

**DEPARTMENT OF TAXATION
2008 Fiscal Impact Statement**

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| <p>1. Patron Emmett W. Hanger, Jr.</p> <p>3. Committee Senate Finance</p> <p>4. Title Retail Sales and Use Tax, Local License Tax, and Local Transient Occupancy Tax; Short Term Real Property Rental Businesses</p> | <p>2. Bill Number <u>SB 471</u></p> <p>House of Origin:
<u> X </u> Introduced
<u> </u> Substitute
<u> </u> Engrossed</p> <p>Second House:
<u> </u> In Committee
<u> </u> Substitute
<u> </u> Enrolled</p> |
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5. Summary/Purpose:

This bill would clarify that the short-term rental to transients of dwellings used in any short-term real property rental business is subject to the Retail Sales and Use Tax, the local Business, Professional and Occupational License (“BPOL”) Tax, and the local Transient Occupancy Tax. This bill would define “short-term real property rental business” as “renting or leasing for a fee or other charge a dwelling or any portion thereof for occupancy by transients for fewer than 30 consecutive days, provided that (i) advertising is used for purposes of renting or leasing the dwelling to transients who are not known to the owner or lessor (or any agent thereof) of the dwelling, or (i) such occupancy of the dwelling occurs within 30 days of another such occupancy of the dwelling or such occupancy of the dwelling occurs within the same calendar year as three or more other such occupancies of the dwelling.”

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:

TAX would incur no administrative costs in implementing this bill. The state and local revenue impact of this bill is not available. However, as it is a clarification, this bill is not expected to have significant impact on state or local revenues.

9. Specific agency or political subdivisions affected:

TAX
All localities

10. Technical amendment necessary: No.

11. Other comments:

Retail Sales and Use Tax

For purposes of the Retail Sales and Use Tax, current law defines “retail sale” to specifically include “the sale or charges for any room or rooms, lodgings or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping ground, club, or any other place in which rooms, lodging, space or accommodations are regularly furnished to transients for a consideration.”

Local License Tax

Current law authorizes the governing body of any locality to impose a fee for issuing a business, professional, or occupational license. Localities with populations that exceed 25,000 are authorized to impose a maximum license fee of \$50. Localities with a population of fewer than 25,000 may impose a fee up to \$30.

Under current law, limitations are placed on the individuals or organizations on whom a local license tax may be levied. Localities are prohibited from imposing a local license tax on any person whose gross receipts from a business, profession or occupation subject to licensure are less than 1) \$100,000 for localities with populations greater than 50,000; and 2) \$50,000 for localities with populations of at least 25,000, but not greater than 50,000. Businesses with gross receipts that are in excess of that identified for the particular population may be subject to taxes at a different rate, depending upon the class under which the business falls. The following rates apply to the categories listed:

- Contractors: 16 cents per \$100 of gross receipts.
- Retail Sales: 20 cents per \$100 of gross receipts.
- Financial, real estate, professional services: 58 cents per \$100 of gross receipts.
- Repair, personal, and business services, and other services not listed: 36 cents per \$100 of gross receipts.

Localities are prohibited from imposing a license fee on owners of real property who are engaged in the business of renting out that property, unless the property is a hotel, motel, motor lodge, auto court, tourist court, travel trailer park, lodging house, rooming house, or boardinghouse.

Transient Occupancy Tax

Under current law, any county may impose a transient occupancy tax upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax, however, does not apply to rooms rented on a continuous occupancy by the same individual or group for 30 or more continuous days.

Any city or town having general taxing powers established by charter may also impose a transient occupancy tax.

Proposal

This bill would clarify that the short-term rental to transients of dwellings used in any short-term real property rental business is subject to the Retail Sales and Use Tax, the local Business, Professional and Occupational License (“BPOL”) Tax, and the local Transient Occupancy Tax.

This bill would define “short-term real property rental business” as “renting or leasing for a fee or other charge a dwelling or any portion thereof for occupancy by transients for fewer than 30 consecutive days, provided that (i) advertising is used for purposes of renting or leasing the dwelling to transients who are not known to the owner or lessor (or any agent thereof) of the dwelling, or (i) such occupancy of the dwelling occurs within 30 days of another such occupancy of the dwelling or such occupancy of the dwelling occurs within the same calendar year as three or more other such occupancies of the dwelling.”

This bill would provide that any person engaged in the short-term real property rental business will be deemed to be engaged in business for purposes of the BPOL tax. This bill would also clarify that localities are authorized to impose a license fee upon individuals engaged in the business of renting dwellings used in a short-term real property rental businesses. Additionally, this bill would clarify that individuals engaged in short-term real property rental businesses are to be classified under the repair, personal and business services category. These individuals would, therefore, be subject to a local license tax at a maximum rate of 36 cents per \$100 of gross receipts if they had gross receipts of more than \$100,000 in a locality with a population that exceeded 50,000.

This bill would provide that any use of any real property as a facility for occupancy by transients for a fee or other charge, including any dwelling used in the short-term real property rental business that is subject to the transient occupancy tax shall not be considered a residential use for the purposes of any zoning ordinance or restrictive covenant.

This bill would clarify that all types of transient accommodations including bed and breakfast establishments, corporate housing providers, and short-term lessors of apartments will be taxed in the same manner as more traditional forms of transient accommodations such as hotels, motels, etc.

cc : Secretary of Finance

Date: 1/13/2008 KP
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