

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 58.1-3703 of the Code of Virginia, relating to limitations on the*
 3 *business, professional and occupational license tax authority.*

4 [H 303]
 5 Approved

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

7 **1. That § 58.1-3703 of the Code of Virginia is amended and reenacted as follows:**

8 § 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of
 9 authority.

10 A. The governing body of any county, city or town may charge a fee for issuing a license in an
 11 amount not to exceed \$100 for any locality with a population greater than 50,000, fifty dollars for any
 12 locality with a population of 25,000 but no more than 50,000 and thirty dollars for any locality with a
 13 population smaller than 25,000. Such governing body may levy and provide for the assessment and
 14 collection of county, city or town license taxes on businesses, trades, professions, occupations and
 15 callings and upon the persons, firms and corporations engaged therein within the county, city or town
 16 subject to the limitations in (i) subsection C of this section and (ii) subsection A of § 58.1-3706,
 17 provided such tax shall not be assessed and collected on any amount of gross receipts of each business
 18 upon which a license fee is charged. Any county, city or town with a population greater than 50,000
 19 shall reduce the fee to an amount not to exceed fifty dollars by January 1, 2000. The ordinance
 20 imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

21 B. Any county, city or town by ordinance may exempt in whole or in part from the license tax the
 22 design, development or other creation of computer software for lease, sale or license.

23 C. No county, city, or town shall impose a license fee or levy any license tax:

24 1. On any public service corporation or any motor carrier, common carrier, or other carrier of
 25 passengers or property formerly certified by the Interstate Commerce Commission or presently registered
 26 for insurance purposes with the Surface Transportation Board of the United States Department of
 27 Transportation, Federal Highway Administration, except as provided in § 58.1-3731 or as permitted by
 28 other provisions of law;

29 2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the
 30 planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and
 31 sheds of such county, city or town, provided such products are grown or produced by the person
 32 offering them for sale;

33 3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other
 34 publication issued daily or regularly at average intervals not exceeding three months, provided the
 35 publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating
 36 or conducting any radio or television broadcasting station or service;

37 4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at
 38 wholesale at the place of manufacture;

39 5. On a person engaged in the business of severing minerals from the earth for the privilege of
 40 selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712
 41 and 58.1-3713;

42 6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for
 43 resale unless such wholesaler has a definite place of business or store in such county, city or town. This
 44 subdivision shall not be construed as prohibiting any county, city or town from imposing a local license
 45 tax on a peddler at wholesale pursuant to § 58.1-3718;

46 7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of
 47 such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel
 48 trailer parks, lodging houses, rooming houses and boardinghouses; however, any county, city or town
 49 imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the
 50 provisions of this subdivision;

51 8. [Repealed.]

52 9. On or measured by receipts for management, accounting, or administrative services provided on a
 53 group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural
 54 cooperative association under the provisions of Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1,
 55 or a member or subsidiary or affiliated association thereof, to other members of the same group. This
 56 exemption shall not exempt any such corporation from such license or other tax measured by receipts

57 from outside the group;

58 10. On or measured by receipts or purchases by an entity which is a member of an affiliated group
59 of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated
60 entities from such license or other tax measured by receipts or purchases from outside the affiliated
61 group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax
62 on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the
63 fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity.
64 Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in
65 this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the
66 affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are
67 manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

68 11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title
69 or on any agent of such company;

70 12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this
71 title;

72 13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for
73 which the taxicab driver operates;

74 14. On any blind person operating a vending stand or other business enterprise under the jurisdiction
75 of the Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in
76 § 63.1-164;

77 15. [Expired.]

78 16. [Repealed.]

79 17. On an accredited religious practitioner in the practice of the religious tenets of any church or
80 religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely
81 in praying for others upon accreditation by such church or religious denomination;

82 18. (a) On or measured by receipts of a charitable nonprofit organization except to the extent the
83 organization has receipts from an unrelated trade or business the income of which is taxable under
84 Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "charitable nonprofit
85 organization" means an organization which is described in Internal Revenue Code § 501 (c) (3) and to
86 which contributions are deductible by the contributor under Internal Revenue Code § 170, except that
87 educational institutions shall be limited to schools, colleges and other similar institutions of learning.

88 (b) On or measured by gifts, contributions, and membership dues of a nonprofit organization.
89 Activities conducted for consideration which are similar to activities conducted for consideration by
90 for-profit businesses shall be presumed to be activities that are part of a business subject to licensure.
91 For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal
92 income tax under Internal Revenue Code § 501 other than charitable nonprofit organizations; ~~or~~

93 19. On any venture capital fund or other investment fund, except commissions and fees of such
94 funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality
95 in which the real estate is located provided the locality is otherwise authorized to tax such businesses
96 and rental of real estate; *or*

97 20. *On total assessments paid by condominium unit owners for common expenses. "Common*
98 *expenses" and "unit owner" have the same meanings as in § 55-79.41.*