

**DEPARTMENT OF TAXATION  
2009 Fiscal Impact Statement**

1. **Patron** John C. Watkins

3. **Committee** Senate Finance

4. **Title** Merchants' Capital Tax; Daily Rental  
Property Tax

2. **Bill Number** SB 1419

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would deem that contracts for the rental of tangible personal property that allow both the lessor and the lessee to terminate the contract at any time to be short term rental contracts for purposes of determining whether the lessor is engaged in a short term rental business subject to the Daily Rental Property Tax component of the Merchants' Capital Tax.

Under current law, the Merchants' Capital Tax applies to inventory of stock on hand, daily rental vehicles and daily rental property. Daily rental property is subject to the Daily Rental Property Tax component of the Merchants' Capital Tax and generally includes all tangible personal property held for rental and owned by a short term rental business. A short term rental business is one that derives 80% or more of its gross rental receipts from transactions involving rental periods of 92 consecutive days or less. Leased tangible personal property that is not owned by a short term rental business is generally subject to the Tangible Personal Property Tax.

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 revenues. This bill would result in an impact to local revenues for those localities that impose the Daily Rental Property Tax component of the Merchants' Capital Tax to the extent that this bill would shift the taxation of property that is currently subject to the Tangible Personal Property Tax based on its value to the Daily Rental Property Tax which is based on the gross proceeds from the rental of the property. The impact would vary by locality depending on the rate of the locality's Tangible Personal Property Tax, the rate of its Daily Rental Property Tax, the value of the property and the gross proceeds from its rental.

**9. Specific agency or political subdivisions affected:**

All localities that impose a Daily Rental Property Tax

**10. Technical amendment necessary:** No.

**11. Other comments:**

Generally

The Merchants' Capital Tax is a local option property tax imposed on the inventory, daily rental passenger cars, daily rental property, and all other personal property of merchants except for tangible personal property not for sale as merchandise. The tax is currently imposed by 46 counties and 6 towns. Localities that impose the tax are prohibited from imposing a Business, Professional, and Occupational License (BPOL) tax on merchants. Additionally, the tax must be imposed at a rate that does not exceed the rate or ratio that was in effect in that locality on January 1, 1978.

Under the Merchants' Capital Tax, localities may impose a Daily Rental Property Tax that does not exceed 1 percent of the gross proceeds of a business engaged in a short term rental business. For purposes of this tax, a person is engaged in the short-term rental business if not less than 80% of the gross rental receipts of such business in any year are from transactions involving rental periods of 92 consecutive days or less. The 92-day period includes all extensions and renewals to the same person or a person affiliated with the lessor.

Proposal

This bill would deem rental contracts authorizing both the lessor and the lessee the right to terminate at any time, regardless of whether the equipment is rented for a period that exceeds 92 days, to be short term rental contracts.

The effective date of this bill is not specified.

Similar Legislation

**House Bill 2472** is identical to this bill.

cc : Secretary of Finance

Date: 1/25/2009 KP  
DLAS File Name: SB1419F161