

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Local Business Taxes

**Issue:** Local Fees – Agricultural Land

**Bill Number(s):** CS/HB203-Proposed Amendment/SB1190

**Entire Bill**

**Partial Bill:**

**Sponsor(s):** Representative Beshears/Senator Brandes

**Month/Year Impact Begins:** July 1, 2013

**Date of Analysis:** February 28, 2013

**Section 1: Narrative**

**a. Current Law :** Section 163.3162, F.S., reads that a county may not exercise any of its power to adopt or enforce any ordinance, resolution, regulation, rule, or policy that will prohibit, restrict, regulate or otherwise limit an activity of a bona fide farm operation on agricultural land if that activity is regulated through implement best management practices, interim measures, or regulations adopted by the Department of Environmental Protection, Department of Agriculture and Consumer Services, or a water management district, or by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

Section 163.3162 defines that a Governmental entity does not include water control districts or a special district created by special act for water management purposes.

**b. Proposed Change:** Amends the statute to read that a governmental entity may not exercise any of its power to adopt or enforce any ordinance, resolution, regulation, rule, or policy that will prohibit, restrict, regulate or otherwise limit an activity of a bona fide farm operation on agricultural land, if that activity is regulated through implemented best management practices, interim measures, or regulations adopted by the Department of Environmental Protection, Department of Agriculture and Consumer Services, or a water management district, or by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency. Creates section (b) that prohibits a governmental entity from charging a fee on a specific agricultural activity that is regulated as such. Defines that a Governmental entity does not include water control districts, water management district or a special district created by special act for water management purposes.

**Section 2: Description of Data and Sources**

Department of State data

December 2012 GR REC

Discussions with the Florida Stormwater Association

**Section 3: Methodology (Include Assumptions and Attach Details)**

Issues:

- Adding water management district to the list of entities excluded from the definition of “governmental entity”. Believe this is clarifying language and should have no impact.
- Broadening the local governments that may not enforce regulations on agricultural land to include municipalities – No impact.
- Prohibits governmental entities from charging a fee on specific agricultural activities that are managed under best practices...etc. Survey to municipalities and counties had zero respondents that charged a fee on agricultural activities. There have been a few instances where a permitting fee was sought to be enforced but in the biggest case, the cost was prohibitive to allow the activity. Some smaller instances have been reported – Negative insignificant

**Section 4: Proposed Fiscal Impact**

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14			(Insignificant)	(Insignificant)		
2014-15			(Insignificant)	(Insignificant)		
2015-16			(Insignificant)	(Insignificant)		
2016-17			(Insignificant)	(Insignificant)		
2017-18			(Insignificant)	(Insignificant)		

**List of affected Trust Funds:** Local Fees

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Local Business Taxes

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**Bill Number(s):** CS/HB203-Proposed Amendment/SB1190

**Section 5: Consensus Estimate (Adopted:3/1/2013 )** The conference adopted the middle estimate.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14					(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
2014-15					(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
2015-16					(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
2016-17					(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
2017-18					(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Insurance Premium Tax

**Issue:** New Markets

**Bill Number(s):** HB515/SB98

**Entire Bill**

**Partial Bill:**

**Sponsor(s):** Representative Oliva / Senator Richter

**Month/Year Impact Begins:** July 2015

**Date of Analysis:** 2/25/2013

**Section 1: Narrative**

**a. Current Law:** 288.9914 F.S., Department of Economic Opportunity in consultation with Enterprise Florida shall designate industries which are eligible to receive low-income community investments. The industries must have the greatest potential to create strong positive impacts on or benefits to the state, regional and local economies. However, DEO may allow investments in additional industries if it determines that such investments would have a positive impact on a community. DEO may not approve more than \$163.8 million in tax credits during the existence of the program, or more than \$33.6 million in a single state fiscal year.

The tax credit itself is equal to 39% of the purchase price of the investment and may be claimed as follows:

1. For the tax year, in which the qualified equity investment is initially made and the subsequent tax year, the credit will be zero
2. For the third credit allowance date, the credit will be 7% of the purchase price for the qualified equity investment
3. For the fourth, fifth, sixth and seventh credit allowance dates, the credit will be 8% of the purchase price for the qualified equity investment

**b. Proposed Change:** Amends 288.9914(3)(c) to increase the total credit cap from \$163.8 million to \$263.8m and the single fiscal year limit of \$33.6 million to \$53.6m.

**Section 2: Description of Data and Sources**

DOR New Market Program Data

**Section 3: Methodology (Include Assumptions and Attach Details)**

An additional \$256.4 million (\$100m/0.39) over the current level of investment would reach the credit cap outlined in HB 515 / SB 98.

**Section 4: Proposed Fiscal Impact**

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14			(\$0m)			
2014-15			(\$0m)			
2015-16			(\$17.9m)			
2016-17			(\$20.0m)			
2017-18			(\$20.0m)			

**List of affected Trust Funds:** Insurance Premium Grouping

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Insurance Premium Tax

**Issue:** New Markets

**Bill Number(s):** HB515/SB98

**Section 5: Consensus Estimate (Adopted:03/01/2013)** The conference adopted the middle estimate with (\$20m) recurring.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14	0.0	(20.0)					0.0	(20.0)
2014-15	0.0	(20.0)					0.0	(20.0)
2015-16	(17.9)	(20.0)					(17.9)	(20.0)
2016-17	(20.0)	(20.0)					(20.0)	(20.0)
2017-18	(20.0)	(20.0)					(20.0)	(20.0)

HB 515 / SB 98 - New Markets

	A	B	C	D	E
1		<b>Current</b>	<b>Proposed</b>	<b>Difference</b>	
2	<b>Cumulative Cap</b>	\$163.8	\$263.8	\$100.0	
3	<b>FY Cap</b>	\$33.6	\$53.6	\$20.0	
4					
5		<b>Investment</b>	<b>Return</b>	<b>Credit</b>	
6	<b>2013-14</b>	\$256.4	0%	\$0.0	
7	<b>2014-15</b>		0%	\$0.0	
8	<b>2015-16</b>		7%	\$17.9	
9	<b>2016-17</b>		8%	\$20.5	\$20.0
10	<b>2017-18</b>		8%	\$20.5	\$20.0
11	<b>2018-19</b>		8%	\$20.5	\$20.0
12	<b>2019-20</b>		8%	\$20.5	\$20.0

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Corporate Filing Fees

**Issue:** Corporate Filing Fees-Restructure

**Bill Number(s):**

**Entire Bill**

**Partial Bill:**

**Sponsor(s):**

**Month/Year Impact Begins:** July 1, 2014

**Date of Analysis:** February 28, 2013

**Section 1: Narrative**

**a. Current Law:** All corporations doing business in Florida must file annually with the Department of State. Business entities must pay various fees including fees for annual reports, initial filings and for filing late.

**b. Proposed Change:** Changes various filing fees for for profit Corporations, non-profit Corporations, Limited Liability Companies (LLCs), Limited Partnerships (LPs), and General Partnerships (GP).

**Section 2: Description of Data and Sources**

Department of State data

December 2012 GR REC

**Section 3: Methodology (Include Assumptions and Attach Details)**

Assumed most fees are spread out throughout the year except for annual reports.

Assumed growth based on December 2012 REC GR and FEEC (11/2012).

**Section 4: Proposed Fiscal Impact**

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14						
2014-15			(\$9.2m)	(\$9.2m)		
2015-16			(\$8.9m)	(\$8.9m)		
2016-17			(\$8.6m)	(\$8.6m)		
2017-18			(\$8.4m)	(\$8.4m)		

**List of affected Trust Funds:** General Revenue

**Section 5: Consensus Estimate (Adopted: 3/1/2013)** The conference adopted the proposed estimate with a 2% reduction in the number of non-profit filers and (\$9.9m) recurring for FY13-14.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14	0.0	(9.9)					0.0	(9.9)
2014-15	(9.5)	(9.5)					(9.5)	(9.5)
2015-16	(9.2)	(9.2)					(9.2)	(9.2)
2016-17	(8.9)	(8.9)					(8.9)	(8.9)
2017-18	(8.7)	(8.7)					(8.7)	(8.7)

% Late Filers		Average late filers	Nonprofit	GP
Corps	4.0%		4,681	101
LP	2.2%	New Fee	\$200	\$200
LLCs	3.8%	Est 2012 impact	\$ 936,271	\$ 20,194
	3.3%			

2012 Revenue	Corporations (profit)	LLCs	Corporations (nonprofit)	LPs	GP	Total	Actual CY 2012
Initial Filings	\$ 7,637,490	\$ 21,181,250	\$ 877,660	\$ 1,312,000	\$ 1,150	\$ 31,009,550	
Annual Report	\$ 95,137,200	\$ 68,739,248	\$ 8,616,099	\$ 9,654,000	\$ 75,850	\$ 182,222,396	
Late/Reinstate Fee	\$ 19,578,400	\$ 9,336,100	\$ 671,825	\$ 302,400	\$ -	\$ 29,888,725	
Other	\$ 6,250,816	\$ 12,141,935	\$ 874,475	\$ 183,645	\$ -	\$ 19,450,871	
<b>Total</b>	\$ 128,603,906	\$ 111,398,533	\$ 11,040,059	\$ 11,452,045	\$ 77,000	<b>\$ 262,571,543</b>	\$275,400,000 95.3%

2012 Revenue Impact	Corporations (profit)	LLCs	Corporations (nonprofit)	LPs	GP	Total	FY's impacted
Initial Filings	\$ -	\$ (9,319,750)	\$ -	\$ (1,220,160)	\$ 460	\$ (10,539,450)	FY 11/12 and 12/13
Annual Report	\$ -	\$ 5,573,453	\$ 12,484,551	\$ (6,757,800)	\$ 379,250	\$ 11,679,454	FY 11/12
Late/Reinstate Fee	\$ (8,210,800)	\$ 1,341,100	\$ 1,800,046	\$ (110,400)	\$ 20,194	\$ (5,159,860)	FY11/12 and 12/13
Other	\$ (16,328)	\$ (5,994,080)	\$ (25,305)	\$ (50,645)	\$ -	\$ (6,086,358)	FY11/12 and 12/13
<b>Total</b>	\$ (8,227,128)	\$ (8,399,278)	\$ 14,259,292	\$ (8,139,005)	\$ 399,904	<b>\$ (10,106,214)</b>	

	December 2012 REC GR forecast		Impact %		
	Base Fee	Late/Reinstate Fee	Base	Late/reinstate	Effective 07/1/2014
11/12	\$ 233.9	\$ 41.9			
12/13	\$ 236.3	\$ 37.6	-2.1%	-13.7%	\$ (10.1)
13/14	\$ 239.2	\$ 33.6	-2.1%	-13.7%	\$ (9.6)
14/15	\$ 243.6	\$ 30.1	-2.1%	-13.7%	\$ (9.2)
15/16	\$ 248.6	\$ 27.0	-2.1%	-13.7%	\$ (8.9)
16/17	\$ 253.6	\$ 24.2	-2.1%	-13.7%	\$ (8.6)
17/18	\$ 257.6	\$ 21.7	-2.1%	-13.7%	\$ (8.4)

## REVENUE ESTIMATING CONFERENCE

**Tax:** Sales and Use Tax

**Issue:** Remote Sellers

**Bill Number(s):** CS/SB316

**Entire Bill**

**Partial Bill:** Sections 4, 5, 7 & 8

**Sponsor(s):** Senator Detert

**Month/Year Impact Begins:** July 2013

**Date of Analysis:** 2/20/2013

### Section 1: Narrative

#### a. Current Law:

**Section 4.** Section 212.0596, F.S., generally imposes tax on a “mail order sale,” which is defined in section 212.0596(1), F.S., as “a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property.” Section 212.0596(2), F.S., requires dealers doing mail order business in Florida to collect and remit Florida sales tax if the dealer has nexus with Florida.

**Section 5.** Section 212.06(2), F.S., defines the term “dealer.”

#### b. Proposed Change:

**Section 4.** Amends section 212.0596, F.S. to include the use of the Internet in the definition of “mail order sale” as means of placing an order. Deletes the phrase “a corporation,” allowing a dealer to be any type of entity, rather than being limited to corporations. Includes representatives of a dealer in this state, in addition to agents, to cause a dealer to have nexus for mail order sales. Deletes the requirements to collect tax when 1) the property is delivered in Florida in fulfillment of a contract entered in Florida under conflict of law rules when a person in Florida accepted an offer by ordering the property, 2) a dealer purposefully or systematically exploits the Florida market by specified types of media, 3) when taxing authority is based on reciprocity with another state’s jurisdiction, and 4) the dealer is subject to service of process in Florida.

Requires tax to be collected if a person, other than a person acting in the capacity of a common carrier, has substantial nexus with Florida, and one of the following activities occurs:

1. Sells a similar line of products as the dealer and does so under the same or similar business name;
2. Maintains an office, distribution facility, warehouse, storage place, or similar place of business in this state to facilitate delivery of property or services sold by the dealer to dealer’s customers;
3. Uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the dealer.
4. Delivers, installs, assembles, or performs maintenance of services for the dealer’s customers within this state;
5. Facilitates the dealer’s delivery of property to customers in this state by allowing the dealer’s customers to pick up property sold by the person at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in this state; or
6. Conducts any other activities in this state that are significantly associated with the dealer’s ability to establish and maintain a market in the state for the dealer’s sales.

The change requiring the dealer to have substantial nexus and to engage in one of the enumerated activities deletes the power of the state to levy and collect tax from a dealer having nexus through an affiliate. Provides that notwithstanding other provisions of law, a dealer is not required to collect and remit tax unless the dealer has a physical presence in this state or the activities conducted in this state on the dealer’s behalf are significantly associated with the dealer’s ability to establish and maintain a market for sales in the state.

Establishes a rebuttable presumption that every dealer, as defined in section 212.06, F.S., who makes a mail order sale is also subject to the power of this state to levy and collect the tax imposed by Chapter 212, F.S., if the dealer enters into an agreement with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by link on an Internet website, an in-person oral presentation, telemarketing, or otherwise, to the dealer, if the cumulative gross receipts from sales by the dealer to customers in this state who are referred to the dealer by all residents with this type of an agreement with the dealer is in excess of \$10,000 during the 12-month period immediately

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Sales and Use Tax  
**Issue:** Remote Sellers  
**Bill Number(s):** CS/SB316

before the rebuttable presumption arose.

Establishes that the presumption may be rebutted by the submission of evidence proving the residents with whom the dealer has an agreement did not engage in any activity within this state that has significantly associated with the dealer’s ability to establish or maintain the dealer’s market in Florida during the 12 months immediately before the rebuttable presumption arose. The evidence may consist of sworn affidavits, obtained and given in good faith, from each resident whom the dealer has an agreement attesting that he or she did not engage in any solicitation in this state on the dealer’s behalf during the previous year.

**Section 5.** Amends section 212.06(2), F.S. Paragraph (f) is amended to define the term “dealer” to mean any person who maintains or uses within Florida an office, distributing house, salesroom, house, warehouse, or other place of business operated by any person other than a common carrier acting in the capacity of a common carrier. Other paragraphs are slightly modified to improve readability, but the meaning is not affected.

**Section 7.** Establishes (1) The Department of Revenue shall develop a tracking system, in consultation with the REC, to determine the amount of sales tax remitted by out-of-state dealer who would otherwise not be required to collect and remit sales taxes in the absence of the changes to s. 212.0596 in this bill. Establishes a deadline of February 1 of each year for the Department of Revenue to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which sets forth the amount of sales tax collected and remitted by such dealers in the previous calendar year and the methodology used to determine the amount. Establishes (2) a deadline of March 1 of each year for the REC to use the information provided by DOR to determine the amount of sales tax remitted in the previous calendar year by such out-of-state dealers who would otherwise not be required to collect and remit sales taxes and estimate the amount that may be expected in the following fiscal year. (3) The Legislature shall use the information provided by DOR and REC to develop legislation designed to return the amount of those sales taxes, no less than the amount determined by the REC, collected to the taxpayers of this state.

**Section 8.** Provides for an effective date of July 1, 2013.

**Section 2: Description of Data and Sources**

Federation of Tax Administrators – ListServ

**Section 3: Methodology (Include Assumptions and Attach Details)**

State	Law	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
New York	2008 "click through" nexus law	\$57.0	\$82.0	\$99.0	\$120.0		
California	Affiliate Nexus Law 9/15/2012					\$105.0	\$150.0

2013-14 Sales Tax Estimate: \$21.5B  
 0.5% = \$107.5m  
 1.0% = \$215.5m  
 1.5% = \$322.5m

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Sales and Use Tax  
**Issue:** Remote Sellers  
**Bill Number(s):** CS/SB316

**Section 4: Proposed Fiscal Impact**

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14			+/- Indeterminate	+/- Indeterminate		
2014-15			+/- Indeterminate	+/- Indeterminate		
2015-16			+/- Indeterminate	+/- Indeterminate		
2016-17			+/- Indeterminate	+/- Indeterminate		
2017-18			+/- Indeterminate	+/- Indeterminate		

**List of affected Trust Funds:**

**Section 5: Consensus Estimate (Adopted: 03/16/2013)** The conference adopted a zero/positive indeterminate estimate for the impact.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.
2014-15	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.
2015-16	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.
2016-17	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.
2017-18	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.	0/Indeter.

<b>North Carolina</b>	2011 bill to repeal "click through" provision	Analyzed data for businesses which have had click-through affiliates in North Carolina in all or part of 2003-11 and/or have participated in the Department's Internet Transaction Resolution Program. A repeal of this click-through provision was estimated to be \$119 million net tax loss to North Carolina through 2013.						
		<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	
<b>State</b>	<b>Law</b>							
<b>New York</b>	2008 "click through" nexus law	\$57.0	\$82.0	\$99.0	\$120.0			
	<i>per capita (\$)</i>	\$2.95	\$4.23	\$5.08	\$6.13			
<b>California</b>	Affiliate Nexus Law 9/15/2012					\$105.0	<b>\$150.0</b>	
	<i>per capita(\$)</i>					\$2.76	\$3.95	
								**2008-09 for NY is partial year
								**2012-13 for CA is partial year
<b>Florida 2012 Pop. Estimate</b>		19,317,568						
<b>Per Capita Impact Estimates (\$)</b>		\$3.00	\$3.50	\$4.00	\$4.50	\$5.00	\$5.50	\$6.00
<b>Potential Impact (\$ millions)</b>		\$58.0	\$67.6	\$77.3	\$86.9	\$96.6	\$106.2	\$115.9

## REVENUE ESTIMATING CONFERENCE

**Tax:** Sales and Use Tax

**Issue:** Remote Sellers – E-Fairness V2

**Bill Number(s):**

**Entire Bill**

**Partial Bill:**

**Sponsor(s):**

**Month/Year Impact Begins:** July 2013

**Date of Analysis:** 2/20/2013

### Section 1: Narrative

#### a. Current Law:

**Section 1.** Section 212.0596, F.S., generally imposes tax on a “mail order sale,” which is defined in section 212.0596(1), F.S., as “a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property.” Section 212.0596(2), F.S., requires dealers doing mail order business in Florida to collect and remit Florida sales tax if the dealer has nexus with Florida.

**Section 2.** Section 212.06(2), F.S., defines the term “dealer.”

**Section 3.** Section 212.08, F.S., generally exempts from tax the sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

#### b. Proposed Change:

**Section 1.** Amends section 212.0596, F.S. to include the use of the Internet in the definition of “mail order sale” as means of placing an order. Deletes the phrase “a corporation,” allowing a dealer to be any type of entity, rather than being limited to corporations. Includes representatives of a dealer in this state, in addition to agents, to cause a dealer to have nexus for mail order sales. Deletes the requirements to collect tax when 1) the property is delivered in Florida in fulfillment of a contract entered in Florida under conflict of law rules when a person in Florida accepted an offer by ordering the property, 2) a dealer purposefully or systematically exploits the Florida market by specified types of media, 3) when taxing authority is based on reciprocity with another state’s jurisdiction, and 4) the dealer is subject to service of process in Florida.

Requires tax to be collected if a person, other than a person acting in the capacity of a common carrier, has substantial nexus with Florida, and one of the following activities occurs:

1. Sells a similar line of products as the dealer and does so under the same or similar business name;
2. Maintains an office, distribution facility, warehouse, storage place, or similar place of business in this state to facilitate delivery of property or services sold by the dealer to dealer’s customers;
3. Uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the dealer.
4. Delivers, installs, assembles, or performs maintenance of services for the dealer’s customers within this state;
5. Facilitates the dealer’s delivery of property to customers in this state by allowing the dealer’s customers to pick up property sold by the person at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in this state; or
6. Conducts any other activities in this state that are significantly associated with the dealer’s ability to establish and maintain a market in the state for the dealer’s sales.

The change requiring the dealer to have substantial nexus and to engage in one of the enumerated activities deletes the power of the state to levy and collect tax from a dealer having nexus through an affiliate. Provides that notwithstanding other provisions of law, a dealer is not required to collect and remit tax unless the dealer has a physical presence in this state or the activities conducted in this state on the dealer’s behalf are significantly associated with the dealer’s ability to establish and maintain a market for sales in the state.

Establishes a rebuttable presumption that every dealer, as defined in section 212.06, F.S., who makes a mail order sale is also subject to the power of this state to levy and collect the tax imposed by Chapter 212, F.S., if the dealer enters into an agreement

## REVENUE ESTIMATING CONFERENCE

**Tax:** Sales and Use Tax

**Issue:** Remote Sellers – E-Fairness V2

**Bill Number(s):**

with one or more residents of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by link on an Internet website, an in-person oral presentation, telemarketing, or otherwise, to the dealer, if the cumulative gross receipts from sales by the dealer to customers in this state who are referred to the dealer by all residents with this type of an agreement with the dealer is in excess of \$10,000 during the 12-month period immediately before the rebuttable presumption arose.

Establishes that the presumption may be rebutted by the submission of evidence proving the residents with whom the dealer has an agreement did not engage in any activity within this state that has significantly associated with the dealer's ability to establish or maintain the dealer's market in Florida during the 12 months immediately before the rebuttable presumption arose. The evidence may consist of sworn affidavits, obtained and given in good faith, from each resident whom the dealer has an agreement attesting that he or she did not engage in any solicitation in this state on the dealer's behalf during the previous year.

**Section 2.** Amends section 212.06(2), F.S. Paragraph (f) is amended to define the term "dealer" to mean any person who maintains or uses within Florida an office, distributing house, salesroom, house, warehouse, or other place of business operated by any person other than a common carrier acting in the capacity of a common carrier. Other paragraphs are slightly modified to improve readability, but the meaning is not affected.

**Section 3.** Effective July 1, 2014, Creates section 212.0802 Annual sales tax holiday -- exempts sales of "clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags" from the Sales and Use Tax for a three-day period beginning on the first Friday in August and continuing for the number of days determined under subsection (3), so long as the sales price of the item does not exceed \$75. Clothing is defined as "an article of wearing apparel intended to be worn on or about the human body," including footwear except for skis, swim fins, roller blades and skates, and excluding "watches, watchbands, jewelry, umbrellas, or handkerchiefs." During this same period, sales of school supplies having a sale price of \$15 or less per item are exempt from the Sales and Use Tax. School supplies are defined as "pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators."

**Section 4.** Establishes (1) The Department of Revenue shall develop a tracking system, in consultation with the REC, to determine the amount of sales tax remitted by out-of-state dealer who would otherwise not be required to collect and remit sales taxes in the absence of the changes to s. 212.0596 in this bill. Establishes a deadline of February 1 of each year for the Department of Revenue to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which sets forth the amount of sales tax collected and remitted by such dealers in the previous calendar year and the methodology used to determine the amount. Establishes (2) a deadline of March 1 of each year for the REC to use the information provided by DOR to determine the amount of sales tax remitted in the previous calendar year by such out-of-state dealers who would otherwise not be required to collect and remit sales taxes and estimate the amount that may be expected in the following fiscal year. (3) The Legislature shall use the information provided by DOR and REC to develop legislation designed to return the amount of those sales taxes, no less than the amount determined by the REC, collected to the taxpayers of this state.

**Section 5.** Provides for an effective date of July 1, 2013.

### Section 2: Description of Data and Sources

Federation of Tax Administrators – ListServ

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Sales and Use Tax

**Issue:** Remote Sellers – E-Fairness V2

**Bill Number(s):**

**Section 3: Methodology (Include Assumptions and Attach Details)**

		2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
<b>State</b>	<b>Law</b>						
New York	2008 "click through" nexus law	\$57.0	\$82.0	\$99.0	\$120.0		
California	Affiliate Nexus Law 9/15/2012					\$105.0	\$150.0

2013-14 Sales Tax Estimate: \$21.5B

0.5% = \$107.5m

1.0% = \$215.5m

1.5% = \$322.5m

**Section 4: Proposed Fiscal Impact**

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14			+/- Indeterminate	+/- Indeterminate		
2014-15			+/- Indeterminate	+/- Indeterminate		
2015-16			+/- Indeterminate	+/- Indeterminate		
2016-17			+/- Indeterminate	+/- Indeterminate		
2017-18			+/- Indeterminate	+/- Indeterminate		

**List of affected Trust Funds:**

**Section 5: Consensus Estimate (Adopted: 03/01/2013)** The conference adopted positive indeterminate for the first year cash, and +/- indeterminate cash for the out years and recurring.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2013-14	Indeterminate	+/- Indeterminate	Indeterminate	+/- Indeterminate	Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate
2014-15	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate
2015-16	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate
2016-17	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate
2017-18	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate	+/- Indeterminate

<b>North Carolina</b>	2011 bill to repeal "click through" provision	Analyzed data for businesses which have had click-through affiliates in North Carolina in all or part of 2003-11 and/or have participated in the Department's Internet Transaction Resolution Program. A repeal of this click-through provision was estimated to be \$119 million net tax loss to North Carolina through 2013.						
		<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	
<b>State</b>	<b>Law</b>							
<b>New York</b>	2008 "click through" nexus law	\$57.0	\$82.0	\$99.0	\$120.0			
	<i>per capita (\$)</i>	\$2.95	\$4.23	\$5.08	\$6.13			
<b>California</b>	Affiliate Nexus Law 9/15/2012					\$105.0	<b>\$150.0</b>	
	<i>per capita(\$)</i>					\$2.76	\$3.95	
								**2008-09 for NY is partial year
								**2012-13 for CA is partial year
<b>Florida 2012 Pop. Estimate</b>		19,317,568						
<b>Per Capita Impact Estimates (\$)</b>		\$3.00	\$3.50	\$4.00	\$4.50	\$5.00	\$5.50	\$6.00
<b>Potential Impact (\$ millions)</b>		\$58.0	\$67.6	\$77.3	\$86.9	\$96.6	\$106.2	\$115.9