

1 HB155  
2 197645-3  
3 By Representative Clouse  
4 RFD: Ways and Means General Fund  
5 First Read: 19-MAR-19

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

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 Relating to privilege or license taxes on the  
19 leasing or rental of tangible personal property; to amend  
20 Section 40-12-222 of the Code of Alabama 1975, to make  
21 specific provisions concerning the payment and collection of  
22 state and local lease taxes; and to provide that this act is  
23 declaratory of existing law and shall apply retroactively to  
24 all open tax periods.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 40-12-222 of the Code of Alabama  
27 1975, is amended to read as follows:

1           "§40-12-222.

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

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

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

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

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

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

25           "b. When tangible personal property is picked up at  
26 the lessor's rental location, the privilege or license tax  
27 levy shall be determined based on the rental location.

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

5           "a. The privilege or license tax levy for the  
6           initial lease payment and other charges due at the inception  
7           of the lease shall be determined in the same manner as  
8           provided in subdivision (1).

9           "b. The privilege or license tax levy for all  
10           subsequent lease payments shall be determined based on the  
11           resident address of the lessee as provided to the county  
12           licensing official. The lessor is considered to be engaging or  
13           continuing within this state in the business of leasing or  
14           renting tangible personal property when a lessee has a  
15           resident address within this state."

16           Section 2. The provisions of this act are  
17           declaratory of existing law and shall apply retroactively to  
18           all open tax periods.

19           Section 3. This act shall become effective  
20           immediately following its passage and approval by the  
21           Governor, or its otherwise becoming law.