

**DEPARTMENT OF TAXATION
2002 Fiscal Impact Statement**

1. **Patron:** McDonnell

2. **Bill Number:** HB 303

3. **Committee:** Passed House and Senate

House of Origin:

Introduced

Substitute

Engrossed

4. **Title:** Business, Professional and Occupational License Taxes; Condominium Associations

Second House:

In Committee

Substitute

Enrolled

5. Summary/Purpose:

This bill would provide an exemption from the local Business, Professional and Occupational License (BPOL) tax to condominium associations for assessments paid by condominium unit owners for common expenses.

Under current law, if a condominium association is a business subject to the BPOL tax, assessments received from condominium unit owners for common expenses are included in the association's taxable gross receipts for BPOL tax purposes.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not Available (See line 8).

7. **Budget amendment necessary:** No.

8. Fiscal implications:

This bill would have no impact on state revenue. Localities that impose the BPOL tax would experience a decrease in revenues to the extent that condominium associations that are businesses subject to the BPOL tax would be able to exclude gross receipts received from condominium unit owners for common expenses from their taxable measure. The revenue impact will vary in each locality based on the number of businesses that qualify for this exemption, the amount of gross receipts for each business, and the applicable rates under current law.

9. Specific agency or political subdivisions affected:

All localities that impose the BPOL tax

10. **Technical amendment necessary:** None.

11. Other comments:

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 measure or basis of the BPOL tax generally is the gross receipts of the business.

Under current law, as they are not considered businesses, condominium associations are typically not subject to the BPOL tax. In a recent ruling, TAX upheld a local assessment of BPOL taxes made to a condominium association that conducted several business activities. The condominium association did not qualify for the BPOL exemption afforded to certain nonprofit organizations.

The condominium association in question acted as a compensated rental agent for its unit owners and also acquired units and rented them to the public. The Commissioner of the Revenue determined that based on these activities, the condominium association was a business, and like other businesses, must include all monies that it receives (that are not otherwise exempted by law), including assessments and fees charged by the association to the unit owners for common expenses, in its taxable gross receipts.

This bill would equalize the local license tax treatment of all condominium associations with respect to assessments paid by unit owners for common expenses.

HB 647 would provide that any residential cooperative association shall not be deemed to be a business for any state and local purposes, to the extent that it collects payments from residents of the cooperative.

c: Secretary of Finance

