

The House Committee on Ways and Means offers the following substitute to HB 378:

A BILL TO BE ENTITLED  
AN ACT

To amend Article 5 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to excise taxes on rental motor vehicles, so as to revise the definition of rental motor vehicle concern; to define the term "rental motor vehicle facilitator"; to require the collection and remittance of taxes by certain persons that facilitate certain rentals of motor vehicles; to provide for conditions and limitations; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 5 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to excise taxes on rental motor vehicles, is amended by revising Code Section 48-13-91, relating to definitions regarding excise taxes on rental motor vehicles, as follows:

"48-13-91.

As used in this article, the term:

(1) 'Rental charge' means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.

(2) 'Rental motor vehicle' means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver regardless of whether such vehicle is licensed in this state.

(3) 'Rental motor vehicle concern' means a:

(A) A person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value; or

(B) A dealer as defined in subparagraph (M.3) of paragraph (8) of Code Section 48-8-2 that is required to collect and remit the tax imposed by Article 1 of Chapter 8 of this

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title for acting as a marketplace facilitator as such term is defined in paragraph (18.1) of Code Section 48-8-2 to facilitate the rental or lease of five or more rental motor vehicles in total to the public for value on behalf of itself or one or more persons or legal entities combined.

(4) 'Rental motor vehicle facilitator' means a rental motor vehicle concern as defined in subparagraph (B) of paragraph (3) of this Code section."

## **SECTION 2.**

Said article is further amended in Code Section 48-13-93, relating to the levy and collection of excise taxes upon motor vehicle rental charges, expenditure of taxes, and purpose, by revising paragraph (1) of subsection (a) as follows:

"(a)(1) The governing authority of each municipality in this state may levy and collect an excise tax upon the rental charge collected by a rental motor vehicle concern whether on its own behalf or on behalf of another person when such charge constitutes a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of this title. Within the territorial limits of the special district located within the county, each county in this state may levy and collect an excise tax upon the rental charge collected by a rental motor vehicle concern whether on its own behalf or on behalf of another person when such charge constitutes a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of this title. The tax levied pursuant to this article shall be levied or collected at the rate of 3 percent of the rental charges. The tax levied pursuant to this article shall be imposed only at the time when and place where a customer pays sales tax with respect to the rental charge. The customer who pays a rental charge that is subject to a tax levied as provided in this article shall be liable for the tax. The tax shall be paid by the customer to the rental motor vehicle concern. The tax shall be a debt of the customer to the rental motor vehicle concern until it is paid and shall be recoverable at law in the same manner as authorized for the recovery of other debts. The rental motor vehicle concern collecting the tax shall remit the tax to the governing authority imposing the tax, and the tax remitted shall be a credit against the tax imposed on the rental motor vehicle concern. Every rental motor vehicle concern subject to a tax levied as provided in this article shall be liable for the tax at the applicable rate on the charges actually collected or the amount of taxes collected from the customers, whichever is greater."

## **SECTION 3.**

Said article is further amended by adding a new Code section to read as follows:

"48-13-93.1.

(a) A rental motor vehicle facilitator shall constitute the rental motor vehicle concern with respect to the transactions taxable pursuant to this article that it facilitates on behalf of another person. All taxes levied or imposed by this article on transactions facilitated by a rental motor vehicle facilitator shall be paid by the purchaser to the rental motor vehicle facilitator.

(b) The rental motor vehicle facilitator shall remit the taxes in the manners provided for in this article and, when received by the taxing authority, such taxes shall be credited against the taxes imposed by this article on rental charges.

(c) Each rental motor vehicle facilitator shall be liable for the full amount of taxes levied or imposed by this article on its transactions or the amount of tax collected by such rental motor vehicle facilitator from all purchasers on all such transactions, whichever is greater.

(d) A transaction that is not taxable to the purchaser shall not be taxable to the rental motor vehicle facilitator. Taxes collected and remitted by a rental motor vehicle facilitator pursuant to this article shall be subject to the credit otherwise granted by this article for like taxes previously paid in another state.

(e) This Code section shall not be construed to require a duplication in the payment of any tax.

(f) A person shall not be obligated to collect and remit or be liable for the taxes levied or imposed by this article on any transaction for which its rental motor vehicle facilitator is obligated and liable.

(g) A taxing authority shall only audit the rental motor vehicle facilitator for sales made by it on behalf of another person except to the extent the rental motor vehicle facilitator seeks relief through subsection (h) of this Code section.

(h) A rental motor vehicle facilitator is relieved of liability for failure to collect and remit the correct amount of tax imposed by this article to the extent that the rental motor vehicle facilitator demonstrates to the satisfaction of the taxing authority that the error was due to insufficient or incorrect information given to the rental motor vehicle facilitator by the person on whose behalf the sale was facilitated and the rental motor vehicle facilitator made a reasonable effort to obtain correct and sufficient information from such person; provided, however, that this subsection shall not apply if the rental motor vehicle facilitator and such person are related members as defined in Code Section 48-7-28.3. If a rental motor vehicle facilitator is relieved of liability under this subsection, the person on whose behalf the sale was facilitated shall be solely liable for the amount of uncollected tax."

95 This Act shall become effective on July 1, 2020, and shall apply to all taxable leases or  
96 rentals occurring on or after July 1, 2020.

98 All laws and parts of laws in conflict with this Act are repealed.