

SENATE COMMITTEE AMENDMENTS

2017 Regular Session

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Reengrossed House Bill No. 601 by Representative Stokes

1 AMENDMENT NO. 1

2 On page 1, line 4, after "enact" delete the remainder of the line and insert the following:

3 "R.S. 36:459(A), R.S. 47:337.86(E)(3), 337.87(C)(1)(d), 337.102, and Chapter 2-E
4 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised
5 of R.S. 47:339 and 340, relative"

6 AMENDMENT NO. 2

7 On page 1, line 11, after "the board;" and before "to provide" insert the following:

8 "to establish the Louisiana Sales and Use Tax Commission for Remote Sellers for
9 purposes of uniformity and efficiency of collection and administration of state and
10 local sales and use tax relative to remote sellers; to provide for membership of the
11 commission; to provide for duties and powers of the commission;"

12 AMENDMENT NO. 3

13 On page 1, between lines 12 and 13, insert the following:

14 "Section 1. R.S. 36:459(A) is hereby enacted to read as follows:

15 §459. Transfer of agencies or their powers to Department of Revenue

16
17 A. The Louisiana Sales and Use Tax Commission for Remote Sellers is
18 placed within the Department of Revenue and shall exercise and perform its powers,
19 duties, functions, and responsibilities as provided for agencies transferred in
20 accordance with the provisions of R.S. 36:801.1. The secretary and the Department
21 of Revenue shall in no way interfere with, review, or change the decisions or
22 operations of the agency so placed.

23 * * *

24 AMENDMENT NO. 4

25 On page 1, at the beginning of line 13, delete "Section 1." and insert "Section 2."

26 AMENDMENT NO. 5

27 On page 1, at the end of line 15, after "337.87(C)(1)(d)" delete the remainder of the line and
28 insert a comma "," and insert the following:

29 "337.102, and Chapter 2-E of Subtitle II of Title 47 of the Louisiana Revised Statutes
30 of 1950, comprised of R.S. 47:339 and 340 are"

31 AMENDMENT NO. 6

32 On page 12, between lines 23 and 24, insert the following:

33 "CHAPTER 2-E. LOUISIANA SALES AND USE TAX COMMISSION
34 FOR REMOTE SELLERS

1 §339. Louisiana Sales and Use Tax Commission for Remote Sellers

2 A. The Louisiana Sales and Use Tax Commission for Remote Sellers,
3 hereinafter referred to as "commission", is created and established within the
4 Department of Revenue for the administration and collection of the sales and use tax
5 imposed by the state and political subdivisions with respect to remote sales. The
6 commission shall:

7 (1) Promote, to the extent feasible and in accordance with law, uniformity
8 and simplicity in sales and use tax compliance in Louisiana, while reserving to
9 political subdivisions their authority to impose and collect sales and use taxes as
10 provided in Article VI, Section 29 of the Constitution of Louisiana and other laws.

11 (2) With respect to any federal law as may be enacted by the United States
12 Congress authorizing states to require remote sellers, except those remote sellers
13 who qualify for the small seller exceptions as may be provided by federal law, to
14 serve as the single entity in Louisiana to require remote sellers and their designated
15 agents to collect from customers and remit to the commission sales and use taxes on
16 remote sales sourced to Louisiana on the uniform Louisiana state and local sales and
17 use tax base established by Louisiana law.

18 (a) Provide the minimum tax administration, collection, and payment
19 requirements required by federal law with respect to the collection and remittance
20 of sales and use tax imposed on remote sales.

21 (b) Establish a fiscal agent solely for the purpose of remote seller
22 remittances.

23 B. As used in this Chapter, unless the context clearly indicates otherwise, the
24 following terms shall be defined as follows:

25 (1) "Commission" means the Louisiana Sales and Use Tax Commission for
26 Remote Sellers.

27 (2) "Executive director" means the executive director of the commission.
28 The executive director of the Louisiana Uniform Local Sales Tax Board shall serve
29 ex-officio as executive director of the commission unless otherwise directed by the
30 commission.

31 (3) "Federal law" shall mean any federal law as may be enacted by the
32 United States Congress authorizing states to require remote sellers, except those
33 remote sellers who meet the small seller exceptions of federal law, to collect and
34 remit sales and use taxes on remote sales sourced to Louisiana.

35 (4) "Local taxing authority" and "local" means those parishes, municipalities,
36 special tax districts, political subdivisions, parish governing bodies, and school
37 boards who are authorized under the provisions of the Constitution of Louisiana, the
38 Louisiana Revised Statutes of 1950 and jurisprudence to levy and collect local sales
39 and use taxes.

40 (5) The term "non-remote sale" means a sale that is not a remote sale.

41 (6) The term "non-remote seller" means a seller that is not a remote seller.

42 (7) The term "person" shall have the meaning as defined by federal law for
43 purposes of remote sales but shall retain the meaning as provided in R.S. 47:301(8)
44 for all other purposes in state and local sales and use tax law.

45 (8) "Sales and use taxes" and "taxes" shall mean the sales and use taxes
46 levied by the state of Louisiana under the provisions of Title 47 of the Louisiana
47 Revised Statutes of 1950 and the sales and use taxes levied by local taxing

1 authorities in Louisiana under the provisions of the Constitution of Louisiana,
 2 statutory laws authorizing the imposition of such taxes, and local sales and use tax
 3 ordinances.

4 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; Members;
 5 Powers

6 A. The duties of the commission shall be exercised and discharged under the
 7 supervision and direction of a commission with voting power and a non-voting
 8 executive director, all of whom shall be appointed and shall serve as provided in this
 9 Section:

10 B. The commission shall be comprised of eight voting commissioners as
 11 follows:

12 (1) The secretary of the Department of Revenue.

13 (2) Three employees or other officials of the Department of Revenue as
 14 appointed by the secretary.

15 (3) The members of the Louisiana Uniform Local Sales Tax Board appointed
 16 as provided in R.S. 47:337.102(B)(1)(e) through (h). In the absence of such a
 17 member, the chairman of the Louisiana Uniform Local Sales Tax Board may appoint
 18 a designee to attend commission meetings and vote on their behalf. A person
 19 eligible to serve as a designee shall be a permanent member of the board.

20 C. The commission shall elect its own chairman, vice chairman, and such
 21 other officers as its rules may direct.

22 D.(1) The commission shall meet as often and at such locations as directed
 23 by the chairman, who shall provide timely notice to the public as to the time and
 24 location of each meeting. A majority of the commission membership shall constitute
 25 a quorum for the transaction of business and no action shall be taken by the
 26 commission unless approved by a majority vote of the members present.

27 (2) The domicile of the commission shall be East Baton Rouge Parish. The
 28 commission may meet and conduct commission business at other locations within
 29 the state of Louisiana as it may from time to time determine, after timely notice to
 30 those persons who may be affected by the change in location.

31 E.(1) The commission shall select and employ an executive director who
 32 shall serve at the pleasure of the commission. The executive director, under and
 33 subject to the direct supervision and control of the commission, shall direct the
 34 day-to-day administration and enforcement of all laws, rules, policies, and
 35 regulations which it is the duty of the commission to administer and enforce. The
 36 executive director shall receive compensation and benefits as may be determined and
 37 fixed by the commission. The executive director may employ professional and
 38 administrative staff and set their rate of compensation and benefits, plus necessary
 39 expenses incurred in performing their duties, as may be approved by the commission.
 40 The commission may enter into a joint services agreement with any other agency,
 41 board, or political subdivision concerning the performance of its functions.

42 (2) The commission shall monthly remit monies, less any refunds and
 43 amounts retained for expenses as defined in Paragraph (3) of this Subsection, to the
 44 appropriate taxing jurisdiction by electronic funds to the designated bank account of
 45 that jurisdiction on or before the tenth business day of the month following the
 46 month of collection. Records of gross collections, refunds, and amounts retained for
 47 expenses shall be made accessible to the respective jurisdiction on a monthly basis.

48 (3) The commission and its operations shall be funded by an amount equal
 49 to actual expenses incurred which amount shall not exceed one percent of the total

1 amount of state and local sales and use tax collected on remote sales by the
2 commission. Subject to the limitations provided in this Paragraph, this amount shall
3 be retained by the commission on a monthly basis from current collections of state
4 and local sales tax on remote sales as collected by the commission prior to monthly
5 distribution to the state and local collectors. The commission shall have no authority
6 to retain these monies unless and until a federal law authorizing states to require
7 remote sellers and their agents to collect state and local sales and use taxes on their
8 sales in each state has been enacted and becomes effective.

9 F. The commission shall develop rules and procedures in accordance with
10 the Administrative Procedure Act with respect to implementation of the provisions
11 of this Chapter.

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

13 (1) To serve as the single entity within the state of Louisiana responsible for
14 all state and local sales and use tax administration, return processing, and audits for
15 remote sales sourced to Louisiana.

16 (2) To serve as the central, single agency to which remote sellers shall make
17 state and local sales and use tax remittances.

18 (3) To assign and direct a single audit of remote sellers for the state and all
19 local taxing authorities.

20 (4) To serve as the single state of Louisiana agency to represent both state
21 and local taxing authorities in taking appropriate action to enable Louisiana to
22 participate in programs designed to allow Louisiana to more efficiently enforce and
23 collect state and local sales and use taxes on sales made by remote sellers.

24 (5) To conduct administrative hearings as requested by aggrieved remote
25 sellers, administer oaths, and make adjustments to assessments when justified by the
26 facts and the law, and render decisions following such hearings.

27 (6) To require remote sellers to register with the commission.

28 (7) To provide to the single tax collector for each parish an annual report of
29 revenues collected and distributed for the previous calendar year, which report shall
30 be provided on or before June first of each year.

31 (8) To enter into agreements to waive or suspend prescription with remote
32 sellers as to state and local taxes.

33 (9) With the consent of the affected local taxing authority, to issue notices
34 of intent to assess, notices of assessments, enforce collection of local sales and use
35 taxes by distraint and sale, and institute summary proceedings or ordinary
36 proceedings for collection of local taxes.

37 (10) To sue and be sued.

38 H. Nothing in this Chapter shall be construed to:

39 (1) Authorize or require any expenditure unless and until a federal law
40 authorizing states to require remote sellers and their agents to collect state and local
41 sales and use taxes on their sales in each state has been enacted and becomes
42 effective.

43 (2) Limit the right of local taxing authorities to levy and collect sales and use
44 taxes as provided in the Constitution of Louisiana, statutory law, and jurisprudence.

