

The House Committee on Ways and Means offers 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) 'Account' means:

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

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

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

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25 such execution is released, withdrawn, or expired.

26 (3) 'Financial institution' means:

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

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

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

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

36 (c) Financial institutions doing business in this state shall, within 30 days after a financial  
37 institution receives a request for information under subsection (b) of this Code section,  
38 submit a report to the department in an industry standard, machine-readable, electronic  
39 format to be prescribed by the department. Each such report shall identify any accounts  
40 that the financial institution holds with respect to the delinquent taxpayers identified in the  
41 request. The financial institution, to the maximum extent possible, shall provide the name,  
42 record address, social security number or other taxpayer identification number, account  
43 balance, and other electronically available account identifying information for each

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

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

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

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

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

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

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

69 (2) The department may impose a fine on a financial institution in the amount of  
70 \$1,000.00 if the department determines that a financial institution willfully provided false

71 information with respect to any cause that such financial institution presents to the  
72 department for its failure to submit a report.

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

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

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

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

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

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

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

109

**SECTION 2.**

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