

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL 353  
Finance Committee Substitute Adopted 3/15/01  
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Short Title: DOR Debt Collection Changes-AB.

(Public)

Sponsors:

Referred to:

March 6, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A PERMANENT MECHANISM FOR THE COLLECTION  
OF TAX DEBTS.

The General Assembly of North Carolina enacts:

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

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

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

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

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

(b) Outsourcing. – The Secretary may contract for the collection of tax debts. At  
least 30 days before the Department submits a tax debt to a contractor for collection, the  
Department must notify the taxpayer by mail that the debt will be submitted for  
collection if payment is not received within 30 days after the notice was mailed.

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

The amount of the collection assistance fee is twenty percent (20%) of the amount of  
the overdue tax debt. If the Department collects only part of the overdue tax debt, the

1 collection assistance fee has priority over the tax debt. The fee is a receipt of the  
2 Department and must be applied to the costs of collecting overdue tax debts. The  
3 proceeds of the fee must be credited to a special account within the Department and  
4 may be expended only as provided in this subsection. The Department may apply the  
5 proceeds of the fee to pay contractors for collecting tax debts under subsection (b) of  
6 this section and to pay the fee the United States Department of the Treasury charges for  
7 setoff to recover tax owed to North Carolina. The remaining proceeds of the fee may be  
8 spent only pursuant to appropriation by the General Assembly. The fee proceeds shall  
9 not revert but remain in the special account until spent for the costs of collecting  
10 overdue tax debts.

11 (d) Reports. – The Department must report to the Joint Legislative Commission  
12 on Governmental Operations and to the Revenue Laws Study Committee on its efforts  
13 to collect tax debts. Reports must be submitted quarterly beginning November 1, 2001  
14 through November 1, 2002, and semiannually thereafter. The report must include a  
15 breakdown of the amount and age of tax debts collected by collection agencies on  
16 contract, the amount and age of tax debts collected by the Department through warning  
17 letters, and the amount and age of tax debts collected by the Department through field  
18 work."

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

20 "§ 105A-13. Collection assistance fees.

21 (a) State Setoff. – To recover the costs incurred by the Department in collecting  
22 debts under this Chapter, a collection assistance fee of no more than fifteen dollars  
23 (\$15.00) is imposed on each debt collected through setoff. The Department must collect  
24 this fee as part of the debt and retain it. The Department must set the amount of the  
25 collection assistance fee based on its actual cost of collection under this Chapter for the  
26 immediately preceding year. If the Department is able to collect only part of a debt  
27 through setoff, the collection assistance fee has priority over the remainder of the debt.  
28 The collection assistance fee shall not be added to child support debts or collected as  
29 part of child support debts. Instead, the Department shall retain from collections under  
30 Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting  
31 child support debts under this Chapter.

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

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

40 "§ 105-269. Extraterritorial authority to enforce payment.

41 (a) ~~The Secretary of Revenue, Secretary,~~ with the assistance of the Attorney  
42 General, is ~~hereby empowered~~ authorized to bring suits in the courts of other states to  
43 collect taxes legally due this State. The officials of other states ~~which~~ that extend a like

1 comity to this State are empowered to sue for the collection of ~~such~~ taxes in the courts  
2 of this State. A certificate by the Secretary of State, under the Great Seal of the State,  
3 that ~~such~~ these officers have authority to collect the tax ~~shall be~~ is conclusive evidence  
4 of ~~such~~ this authority. Whenever ~~it shall be deemed expedient by the Secretary of~~  
5 ~~Revenue~~ the Secretary considers it expedient to employ local counsel to assist in  
6 bringing suit in an out-of-state court, the Secretary, with the concurrence of the  
7 Attorney General, may employ ~~such~~ local counsel on the basis of a negotiated retainer  
8 or in accordance with prevailing commercial law league rates.

9 (b) ~~The Secretary of Revenue may, in accordance with the procedure prescribed~~  
10 ~~in G.S. 143-49(3), contract for the collection of taxes legally due this State from~~  
11 ~~taxpayers located in other states. The Secretary may furnish to a contractor hired~~  
12 ~~pursuant to this subsection any information he considers necessary to identify and locate~~  
13 ~~a taxpayer, establish the tax liability of a taxpayer, or effect collection of the amount~~  
14 ~~due."~~

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

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

21 . . .

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

23 **SECTION 5.** The Department of Revenue may use funds available for the  
24 2000-2001 fiscal year to cover the costs of modifying the Department's database to  
25 conform to the requirements of private collection contractors and to obtain assistance in  
26 developing a request for proposals for a performance-based contract to implement the  
27 recommendations of the study authorized in Section 6 of S.L. 1999-341, as amended by  
28 Section 17 of S.L. 2000-120.

29 **SECTION 6.** Section 5 of this act is effective when it becomes law. The  
30 remainder of this act becomes effective July 1, 2001, and applies to tax debts that  
31 remain unpaid on or after that date.