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FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/12
 LAST UPDATED 02/13/12 HB 109/aHBIC

SPONSOR Gonzales

SHORT TITLE Vehicle Terminal Leasing Adjustment Clauses SB _____

ANALYST Boerner

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Attorney General’s Office (AGO)
 General Services Department (GSD)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to House Bill 109 implements the TRD language suggestion to state “...a lease transaction does not create a sale or security interest in a motor vehicle or trailer merely because the lease contains a terminal rental adjustment clause that provides that the rental price is permitted or required to be adjusted up or down in respect to the amount of money realized upon the sale of the motor vehicle or trailer.”

Synopsis of Original Bill

This bill enacts a new section of the Motor Vehicle Code which clarifies that terminal rental adjustment agreement clauses do not create a sale or security interest in a leased vehicle.

SIGNIFICANT LEGAL ISSUES

The AGO states that Terminal Rental Adjustment Clauses (TRAC) provide a fixed purchase price at the end of the vehicle lease. The consumer is required to pay any deficiency if they

choose not to buy the vehicle and the net sales price (or value) is less than the fixed price included in the lease. These clauses are normally used in commercial leases for fleets of motor vehicles and provide incentive to maintain the vehicle in good condition (to hold value). This bill clarifies that a lease transaction containing a TRAC clause does not provide a sale or security interest in the vehicle merely because of the TRAC condition.

Numerous states have similar or identical laws including Pennsylvania, California and Kentucky

FISCAL IMPACTS

The TRD reports no fiscal impacts.

TECHNICAL ISSUES

The TRD reports that the sentence on page 1 line 21 through page 2 line 4 is unclear and should be rewritten. It appears that the word “merely” or “solely” should be inserted before “because” on page 1 line 25. The bill does not clarify which party does not have an interest because the lease contains a terminal rental adjustment clause. It is also unclear whether any gross receipts tax liability on the leasing stream would still apply as the bill only references tax and fees imposed at the time the vehicle is titled.

CEB/lj:svb