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# VIRGINIA STATE BUDGET

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2015 Session

## Budget Bill - HB1400 (Introduced)

Bill Order » Part 3: Miscellaneous » Item 3-5.13

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### Item 3-5.13

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#### § 3-5.13 TRANSIENT OCCUPANCY TAXES ON ACCOMMODATIONS

A. Notwithstanding any provisions to the contrary, the tax or taxes imposed on transient rentals pursuant to §§ [58.1-1742](#), [58.1-3819](#), [58.1-3819.1](#), [58.1-3820](#), [58.1-3821](#), [58.1-3822](#), [58.1-3823](#), [58.1-3824](#), [58.1-3825](#), [58.1-3825.2](#), [58.1-3840](#), and [58.1-3842](#), Code of Virginia shall be imposed on the total room charge paid by the ultimate consumer for the use or possession of the room or space occupied in a retail sale.

B. For the purposes of this section, the following definitions shall be applicable:

1. "Accommodations" means any room, space, or unit for which tax is imposed on the use or possession of such accommodations pursuant to the Code provisions listed in subsection A of this section.
2. "Accommodations fee" means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.
3. "Accommodations intermediary" means any person other than an accommodations provider that facilitates the sale of an accommodation, acts as the merchant of record, charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of or the right to use accommodations by a customer.
4. "Accommodations provider" means any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.
5. "Affiliate" means the same as such term is defined in § [58.1-439.18](#), Code of Virginia.
6. "Discount room charge" means the full amount charged by the accommodations provider to the accommodations intermediary (or an affiliate thereof) for furnishing the accommodation.
7. "Retail sale" means a sale to any person for any purpose other than for resale.
8. "Room charge" means the full retail price charged to the customer by the accommodations intermediary for the use of the accommodations, including any accommodations fee before taxes. The room charge shall be determined in accordance with [23VAC10-210-730](#) and related rulings of the Department on the same.

C. In the case of the retail sale of any accommodations in which an accommodations intermediary facilitates the sale, (i) the accommodations provider shall collect from the accommodations intermediary the tax imposed pursuant to this article, computed on the discount charge, and shall be liable for and shall remit the same to the locality, and (ii) the accommodations intermediary shall collect the tax imposed pursuant to this article, computed on the room charge, and shall (a) be liable for and shall remit the portion of such tax that relates to the accommodations fee to the locality and (b) shall be liable for and shall remit the portion of such tax that relates to

*the discount charge to the accommodations provider for purposes of payment of the tax under clause (i). In the case of the retail sale of any accommodations in which an accommodations intermediary facilitates the sale, the accommodations intermediary shall be deemed under this article as a facility making a retail sale of an accommodation.*

*An accommodations intermediary shall not be liable for taxes under this section related to any discount charges that are remitted to an accommodations provider, but which are not then remitted to the locality by the accommodations provider. An accommodations intermediary shall not be liable for taxes under this article solely because it collected such taxes using the tax rate for the applicable locality as set forth in a table maintained by the Department of Taxation on its website, which tax rate was incorrectly reported on the Department's website at the time of the retail sale.*

*In any retail sale of any accommodations, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the person renting the accommodations to the accommodations intermediary, recoverable at law in the same manner as other debts.*

*D. The Department of Taxation shall develop and make publicly available guidelines for purposes of developing processes and procedures to implement this section. The development, issuance, and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq., Code of Virginia).*

*E. The Department of Taxation shall maintain on its website a current table indicating the rate of the local transient occupancy tax imposed by each county, city, and town of the Commonwealth. Every county, city, and town that imposes a transient occupancy tax shall, no later than seven days after making a change to the rate of the tax, provide written notice of the same to the Tax Commissioner to allow the Department to update the table.*

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