

Senate Bill 201

By: Senator Hufstetler of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the administration of revenue and taxation, so as to require financial institutions
3 to provide certain information related to delinquent taxpayers to the Department of Revenue
4 under certain conditions; to provide for conditions, limitations, and prohibitions; to provide
5 for reporting; to provide for violations and penalties; to provide for definitions; to provide
6 for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to the
10 administration of revenue and taxation, is amended by adding a new Code section to read as
11 follows:

12 "48-2-63.

13 (a) As used in this Code section, the term:

14 (1) 'Delinquent taxpayer' means a person owing an unpaid tax liability for which appeals
15 from assessments of taxes pursuant to Title 48 or other applicable laws have expired or

16 been exhausted, and for which an execution has been recorded by the department, unless
17 such execution is released, withdrawn, or expired.

18 (2) 'Financial institution' means:

19 (A) A depository institution as defined in 12 U.S.C. Section 1813(c);

20 (B) Any federal or state credit union as defined in 12 U.S.C. Sections 1752; or

21 (C) Any benefit association, safe deposit company, money market mutual fund,
22 brokerage firm, trust company, or similar entity authorized to do business in the State
23 of Georgia.

24 (b) The department may request not more than four times a year from a financial
25 institution information provided in subsection (c) of this Code section for delinquent
26 taxpayers for whom the department has filed an execution in accordance with Chapter 3
27 of this title.

28 (c) Financial institutions doing business in this state shall, within 30 days after a financial
29 institution receives a request for information under subsection (b) of this Code section,
30 submit a report in an electronic format prescribed by the department identifying any
31 accounts the financial institution holds with respect to the delinquent taxpayers identified
32 in the request.

33 (d) The department is authorized to enter into agreements with financial institutions to
34 develop and operate an automated data exchange to the maximum extent feasible, under
35 which the financial institution shall provide the name, record address, social security
36 number or other taxpayer identification number, active account balance, and other
37 identifying information for each delinquent taxpayer who maintains an account at the
38 financial institution as identified to the institution by the department by name and social
39 security number or other taxpayer identification number. The department may pay a
40 reasonable fee to the financial institution for conducting the searches required herein not
41 to exceed the actual costs incurred by the financial institution or \$100.00, whichever is less.

42 (e) Any financial institution required to submit a report pursuant to this Code section
43 which fails without reasonable cause as determined by the department to comply with such
44 reporting requirements and which, after notification by certified mail or statutory overnight
45 delivery by the department, return receipt requested, of such failure, continues for more
46 than 15 business days after the mailing of such notification to fail to comply without
47 reasonable cause shall be liable for a penalty of \$1,000.00. Any financial institution which
48 willfully provides false information in reply to such notification shall be liable for a penalty
49 of \$1,000.00.

50 (f) The department is authorized to designate a third-party agent to administer and operate
51 the automated data exchange between the department and financial institutions contained
52 in subsection (d) of this Code section. Any such data exchanged shall be protected as if it
53 were confidential tax information and shall not be disclosed except as specifically
54 authorized under this Code section. It shall be unlawful for any person to divulge
55 confidential tax information in violation of this Code section. Any person who violates this
56 Code section shall, upon conviction thereof, be subject to the same penalties that would
57 apply to an employee of the department convicted of divulging confidential tax
58 information.

59 (g) The department may use the information received pursuant to this Code section only
60 for the purpose of enforcing the collection of taxes and fees administered by the
61 department. The department shall determine whether to levy upon the accounts identified
62 pursuant to this Code section and shall follow the levy process set forth in Code Section
63 48-2-55, subject to the rights and remedies of delinquent taxpayers provided for under
64 Code Section 48-2-59 or other provisions of law.

65 (h) To the extent possible and in compliance with state and federal law, the department
66 shall administer this Code section in the same manner as prescribed in Article 1 of Chapter
67 11 of Title 19 to avoid duplication and reduce the burden on financial institutions.

68 (i) A financial institution furnishing a report to the department under this Code section is
69 prohibited from disclosing to any person, including the delinquent taxpayer, any
70 information that has been received from or furnished to the department or the department's
71 designated agent under subsection (f) of this Code section.

72 (j) A financial institution that complies with a request from the department by submitting
73 a report to the department in accordance with this Code section shall not be liable under
74 state law to any person for:

75 (1) Disclosing information to the department under this Code section;

76 (2) Encumbering or surrendering any assets held by the financial institution in response
77 to a notice of lien or levy issued by the department; or

78 (3) Other action taken in good faith to comply with the requirements of this Code
79 section.

80 (k) Any financial records obtained pursuant to this Code section may be disclosed only for
81 the purpose of, and to the extent necessary for, administration and enforcement of the tax
82 laws of this state.

83 (l) The department may adopt rules establishing the procedures and requirements for
84 conducting automated data matches with financial institutions pursuant to this Code
85 section.

86 (m) The commissioner may institute civil proceedings to enforce this Code section.

87 (n) A financial institution may charge an account levied on by the commissioner a fee, as
88 determined by the commissioner, of not less than \$20.00 nor more than \$50.00 which shall
89 be deducted from such account prior to remitting funds to the department. The
90 commissioner shall not be liable for costs otherwise assessable pursuant to Code Section
91 7-1-237."

92 **SECTION 2.**

93 All laws and parts of laws in conflict with this Act are repealed.