

2020 Regular Session

HOUSE BILL NO. 688

BY REPRESENTATIVE STAGNI

TAX/SALES & USE: To provide for the collection of local sales and use tax and local automobile rental tax on the lease or rental of a motor vehicle or automobile from lease facilitators

1 AN ACT

2 To enact R.S. 47:340(G)(12) and (J) and 340.1, relative to lease facilitators; to provide for
3 the collection of local sales and use taxes and local automobile rental taxes from
4 lease facilitators; to authorize and require the Louisiana Sales and Use Tax
5 Commission for Remote Sellers to collect local sales and use taxes and local
6 automobile taxes on the lease or rental of motor vehicles or automobiles from lease
7 facilitators; to provide for registration; to provide for definitions; to provide for
8 certain requirements and limitations; to provide for effectiveness; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:340(G)(12) and (J) and 340.1 are hereby enacted to read as
12 follows:

13 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;
14 powers

15 * * *

16 G. The commission shall have the power, duty, and authority:

17 * * *

1 automobile in or for delivery into Louisiana subject to local sales and use taxation
2 or local automobile rental taxation.

3 (4) "Marketplace lessor" means a person who leases or rents or offers for
4 lease or rent a motor vehicle or automobile in or for delivery into Louisiana, subject
5 to local sales and use taxation or local automobile rental taxation, through a
6 marketplace that is owned, operated, or controlled by a lease facilitator.

7 (5) "Motor vehicle" means any automobile, truck, truck-tractor, or
8 motorcycle, propelled by any source of energy other than muscular power.

9 (6) "Person" shall have the same meaning provided for in R.S. 47:301(8).

10 B. Applicability. The provisions of this Section shall only apply to local
11 sales and use taxes on the lease or rental of motor vehicles or automobiles in or for
12 delivery into Louisiana levied by a political subdivision and to the local tax on
13 automobile rentals levied by R.S. 47:551.

14 C. Duties of Lease Facilitators. A lease facilitator shall be considered the
15 dealer for each lease or rental facilitated or transacted through a marketplace offering
16 for lease or rental motor vehicles or automobiles in or for delivery into Louisiana,
17 on behalf of the marketplace lessor. A lease facilitator shall be responsible for all
18 obligations imposed on dealers under this Subtitle and shall keep records and
19 information required by the commission to ensure proper collection and remittance
20 of local sales and use tax and local automobile rental tax, including but not limited
21 to, exemption certificates and information from the marketplace lessor that may be
22 used to determine the taxability of the lease or rental transaction.

23 D. Collection of Taxes and Criteria. (1) A lease facilitator shall collect and
24 remit local sales and use taxes and local automobile rental taxes on all taxable leases
25 and rentals of motor vehicles or automobiles in or for delivery into Louisiana that the
26 lease facilitator transacts on its own behalf or facilitates or promotes on behalf of a
27 marketplace lessor regardless of whether the marketplace lessor is a dealer, has
28 registered as a dealer in Louisiana, or otherwise would have been required to collect

1 local sales and use tax or local automobile rental tax if the lease or rental had not
2 been facilitated or promoted by the lease facilitator.

3 (2) The requirement of Paragraph (1) of this Subsection shall only apply to
4 a lease facilitator that is a dealer, or that facilitates a lease or rental of a motor
5 vehicle or automobile in or for delivery into Louisiana, if during the previous or
6 current calendar year either of the following criteria is met:

7 (a) The lease facilitator's gross revenue from leases or rentals of motor
8 vehicles or automobiles in or for delivery into Louisiana, exceeded one hundred
9 thousand dollars.

10 (b) The lease facilitator facilitated leases or rentals of motor vehicles or
11 automobiles in or for delivery into Louisiana in two hundred or more separate
12 transactions.

13 (3) In determining whether either of the criteria of Paragraph (2) of this
14 Subsection has been met, all taxable leases or rentals described in Paragraph (1) of
15 this Subsection shall be considered. However, a lease facilitator may voluntarily
16 register for and collect local sales and use tax and local automobile rental tax as a
17 dealer regardless of whether the lease facilitator meets either of the criteria
18 established in Paragraph (D)(2) of this Subsection.

19 E. Application and Collection. No later than thirty calendar days after
20 surpassing either of the criteria of Paragraph (D)(2) of this Section, a lease facilitator
21 shall submit an application for approval to collect local sales and use tax and local
22 automobile rental tax to the commission on a form prescribed by the commission.
23 A lease facilitator shall commence collection of local sales and use tax and local
24 automobile rental tax, no later than sixty days after surpassing either of the criteria
25 of Paragraph (D)(2) of this Section.

26 F. Administration of Requirements. (1) The lease facilitator shall be
27 responsible for the determination of taxability of a lease or rental transaction of a
28 motor vehicle or automobile in or for delivery into Louisiana transacted on a
29 marketplace. The lease facilitator shall collect and remit to the commission local

1 sales and use tax based on the applicable local rates and bases, and local automobile
2 rental tax based on the applicable rates and bases.

3 (2) The local sales and use tax and local automobile rental tax required to be
4 collected by the lease facilitator shall be due and payable monthly. For the purpose
5 of ascertaining the amount of tax payable, all lease facilitators shall transmit to the
6 commission returns on forms prescribed, prepared, and furnished by the commission
7 showing the gross proceeds from any lease or rental and gross payments from any
8 lease or rental arising from all taxable transactions during the preceding calendar
9 month, on or before the twentieth day of the month following the month in which the
10 tax is required to be collected. The returns shall show any further information the
11 commission may require to correctly compute and collect the tax levied. At the time
12 of making the return required in this section every lease facilitator shall compute and
13 remit to the commission the required tax due for the preceding calendar month, and
14 failure to remit the tax shall cause the tax to become delinquent. In the event the tax
15 becomes delinquent, interest and penalties imposed by Part IV of Chapter 18 of this
16 Subtitle shall be an obligation to be assessed, collected, and enforced against the
17 lease facilitator in the same manner as if it were a tax due.

18 G. Rules. The commission may establish specific procedures and
19 requirements concerning lease facilitators and collection and remittance of local
20 sales and use tax and local automobile rental tax through rules promulgated in
21 accordance with the Administrative Procedure Act.

22 Section 2. This Act shall become effective on January 1, 2021.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 688 Original

2020 Regular Session

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Abstract: Requires lease facilitators to collect and remit local sales and use tax and local automobile rental taxes on a lease or rental of a motor vehicle or automobile in or for delivery into La. to the La. Sales and Use Tax Remote Sellers Commission.

Present law establishes the sales and use tax levied by political subdivisions includes a tax on the lease or rental of tangible personal property within the state.

Present law establishes an automobile rental tax. The state levies a 2.5% tax on gross proceeds derived from automobile lease and rentals and locals levy at .5% tax on gross proceeds derived from automobile lease and rentals.

Proposed law expands present law by collecting local sales and use taxes on the lease or rental of motor vehicles and automobiles in or for delivery into La. from a lease facilitator.

Proposed law defines the terms commission, lease facilitator, marketplace, marketplace lessor moto vehicle, and person.

Present law establishes the La. Sales and Use Tax Commission for Remote Sellers (commission) as a commission within the Department of Revenue (DOR) for the purpose of administration and collection of sales and use tax imposed by the state and political subdivisions with respect to remote sales.

Proposed law authorizes and mandates the commission to collect the sales and use tax on the lease or rental of motor vehicles and automobiles in or for delivery into La. from a lease facilitator.

Proposed law requires leases facilitators to be responsible for all obligations imposed on dealers, and requires lease facilitators to keep sufficient records as required by the commission to ensure property collection.

Proposed law requires a lease facilitator to collect local sales and use taxes and local automobile rental taxes on all taxable lease and rentals on motor vehicles in or for delivery into La. and remit the collections to the commission.

Proposed law requires lease facilitator collect these taxes when the lease facilitator transacts on its own behalf or on behalf of a marketplace lessor even if the marketplace lessor is not considered a dealer under La. law, has registered as a dealer, or otherwise would have been required to collect the tax if the lease or rental had not been facilitated by the lease facilitator.

Proposed law provides lease facilitators must register with the commission and must collect and remit local sales and use tax on all taxable remote sales for delivery into La. which the lease facilitator transaction on its own behalf.

Proposed law provides that after a lease facilitator has more than \$100,000 in gross revenues from leases or rentals of motor vehicles or automobiles or more than 200 lease or rental transactions in the state, then a lease facilitator is required to register with the commission.

Proposed law permits lease facilitators who do not meet either of the transaction or monetary thresholds to voluntarily register with the commission.

Proposed law provides the marketplace facilitator shall have the responsibility for determining the taxability of leases and rentals on motor vehicles or automobiles in or for delivery into La.

Proposed law requires the lease facilitators file a monthly return and remit the tax collected to the commission.

Proposed law authorizes the commission to promulgate rules related to lease facilitators in accordance with the Administrative Procedures Act.

Effective Jan. 1, 2021.

(Adds R.S. 47:340(G)(12) and (J) and 340.1)