

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1282

Short Title: Electronic Funds Transfer.

(Public)

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Sponsors: Representative Miller.

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Referred to: Finance.

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May 10, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF REVENUE TO ALLOW OR  
REQUIRE PAYMENT OF TAXES BY ELECTRONIC FUNDS TRANSFER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-241 reads as rewritten:

**"§ 105-241. ~~Taxes payable in national currency; for what period, and when a lien; priorities. Form of payment; tax period; liens.~~**

(a) Form of Payment. The taxes levied in this Chapter are payable in the national currency. The Secretary may adopt rules prescribing where taxes are to be paid and whether taxes must be paid in cash, by check, by electronic funds transfer, or by another method. A taxpayer who makes a payment by draft remains liable for the tax until the draft is paid. ~~The taxes herein designated and levied shall be payable in the existing national currency.~~

(b) Tax Period. Except as otherwise provided in this Chapter, State and local taxes levied pursuant to this Chapter are for the fiscal year of the State in which they became due.

(c) Lien. The provisions of this subsection apply to taxes levied under this Chapter except when another Article of this Chapter contains contrary provisions with respect to a tax levied in that Article. The lien of a tax levied pursuant to this Chapter attaches to all real and personal property of the taxpayer on the date the tax becomes due and continues until the tax and any interest, penalty, and costs are paid. A tax lien on real estate of a decedent has priority over any claim or debt against the estate except funeral expenses and the cost of administration. A tax lien is not extinguished by the sale of the taxpayer's real property but it is not enforceable against a bona fide purchaser

1 for value, a duly recorded mortgage, a duly recorded deed of trust, or a duly recorded  
2 specific lien except when (i) in the case of real property, a certificate of tax liability or a  
3 judgment was first docketed in the office of the clerk of superior court of the county in  
4 which the real estate is located, or (ii) in the case of personal property, there has already  
5 been a levy on the property under an execution or a tax warrant. The priority of these  
6 claims and liens is determined by the date and time of recording, docketing, levy, or  
7 bona fide purchase. If a taxpayer executes an assignment for the benefit of creditors or  
8 if insolvency proceedings are instituted against a taxpayer who owes taxes levied  
9 pursuant to this Chapter, the tax lien attaches as of the date and time the taxpayer  
10 executes the assignment for the benefit of creditors or the date and time the insolvency  
11 proceedings are instituted. In this case, the tax lien is subject only to prior recorded  
12 specific liens and reasonable costs of administration. State, county, and municipal taxes  
13 levied for any and all purposes pursuant to this Subchapter shall be for the fiscal year of the  
14 State in which they become due, except as otherwise provided, and the lien of such taxes shall  
15 attach annually to all real estate of the taxpayer within the State on the date that such taxes are  
16 due and payable, and said lien shall continue until such taxes, with any interest, penalty, and  
17 costs which shall accrue thereon, shall have been paid; in the settlement of the estate of any  
18 decedent where, by any order of court or other proceeding, the real estate of the decedent has  
19 been sold to make assets to pay debts, such sale shall not have the effect of extinguishing the  
20 lien upon the land so sold for State taxes, nor shall the same be postponed in any manner to the  
21 payment of any other claim or debt against the estate, save funeral expenses and cost of  
22 administration.

23 ~~Provided, however, that the lien of State taxes shall not be enforceable as against~~  
24 ~~bona fide purchasers for value, and as against duly recorded mortgages, deeds of trust~~  
25 ~~and other recorded specific liens, as to real estate, except upon docketing of a certificate~~  
26 ~~of tax liability or a judgment in the office of the clerk of the superior court of the county~~  
27 ~~wherein the real estate is situated, and as to personalty, except upon a levy upon such~~  
28 ~~property under an execution or a tax warrant, and the priority of the State's tax lien~~  
29 ~~against property in the hands of bona fide purchasers for value, and as against duly~~  
30 ~~recorded mortgages, deeds of trust and other recorded specific liens, shall be determined~~  
31 ~~by reference to the date and time of docketing of judgment or certificate of tax liability~~  
32 ~~or the levy under execution or tax warrant. Provided further, that in the event any~~  
33 ~~taxpayer shall execute an assignment for the benefit of creditors, or if receivership, a~~  
34 ~~creditor's bill or other insolvency proceedings are instituted against any taxpayer~~  
35 ~~indebted in the State on account of any taxes levied by the State, the lien of State taxes~~  
36 ~~shall attach to any and all property of such taxpayer or of such insolvent's estate as of~~  
37 ~~the date and time of the execution of the assignment for the benefit of creditors or of the~~  
38 ~~institution of proceedings herein mentioned and shall be subject only to prior recorded~~  
39 ~~specific liens and reasonable costs of administration. Notwithstanding the provisions of~~  
40 ~~this paragraph, the provisions contained in G.S. 105-164.38 shall remain in full force~~  
41 ~~and effect with respect to the lien of sales taxes.~~

42 ~~The provisions of this section shall not have the effect of releasing any lien for State~~  
43 ~~taxes imposed by other law, nor shall they have the effect of postponing the payment of~~  
44 ~~the said State taxes or depriving the said State taxes of any priority in order of payment~~  
45 ~~provided in any other statute under which payment of the said taxes may be required."~~

1           Sec. 2. G.S. 105-130.19 reads as rewritten:

2   **"§ 105-130.19. Time and place of payment of tax.**

3       (a)    Except as provided in Article 4C of this Chapter, the full amount of the tax  
4 payable as shown on the face of the return shall be paid to the Secretary of Revenue at  
5 the office where the return is filed and within the time fixed by law for filing the return.  
6 An extension of time granted for filing the return under G.S. 105-130.17(d) is not an  
7 extension of time for payment of the full amount of the tax payable. The tax shall be  
8 paid in accordance with rules adopted by the Secretary under G.S. 105-241.

9       (b), (c)   Repealed by Session Laws 1989, c. 37, s. 1.

10       (d)    ~~The tax may be paid with uncertified check during such time and under such~~  
11 ~~regulations as the Secretary of Revenue shall prescribe; but if a check so received is not~~  
12 ~~paid by the bank on which it is drawn, the taxpayer by whom such check is tendered~~  
13 ~~shall remain liable for the payment of the tax and for all legal penalties the same as if~~  
14 ~~such check had not been tendered."~~

15           Sec. 3. G.S. 105-157 reads as rewritten:

16   **"§ 105-157. Time and place of payment of tax.**

17       (a)    Except as otherwise provided in this section and in Article 4A of this Chapter,  
18 the full amount of the tax payable as shown on the face of the return shall be paid to the  
19 Secretary at the office where the return is filed at the time fixed by law for filing the  
20 return. An extension of time granted for filing the return under G.S. 105-155 is not an  
21 extension of time for payment of the full amount of the tax payable. If the amount  
22 shown to be due is less than one dollar (\$1.00), no payment need be made. The tax  
23 shall be paid in accordance with rules adopted by the Secretary under G.S. 105-241.

24       (b)    ~~The tax may be paid with uncertified check during such time and under such~~  
25 ~~regulations as the Secretary may prescribe; but if a check so received is not paid by the~~  
26 ~~bank on which it is drawn, the taxpayer by whom the check was tendered shall remain~~  
27 ~~liable for the payment of the tax and for all legal penalties the same as if the check had~~  
28 ~~not been tendered."~~

29           Sec. 4. G.S. 105-160.7 reads as rewritten:

30   **"§ 105-160.7. Time and place of payment of tax.**

31       ~~(a)~~ The full amount of the tax payable as shown on the face of the return shall be paid  
32 to the Secretary at the office where the return is filed at the time fixed by law for filing  
33 the return. However, if the amount shown to be due after all credits is less than one  
34 dollar (\$1.00), no payment need be made. An extension of time granted for filing the  
35 return under G.S. 105-160.6 is not an extension of time for payment of the full amount  
36 of the tax payable. The tax shall be paid in accordance with rules adopted by the  
37 Secretary under G.S. 105-241.

38       ~~(b)~~ ~~The tax may be paid with uncertified check, but if a check so received is not~~  
39 ~~paid by the financial institution on which it is drawn, the fiduciary by whom the check~~  
40 ~~was tendered shall remain liable for the payment of the tax and for all penalties lawfully~~  
41 ~~imposed."~~

42           Sec. 5. G.S. 105-164.18 reads as rewritten:

43   **"§ 105-164.18. Remittances; how made.**

1 All remittances of taxes imposed by this Article shall be made in accordance with  
2 rules adopted by the Secretary under G.S. 105-241. ~~to the Secretary by bank draft, check,~~  
3 ~~cashier's check, money order or money, who shall issue his receipts therefor to the taxpayers~~  
4 ~~when requested and shall deposit daily all moneys received to the credit of the State Treasurer~~  
5 ~~as required by law for other taxes. Provided, no payment other than cash shall be final~~  
6 ~~discharge of liability for the tax herein assessed and levied unless and until it has been paid in~~  
7 ~~cash to the Secretary; provided, further, that cash remittances must not be made by mail. The~~  
8 ~~Secretary shall keep full and accurate records of all moneys received by him and how disbursed~~  
9 ~~and shall preserve all returns filed with him under this Article for a period of three years."~~

10 Sec. 6. This act becomes effective October 1, 1991.