

The Senate Committee on Finance offered the following substitute to SB 201:

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17 such execution is released, withdrawn, or expired.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 to the department in a machine-readable, electronic format to be prescribed
31 by the department. Each such report shall identify any accounts the financial institution
32 holds with respect to the delinquent taxpayers identified in the request. The financial
33 institution, to the maximum extent possible, shall provide the name, record address, social
34 security number or other taxpayer identification number, active balance, and other
35 identifying information for each delinquent taxpayer who maintains an account at the
36 financial institution as identified to such financial institution by the department by name
37 and social security number or other taxpayer identification number in a machine-readable,
38 electronic format. The department may pay a reasonable fee to financial institutions for
39 conducting the searches required by this Code section in an amount that does not exceed
40 the actual costs incurred by the financial institution or \$100.00, whichever is less.

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

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

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

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

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

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

60 (2) The department may impose a fine on a financial institution in the amount of
61 \$1,000.00 if the department determines that a financial institution willfully provided false
62 information with respect to any cause that such financial institution presents to the
63 department for its failure to submit a report.

64 (g) The department may use the information received pursuant to this Code section only
65 for the purpose of enforcing the collection of taxes and fees administered by the
66 department. The department shall determine whether to levy upon the accounts identified
67 pursuant to this Code section and shall follow the levy process set forth in Code Section

68 48-2-55, subject to the rights and remedies of delinquent taxpayers provided for under
69 Code Section 48-2-59 or other provisions of law.

70 (h) To the extent possible and in compliance with state and federal law, the department
71 shall administer this Code section in the same manner as prescribed in Article 1 of Chapter
72 11 of Title 19 to avoid duplication and reduce the burden on financial institutions.

73 (i) A financial institution furnishing a report to the department or the department's
74 designated agent under this Code section is prohibited from disclosing to any person,
75 including the delinquent taxpayer, any information that has been received from or furnished
76 to the department or the department's designated agent under subsection (e) of this Code
77 section. However, a financial institution may disclose to its depositors or account holders
78 that the department has the authority to request certain identifying information on certain
79 depositors or account holders pursuant to this Code section.

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

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

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

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

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

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

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

95

SECTION 2.

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