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SENATE BILL 353
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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 may 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.

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 amount collected is allocated proportionally between the collection assistance fee and
4 the tax debt.

5 The fee is a receipt of the Department and must be applied to the costs of collecting
6 overdue tax debts. The Department may use the fee receipts to establish positions for
7 revenue officers, auditors, programmers, and other personnel that collect overdue tax
8 debts or support the work of those who collect overdue tax debts. The number of
9 positions established with the fee receipts may not exceed 100. The fee proceeds do not
10 revert but remain available for expenditure for the costs of collecting 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 otherwise collected by Department
18 personnel."

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.** Section 5(a) of S.L. 1999-341, as amended by Section 16 of
24 S.L. 2000-120, reads as rewritten:

25 "Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001
26 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and
27 foreign entities. To implement this section, the Secretary may draw funds for the
28 1999-2000 fiscal year from net collections that would otherwise be credited to the
29 General Fund under G.S. 105-269.14, enacted by Section 2 of this act. For the
30 ~~2000-2001 fiscal year, and 2001-2002 fiscal years,~~ the Secretary may retain the costs of
31 implementing this section from the amounts collected pursuant to the contracts
32 authorized by this section. The Secretary of Revenue shall report annually to the
33 Revenue Laws Study Committee on its collections pursuant to this contract during the
34 biennium."

35 **SECTION 6.** The Office of State Budget, Planning, and Management shall
36 cooperate with the Department of Revenue to facilitate the implementation of collection
37 efforts with respect to overdue tax debts pursuant to this act during the 2001-2002 fiscal
38 year.

39 **SECTION 7.** Section 5 of this act is effective when it becomes law. The
40 remainder of this act becomes effective July 1, 2001, and applies to tax debts that
41 remain unpaid on or after that date.