

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 353  
Finance Committee Substitute Adopted 3/15/01  
Finance Committee Substitute #2 Adopted 4/25/01

Short Title: DOR Debt Collection Changes-AB.

(Public)

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Sponsors:

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Referred to:

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March 6, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE A PERMANENT MECHANISM FOR THE COLLECTION  
3 OF TAX DEBTS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 9 of Chapter 105 of the General Statutes is amended by  
6 adding a new section to read:

7 "**§ 105-243.1. Collection of tax debts.**

8 (a) Definitions. – The following definitions apply in this section:

9 (1) Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days  
10 or more after the notice of final assessment was mailed to the taxpayer.

11 (2) Tax debt. – The total amount of tax, penalty, and interest due for  
12 which a notice of final assessment has been mailed to a taxpayer after  
13 the taxpayer no longer has the right to contest the debt.

14 (b) Outsourcing. – The Secretary may contract for the collection of tax debts. At  
15 least 30 days before the Department submits a tax debt to a contractor for collection, the  
16 Department must notify the taxpayer by mail that the debt will be submitted for  
17 collection if payment is not received within 30 days after the notice was mailed. The  
18 Secretary must report annually to the Revenue Laws Study Committee on its collections  
19 pursuant to this subsection.

20 (c) Fee. – A collection assistance fee is imposed on an overdue tax debt that  
21 remains unpaid 30 days or more after the fee notice required by this subsection is  
22 mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the  
23 Department must notify the taxpayer that the fee will be imposed if the tax debt is not  
24 paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The  
25 Department may not mail the fee notice earlier than 60 days after the notice of final  
26 assessment for the tax debt was mailed to the taxpayer. The fee is collectible as part of  
27 the debt.

1        The amount of the collection assistance fee is twenty percent (20%) of the amount of  
2 the overdue tax debt. If the Department collects only part of the overdue tax debt, the  
3 collection assistance fee has priority over the tax debt. The fee is a receipt of the  
4 Department and must be applied to the costs of contracting for the collection of tax  
5 debts and to the Department's other costs of collecting tax debts."

6            **SECTION 2.** G.S. 105A-13 reads as rewritten:

7        "**§ 105A-13. Collection assistance fees.**

8        (a) State Setoff. – To recover the costs incurred by the Department in collecting  
9 debts under this Chapter, a collection assistance fee of no more than fifteen dollars  
10 (\$15.00) is imposed on each debt collected through setoff. The Department must collect  
11 this fee as part of the debt and retain it. The Department must set the amount of the  
12 collection assistance fee based on its actual cost of collection under this Chapter for the  
13 immediately preceding year. If the Department is able to collect only part of a debt  
14 through setoff, the collection assistance fee has priority over the remainder of the debt.  
15 The collection assistance fee shall not be added to child support debts or collected as  
16 part of child support debts. Instead, the Department shall retain from collections under  
17 Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting  
18 child support debts under this Chapter.

19        (b) ~~Federal Setoff. — A collection assistance fee of fifteen dollars (\$15.00) applies~~  
20 ~~to a setoff made by the United States Department of the Treasury to recover tax owed to~~  
21 ~~North Carolina. The Department of Revenue must add the fee to the amount of the tax~~  
22 ~~liability submitted to the United States Department of the Treasury for setoff. The~~  
23 ~~Department of Revenue must collect the fee as part of the debt and retain it. If a federal~~  
24 ~~setoff covers only part of the tax due, the collection assistance fee has priority over the~~  
25 ~~tax due."~~

26            **SECTION 3.** G.S. 105-269 reads as rewritten:

27        "**§ 105-269. Extraterritorial authority to enforce payment.**

28        (a) ~~The Secretary of Revenue, Secretary,~~ with the assistance of the Attorney  
29 General, is ~~hereby empowered~~ authorized to bring suits in the courts of other states to  
30 collect taxes legally due this State. The officials of other states ~~which~~ that extend a like  
31 comity to this State are empowered to sue for the collection of ~~such~~ taxes in the courts  
32 of this State. A certificate by the Secretary of State, under the Great Seal of the State,  
33 that ~~such~~ these officers have authority to collect the tax ~~shall be~~ is conclusive evidence  
34 of ~~such~~ this authority. Whenever it ~~shall be deemed expedient~~ by the Secretary of  
35 ~~Revenue~~ the Secretary considers it expedient to employ local counsel to assist in  
36 bringing suit in an out-of-state court, the Secretary, with the concurrence of the  
37 Attorney General, may employ ~~such~~ local counsel on the basis of a negotiated retainer  
38 or in accordance with prevailing commercial law league rates.

39        (b) ~~The Secretary of Revenue may, in accordance with the procedure prescribed~~  
40 ~~in G.S. 143-49(3), contract for the collection of taxes legally due this State from~~  
41 ~~taxpayers located in other states. The Secretary may furnish to a contractor hired~~  
42 ~~pursuant to this subsection any information he considers necessary to identify and locate~~

1 ~~a taxpayer, establish the tax liability of a taxpayer, or effect collection of the amount~~  
2 ~~due."~~

3           **SECTION 4.** G.S. 105-259(b) is amended by adding a new subdivision to  
4 read:

5       "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State  
6 who has access to tax information in the course of service to or employment by the State  
7 may not disclose the information to any other person unless the disclosure is made for  
8 one of the following purposes:

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...

10           (26) To contract for the collection of tax debts pursuant to G.S. 105-243.1."

11           **SECTION 5.** This act becomes effective July 1, 2001, and applies to tax  
12 debts that remain unpaid on or after that date.