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3 SENATE FINANCE & TAXATION GENERAL FUND COMMITTEE SUBSTITUTE  
4 FOR HB155

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9 SYNOPSIS: This bill would provide specific provisions  
10 concerning the payment and collection of state and  
11 local taxes on the leasing and rental of tangible  
12 personal property. The bill would apply  
13 retroactively to all open tax periods.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to privilege or license taxes on the  
20 leasing or rental of tangible personal property; to amend  
21 Section 40-12-222 of the Code of Alabama 1975, to make  
22 specific provisions concerning the payment and collection of  
23 state and local lease taxes; and to provide that this act is  
24 declaratory of existing law and shall apply retroactively to  
25 all open tax periods.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 40-12-222 of the Code of Alabama  
2 1975, is amended to read as follows:

3           "§40-12-222.

4           "(a) In addition to all other taxes now imposed by  
5 law, there is hereby levied and shall be collected as herein  
6 provided a privilege or license tax on each person engaging or  
7 continuing within this state in the business of leasing or  
8 renting tangible personal property at the rate of four percent  
9 of the gross proceeds derived by the lessor from the lease or  
10 rental of tangible personal property; provided, that the said  
11 privilege or license tax on each person engaging or continuing  
12 within this state in the business of leasing or renting any  
13 automotive vehicle or truck trailer, semitrailer, or house  
14 trailer shall be at the rate of one and one-half percent of  
15 the gross proceeds derived by the lessor from the lease or  
16 rental of such automotive vehicle or truck trailer,  
17 semitrailer, or house trailer; provided further, that the tax  
18 levied in this article shall not apply to any leasing or  
19 rental, as lessor, by the state, or any municipality or county  
20 in the state, or any public corporation organized under the  
21 laws of the state, including, without limiting the generality  
22 of the foregoing, any corporation organized under the  
23 provisions of Sections 11-54-80 through 11-54-101; provided  
24 further, that the privilege or license tax on each person or  
25 firm engaging or continuing within this state in the business  
26 of the leasing and rental of linens and garments shall be at  
27 the rate of two percent of the gross proceeds derived by the

1 lessor from the lease or rental of ~~such~~ the linens and  
2 garments.

3 "(b) Notwithstanding the above, nothing shall  
4 prohibit a lessor subject to a state or local privilege or  
5 license tax from passing ~~such~~ the amounts on to a lessee by  
6 adding ~~such~~ the taxes to the leasing price or otherwise~~;~~  
7 provided, however, that all ~~such~~ amounts passed on to the  
8 lessee shall be includable in the gross proceeds derived from  
9 the lease of tangible personal property which shall be subject  
10 to the privilege or license tax owed by the lessor.

11 "Provided, however, the authority to pass on ~~such~~  
12 the amounts of the privilege or license tax granted in this  
13 subsection shall not apply to the leasing or renting of  
14 tangible personal property to the State of Alabama~~;~~ or a  
15 municipality~~;~~ or county in the state, unless the flat amount  
16 collected by the lessor includes both the tax and the leasing  
17 fee.

18 "(c) The state and applicable local privilege or  
19 license taxes applicable to a lease or rental transaction to  
20 which a lessor is subject shall be determined as follows:

21 "(1) Except for automotive vehicles as provided in  
22 subdivision (2), the following shall apply:

23 "a. When tangible personal property is delivered to  
24 the lessee by the lessor or his or her agent, the privilege or  
25 license tax levy shall be determined based on where the  
26 property is delivered.

1           "b. When tangible personal property is picked up at  
2 the lessor's rental location by the lessee or his or her  
3 agent, the privilege or license tax levy shall be determined  
4 based on the rental location.

5           "(2) For automotive vehicles required to be  
6 registered pursuant to Section 32-6-61, each lease payment is  
7 considered a separate lease transaction and occurs in the  
8 location as provided below and the following rules shall  
9 apply:

10           "a. The privilege or license tax levy on any  
11 nonrecurring gross proceeds due at the inception of the lease  
12 to a new motor vehicle dealer or a used motor vehicle dealer  
13 licensed pursuant to Section 40-12-391, including any  
14 capitalized cost reduction or other fee that is retained by  
15 the dealer in connection with its initiation of the lease,  
16 shall be determined based on the location of the dealer where  
17 the lease was initiated.

18           "b. The privilege or license tax levy on gross  
19 proceeds other than those described in paragraph a., including  
20 the initial lease or rental payment and all subsequent lease  
21 or rental payments, shall be determined based on the garage  
22 address of the lessee as provided to the county licensing  
23 official. The lessor is considered to be engaging or  
24 continuing within this state in the business of leasing or  
25 renting tangible personal property when its lessee has a  
26 garage address within this state."

1                   Section 2. The provisions of this act are  
2                   declaratory of existing law and shall apply retroactively to  
3                   all open tax years and tax periods for which a preliminary  
4                   assessment or final assessment could be entered pursuant to  
5                   Section 40-2A-7, Code of Alabama 1975, or any successor  
6                   general or local law. No assessments of a privilege or license  
7                   tax on the leasing or rental of tangible personal property  
8                   shall be entered and no refunds shall be due or issued  
9                   pursuant to the rental tax sourcing clarifications provided in  
10                  subsection (c) of Section 40-12-222, Code of Alabama 1975, as  
11                  amended by this act, with respect to those periods prior to  
12                  the effective date of this act.

13                  Section 3. This act shall become effective the first  
14                  day of the third month following its passage and approval by  
15                  the Governor, or its otherwise becoming law.