

June [redacted], 2012

To: Honorable [redacted] (your legislator's full name, and via fax number)

From: [redacted] (your name, title, address)

Subject: SB 12 (Corbett)(as amended 6/25/2012) - OPPOSED

Dear Assembly Member [redacted],

Senate Bill 12, as amended, relating to the repeal and recasting of California's bulk sales law, Division 6 of the California Commercial Code next comes before the Assembly Revenue and Taxation Committee on Monday, July 2, 2012. As amended, Senate Bill 12 serves to retain only a portion of the bulk sales law, as it applies to alcohol, cigarette, and tobacco licensees, and to repeal the bulk sales law for the remainder of business transactions. There seems little to justify a special rule for this subset of business transactions, significant risk to creditors as well as to buyers of businesses, and substantial costs to the state for taxes that would no longer be directly remitted at the point of business sale. **As your constituent, I respectfully request your "NO" vote on Senate Bill 12.**

ADD YOUR STORY HERE – WHO YOU ARE, HOW LONG IN THE BUSINESS, ETC.

POSSIBLE TALKING POINTS – INCLUDE YOUR OWN OR ONE OR TWO OF THE FOLLOWING ,IN YOUR OWN WORDS WHERE POSSIBLE:

In the statutory process prescribed in the existing bulk sales law, tax agencies are afforded the opportunity be paid from the gross sales proceeds available in the transaction, with a statutory priority granted to federal, local, and state tax agencies ahead of all other creditors.

Thousands of dollars are collected and remitted in each business sale in payment of taxes due to local tax agencies as well as state agencies including the Franchise Tax Board, Board of Equalization, Employment Development Department, and Internal Revenue Service. In fact, the bulk sale transactions I have facilitated during the months of January through May of this year have resulted in remittances approximately as follows:

\$__ to the __ County Tax Collector

\$__ to the California State Board of Equalization

\$__ to the California State Franchise Tax Board

\$__ to the California State Employment Development Department

Just as the economic downturn in California has resulted in "underwater" homes and "short sales", equity-poor business sale transactions are not unusual. California's bulk sales law currently provides for prioritization of the payment of claims in the event of an "upside down"

business. It is unclear, other than by way of post-transfer litigation, how a determination of payment priority would be made in the wake of any repeal of the existing bulk sales law.

Further, it appears that provisions in the State Board of Equalization's Sales and Use Tax Regulations (Regulation 1702), Franchise Tax Board Guidelines (R&T18661-18677), and Employment Development practice (Unemployment Insurance Codes 1732-1733) also provide for successor liability for business obligations; it is unclear how in the absence of the existing bulk sales law those requirements would be met, resulting not in the facilitation of business sales, but instead in further uncertainty and confusion by sellers and buyers of businesses.

Buyers and sellers actively and voluntarily engage in the bulk sale escrow process for the sale of businesses; sales of businesses are facilitated, not hindered, by the existing bulk sale law. Existing bulk sales law promotes California's economic recovery.

For these reasons, I respectfully request your **"NO"** vote on Senate Bill 12.

Sincerely,

(your name, title)

Your contact information (name, **address**, phone, email)

Remember to delete the yellow highlighting or other extraneous text from your letter, and to sign your letter before faxing to your legislator and to CEA.

cc: California Escrow Association