

# DEPARTMENT OF TAXATION

## 2010 Fiscal Impact Statement

1. **Patron** Matthew J. Lohr

2. **Bill Number** HB 1301

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Short-Term Rental Property Tax; Exempts  
Businesses with Gross Proceeds of \$25,000  
or Less

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would authorize local government bodies to provide an exemption from the Short-Term Rental Property Tax for those persons or entities engaged in the short term rental business whose gross proceeds from all short-term rental property transactions entered into in the previous year did not exceed \$25,000. The bill would also permit local governing bodies to exempt from the short-term rental property tax any person who has not previously rented short-term rental property or a beginning business if the Commissioner of the Revenue determines the gross proceeds of all short-term rental property transactions are not likely to exceed \$25,000 for the respective year.

Under current law, the governing bodies of localities are authorized to levy the Short-Term Rental Property Tax on the gross proceeds arising from rentals of any person engaged in the short-term rental business.

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 unknown local revenue loss for those localities that currently impose the Short-Term Rental Property Tax, to the extent that they elect to exempt qualifying businesses from the Short-Term Rental Property Tax.

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

All localities that impose the Short-Term Rental Property Tax

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

## 11. Other comments:

### Current Law

Currently, local governing bodies are authorized to levy the Short-Term Rental Property Tax on the gross proceeds arising from rentals of any person engaged in the short-term rental business in lieu of the business tangible personal property tax. The law deems a person to be engaged in the short-term rental business if: 1) at least 80% of the gross rental receipts of the business during the preceding calendar year arose from transactions involving the rental of short-term rental property, other than heavy equipment property, for periods of 92 consecutive days or less; or 2) at least 60% of the gross receipts of the business in the preceding year arose from transactions involving the rental of heavy equipment property for periods of 270 consecutive days or less. The rate of the tax depends upon whether the business meets the 80% short-term rental property requirement, as set forth above, in which case localities may impose the tax at a maximum rate of 1%, or if the business falls under the 60% heavy equipment rule, in which case, the tax can be imposed at a maximum rate of 1.5%. "Heavy equipment property" is defined as rental property of an industry that is described under code 532412 or 532490 of the 2002 North American Industry Classification System as published by the United States Census Bureau, excluding office furniture, office equipment, and programmable computer equipment and peripherals. While short-term rental property includes all tangible personal property held for rental and owned by a person engaged in the short-term rental business, trailers and other tangible personal property required to be licensed or registered with the Department of Motor Vehicles, Department of Game and Inland Fisheries, or Department of Aviation are excluded from this definition.

In localities in which the Short-Term Rental Property Tax is imposed, individuals who are engaged in the short-term rental business must annually file with the Commissioner of the Revenue an application for a certificate of registration. Once registered, they must collect the tax from each lessee of rental property at the time of rental and transmit a quarterly return to the Commissioner of the Revenue of their locality, by the fifteenth day following the end of each calendar quarter. The tax must be paid not later than the last day of the month following the end of the calendar quarter, and lessors who fail to meet these requirements will be subject to penalties.

Individuals engaged in the short-term rental business are prohibited from collecting the tax for rentals by the Commonwealth, any political subdivision of the Commonwealth or the United States; or rentals of durable medical equipment.

### Proposal

This bill would authorize local government bodies to provide an exemption from the Short-Term Rental Property Tax for those persons or entities engaged in the short term rental business whose gross proceeds from all short-term rental property transactions entered into in the previous year did not exceed \$25,000. "Gross proceeds" is defined as the total amount charged to each person for the rental of short-term rental property, excluding any state and local sales tax paid.

The bill would also permit local governing bodies to exempt from the short-term rental property tax any person who has not previously rented short-term rental property or a beginning business if 1) the person files an application for a certificate of registration, 2) the Commissioner of the Revenue determines that the person likely will be engaged in the short-term rental business for the respective year; and 3) the Commissioner of the Revenue determines that, based on a reasonable estimate provided by the person, the gross proceeds of all short-term rental property transactions are not likely to exceed \$25,000 for the respective year.

The effective date of this bill is not specified.

#### Similar Legislation

**Senate Bill 662** is identical to this bill.

**Senate Bill 355** would classify short-term rental property as merchants' capital, subject to either the merchants' capital tax or the short-term rental property tax, but not both, and would prohibit a locality from levying both a short-term rental property tax and a BPOL tax on merchants engaged in the business of short-term property rentals.

cc : Secretary of Finance

Date: 2/1/2010 KP  
DLAS File Name: HB1301F161.doc