

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6353
BILL NUMBER: HB 1271

NOTE PREPARED: Apr 10, 2009
BILL AMENDED: Apr 9, 2009

SUBJECT: Consignment of Art.

FIRST AUTHOR: Rep. Pelath
FIRST SPONSOR: Sen. Buck

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) *Consignment of Art:* The bill provides that if an artist delivers a work of art with a value of at least \$50 to an art dealer for exhibition or sale on commission, the work of art is considered to be for sale on consignment unless the artist is paid in full upon delivery of the work of art. It also provides that the work of art and the proceeds due the artist from the sale of the work of art are property held in trust for the artist by the art dealer and are not subject to seizure or encumbrance by a creditor of the art dealer. The bill specifies that these provisions may not be waived and that any part of a contract purporting to waive one of these provisions is void. It also requires that a contract between an art dealer and an artist specify: (1) the value of the work of art; (2) the minimum price for which the work of art may be sold; (3) any discounts that the art dealer may apply in selling the work of art; (4) the art dealer's commission; and (5) in the event of a sale, the amount of time the art dealer has to pay the artist.

Collection of Sales Tax on Consignment Sales: The bill requires a retail merchant that is a consignee to collect and remit the state gross retail tax on the gross retail income received in a consignment sale. It also requires the retail merchant to provide a consignor customer an invoice that shows that the state gross retail tax was paid to the consignee retail merchant with a clear notation on the invoice that the item was a consignment sale by the retail merchant on behalf of the seller to the purchaser.

Effective Date: July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Collection of Sales Tax on Consignment Sales:* The bill specifically requires that a retail merchant who is a consignee in a retail transaction must collect and remit

sales tax on a consignment sale. The Department of State Revenue is interpreting current statute to require consignees to collect and remit sales tax on consignment sales. According to Part IV of the Department of Revenue's Information Bulletin Number 20 (May 2007), "[t]he sale of consigned tangible personal property is a retail sale and the consignee must register as a retail merchant and must collect and remit sales tax."

The bill also requires the retail merchant (consignee) to provide the consignor purchaser an invoice showing that the sales tax was paid to the retail merchant and a notation that the sale was a consignment sale on behalf of the seller and purchaser, with both parties named on the invoice.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: Department of State Revenue, Information Bulletin #20: Sales Tax, May 2007.
Department of State Revenue, Letter of Findings: 07-0329.

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