

Senate Bill 371

By: Senators Anderson of the 24th, Stone of the 23rd, Mullis of the 53rd, Hufstetler of the 52nd, Millar of the 40th and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Code Section 48-2-15 of the Official Code of Georgia Annotated, relating to
2 confidential information secured in the administration of taxes, so as to change the
3 provisions regarding the furnishing of sales and use tax information to municipalities and
4 counties; to provide for additional procedures, conditions, and limitations; to provide for
5 confidentiality; to provide for a criminal penalty; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Code Section 48-2-15 of the Official Code of Georgia Annotated, relating to confidential
10 information secured in the administration of taxes, is amended by repealing and reserving
11 subsection (d) and enacting a new subsection to read as follows:

12 ~~“(d) Notwithstanding this Code section, the commissioner, upon request by resolution of~~
13 ~~the governing authority of any municipality of this state having a population of 350,000 or~~
14 ~~more according to the United States decennial census of 1970 or any future such census,~~
15 ~~shall furnish to the finance officer or taxing official of the municipality any pertinent tax~~
16 ~~information from state tax returns to be used by those officials in the discharge of their~~
17 ~~official duties. Any information so furnished shall retain, in the hands of the local officials,~~
18 ~~its privileged and confidential nature to the same extent and under the same conditions as~~
19 ~~that information is privileged and confidential in the hands of the commissioner. The~~
20 ~~commissioner may make a nominal charge for any information so furnished, not to exceed~~
21 ~~the actual cost of furnishing the information. Nothing contained in this subsection shall be~~
22 ~~construed to prevent the use of the information as evidence in any state or federal court in~~
23 ~~the event of litigation involving any municipal or county tax liability of a taxpayer.~~

24 Reserved.

25 (d.1)(1) Notwithstanding this Code section, the commissioner, upon request by
26 resolution of the governing authority of any county, consolidated government, or

27 municipality of this state, shall furnish to the designated finance officer or taxing official
28 of the county, consolidated government, or municipality information included on the
29 vendor's sales tax certificate for all vendors that have filed a report for the designated
30 period, to be used by such designated officer or official in the discharge of his or her
31 official duties.

32 (2)(A) Such designated officer or official shall not be authorized to contact in any
33 manner any taxpayer identified in such confidential information.

34 (B) Such designated officer or official to whom such confidential information is
35 provided under this subsection may request the commissioner to validate the political
36 subdivision to which a taxpayer with a business location within the political subdivision
37 has remitted sales and use taxes for the designated period. Upon inquiry by such
38 designated officer or official, the commissioner shall, within 30 days, respond to the
39 inquiry and validate that the sales tax being collected from a taxpayer is being remitted
40 to the proper political subdivision and take other appropriate action as provided by law.

41 (C) Any information furnished under this subsection to such designated officer or
42 official shall retain its privileged and confidential nature to the same extent and under
43 the same conditions as such information is privileged and confidential in the hands of
44 the commissioner.

45 (3) Any such information furnished under this subsection shall constitute confidential tax
46 information for purposes of paragraph (2) of Code Section 50-14-2 and paragraph (43)
47 of subsection (a) of Code Section 50-18-72 and shall not be discussed or disclosed except
48 as specifically authorized under this subsection.

49 (4) Such information may be discussed with or disclosed to the members of the
50 governing authority of such county or municipality levying a tax pursuant to the
51 provisions of Article 4 of Chapter 8 of this title, but only when the members of such
52 governing authority are in executive session as defined in paragraph (2) of subsection (a)
53 of Code Section 50-14-1. In the event of such discussion with or disclosure to the
54 members of such governing authority, any such information so discussed or disclosed
55 shall retain its privileged and confidential nature to the same extent and under the same
56 conditions as such information is privileged and confidential in the hands of the
57 commissioner, and any further disclosure by the members of such governing authority
58 is prohibited. Prior to such discussion with or disclosure to the members of such
59 governing authority, any member of the governing authority who has a conflict of interest
60 shall be required to recuse himself or herself from the executive session. For purposes
61 of such recusal, a conflict of interest shall include, but not be limited to, engaging in
62 similar business to those which are identified in the confidential information or having
63 a financial or other personal interest, direct or indirect, in such matter which is

64 incompatible with the impartial and proper discharge of that person's official duties,
65 which would tend to impair the independence of that person's judgment or actions, or
66 which would make such person privy to information that would provide a competitive
67 business advantage.

68 (5) It shall be unlawful for any person to divulge confidential tax information in violation
69 of this subsection. Any person who violates this paragraph shall, upon conviction
70 thereof, be subject to the same penalties that would apply to an employee of the
71 department convicted of divulging confidential tax information.

72 (6) The commissioner may make a nominal charge for any information so furnished, not
73 to exceed the actual cost of furnishing the information; provided, however, that any such
74 charge shall be in addition to the 1 percent administrative fee otherwise allowed to the
75 commissioner for defraying the cost of collecting a local sales and use tax.

76 (7) Nothing contained in this subsection shall prevent or be construed to prevent:

77 (A) The use of the information as evidence in any state or federal court in the event of
78 litigation involving any municipal or county tax liability of a taxpayer; or

79 (B) The release of the information pursuant to a subpoena or court order."

80 **SECTION 2.**

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