or after January 1, 2023.

House Bill 698 would authorize localities to exempt any class of taxpayers from license taxes and fees. The bill provides that such exemption shall be made by general law and shall be uniform upon taxpayers operating in the same line of business or trade and that localities shall have discretion to determine the classes of taxpayers that shall be exempted. The bill does not apply to any severance tax that is levied as a license tax.

cc : Secretary of Finance

Date: 1/20/2022 SK
SB385F161