

Senate Bill 201

By: Senator Hufstetler of the 52nd

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to require financial institutions to provide certain information related to
3 delinquent taxpayers to the Department of Revenue under certain conditions; to provide for
4 conditions, limitations, and prohibitions; to provide for reporting; to provide for violations
5 and penalties; to provide for definitions; to provide for certain counties contracting with
6 municipalities for services to be performed by county tax commissioners; to provide for
7 duties, responsibilities, and compensation; to provide for related matters; to repeal conflicting
8 laws; to provide for an effective date; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
12 amended by adding a new Code section to read as follows:

13 "48-2-63.

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

15 (1) 'Account' means:

16 (A) With respect to a depository institution as defined in 12 U.S.C. Section 1813(c),
17 a deposit account;

18 (B) With respect to any federal or state credit union as defined in 12 U.S.C. Section
19 1752, a deposit account; and

20 (C) With respect to a benefit association, safe deposit company, money market mutual
21 fund, brokerage firm, trust company, or similar entity authorized to do business in the
22 State of Georgia, any account.

23 (2) 'Delinquent taxpayer' means a person owing an unpaid tax liability for which appeals
24 from assessments of taxes pursuant to Title 48 or other applicable laws have expired or
25 been exhausted, and for which an execution has been recorded by the department, unless
26 such execution is released, withdrawn, or expired.

27 (3) 'Financial institution' means:

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

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

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

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

37 (c) Financial institutions doing business in this state shall, within 30 days after a financial
38 institution receives a request for information under subsection (b) of this Code section,
39 submit a report to the department in an industry standard, machine-readable, electronic
40 format to be prescribed by the department. Each such report shall identify any accounts
41 that the financial institution holds with respect to the delinquent taxpayers identified in the
42 request. The financial institution, to the maximum extent possible, shall provide the name,

43 record address, social security number or other taxpayer identification number, account
44 balance, and other electronically available account identifying information for each
45 delinquent taxpayer who maintains an account at the financial institution as identified to
46 such financial institution by the department by name and social security number or other
47 taxpayer identification number in an industry standard, machine-readable, electronic
48 format. The department may pay a reasonable fee to financial institutions for conducting
49 the searches required by this Code section in an amount that does not exceed the actual
50 costs incurred by the financial institution or \$100.00, whichever is less.

51 (d) The department is authorized to enter into agreements with financial institutions to
52 develop and operate an automated data exchange to accomplish the provisions of
53 subsection (c) of this Code section.

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

62 (f)(1) The department may impose a fine on any financial institution that fails to submit
63 a report required pursuant to this Code section in the amount of \$1,000.00, provided that:

64 (A) The department notifies the financial institution of its failure to submit a report by
65 certified mail or statutory overnight delivery, return receipt requested;

66 (B) Such financial institution fails to submit such report within 15 business days after
67 the mailing of the notification provided for in subparagraph (A) of this paragraph; and

68 (C) Such financial institution fails to present cause for such failure to the department
69 that the department determines to be reasonable cause for such failure.

70 (2) The department may impose a fine on a financial institution in the amount of
71 \$1,000.00 if the department determines that a financial institution willfully provided false
72 information with respect to any cause that such financial institution presents to the
73 department for its failure to submit a report.

74 (g) The department may use the information received pursuant to this Code section only
75 for the purpose of enforcing the collection of taxes and fees administered by the
76 department. The department shall determine whether to levy upon accounts identified
77 pursuant to this Code section and shall follow the levy process set forth in Code Section
78 48-2-55, subject to the rights and remedies of delinquent taxpayers provided for under
79 Code Section 48-2-59 or other provisions of law, and the rights and remedies of financial
80 institutions provided in Code Section 48-2-55 or other provisions of law.

81 (h) To the extent possible and in compliance with state and federal law, the department
82 shall administer this Code section in the same manner as prescribed in Article 1 of Chapter
83 11 of Title 19 to avoid duplication and reduce the burden on financial institutions.

84 (i) Notwithstanding Code Section 7-1-360 or other provisions of law, a financial institution
85 furnishing a report to the department or the department's designated agent under this Code
86 section is prohibited from disclosing to any person, including the delinquent taxpayer, any
87 information that has been received from or furnished to the department or the department's
88 designated agent under this Code section. However, a financial institution may disclose
89 to its depositors or account holders that the department has the authority to request certain
90 identifying information on certain depositors or account holders pursuant to this Code
91 section.

92 (j) A financial institution that complies with a request from the department by submitting
93 a report to the department or the department's designated agent in accordance with this
94 Code section shall not be liable to any person for:

95 (1) Disclosing information to the department or the department's designated agent under
96 this Code section;

- 97 (2) Encumbering or surrendering any assets held by the financial institution in response
98 to a notice of lien or levy issued by the department;
- 99 (3) Any error on the part of the department in connection with a notice of lien or levy
100 issued by the department upon accounts identified pursuant to this Code section,
101 including costs or fees charged to such accounts as a result of such error; or
- 102 (4) Other action taken in good faith to comply with the requirements of this Code
103 section.
- 104 (k) Any financial records obtained pursuant to this Code section may be disclosed only for
105 the purpose of, and to the extent necessary for, administration and enforcement of the tax
106 laws of this state.
- 107 (l) The department may adopt rules establishing the procedures and requirements for
108 conducting data matches with financial institutions pursuant to this Code section.
- 109 (m) The commissioner may institute civil proceedings to enforce this Code section."

110

SECTION 2.

111 Said title is further amended by revising subsection (a) of Code Section 48-5-359.1, relating
112 to contracts with the county tax commissioner to assess and collect municipal taxes and
113 prepare the tax digest, by adding a new paragraph to read as follows:

114 "(3)(A) This paragraph shall apply to any county which contains 14 or more
115 municipalities, in whole or in part, within such county, and paragraphs (1) and (2) of this
116 subsection shall not apply to such counties.

117 (B) Any county and any municipality wholly or partially located within such county may
118 contract for the county tax commissioner to prepare the tax digest for such municipality;
119 to assess and collect municipal taxes in the same manner as county taxes; and, for the
120 purpose of collecting such municipal taxes, to invoke any remedy permitted for collection
121 of municipal taxes. Such contracts shall not be subject to the approval of any county tax
122 commissioner. Any contract authorized by this subparagraph between the county

123 governing authority and a municipality shall specify an amount to be paid by the
124 municipality to the county which amount will substantially approximate the cost to the
125 county of providing the service to the municipality, as well as the cost to the county of
126 providing compensation to its tax commissioner, if any, with respect to providing such
127 service. Notwithstanding any provision of law to the contrary, including paragraphs (1)
128 and (2) of this subsection, the tax commissioner of any such county shall conduct such
129 additional duties and responsibilities, and shall be authorized to accept, receive, and
130 retain compensation to be determined and paid by the county for such additional duties
131 and responsibilities in addition to that compensation provided by law to be paid to the tax
132 commissioner by the county. Nothing in this subparagraph shall require a county to
133 compensate the county tax commissioner for such additional duties and responsibilities."

134 **SECTION 3.**

135 This Act shall become effective upon its approval by the Governor or upon its becoming law
136 without such approval.

137 **SECTION 4.**

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