

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**  
**Fourth Edition Engrossed 4/30/01**  
**House Committee Substitute Favorable 5/17/01**  
**House Committee Substitute #2 Favorable 6/18/01**

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

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.** The General Assembly finds that the Department of Revenue has documented that the State's cost of collecting overdue tax debts exceeds twenty percent (20%) of the amount of the overdue tax debts. The General Assembly finds that the cost of collecting overdue tax debts is currently borne by taxpayers who pay their taxes on time. It is the intent of the General Assembly by this act to shift this cost to the delinquent taxpayers who owe overdue tax debts.

**SECTION 2.** 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

1 mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the  
2 Department must notify the taxpayer that the fee will be imposed if the tax debt is not  
3 paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The  
4 Department may not mail the fee notice earlier than 60 days after the notice of final  
5 assessment for the tax debt was mailed to the taxpayer. The fee is collectible as part of  
6 the debt.

7 The amount of the collection assistance fee is twenty percent (20%) of the amount of  
8 the overdue tax debt. If the Department collects only part of the overdue tax debt, the  
9 amount collected is allocated proportionally between the collection assistance fee and  
10 the tax debt.

11 (d) Use. – The fee is a receipt of the Department and must be applied to the costs  
12 of collecting overdue tax debts. The proceeds of the fee must be credited to a special  
13 account within the Department and may be expended only as provided in this  
14 subsection. The Department may apply the proceeds of the fee to pay contractors for  
15 collecting tax debts under subsection (b) of this section and to pay the fee the United  
16 States Department of the Treasury charges for setoff to recover tax owed to North  
17 Carolina. The remaining proceeds of the fee may be spent only pursuant to  
18 appropriation by the General Assembly. The fee proceeds do not revert but remain in  
19 the special account until spent for the costs of collecting overdue tax debts.

20 (e) Reports. – The Department must report to the Joint Legislative Commission  
21 on Governmental Operations and to the Revenue Laws Study Committee on its efforts  
22 to collect tax debts. Reports must be submitted quarterly beginning November 1, 2001,  
23 through November 1, 2002, and semiannually thereafter. The report must include a  
24 breakdown of the amount and age of tax debts collected by collection agencies on  
25 contract, the amount and age of tax debts collected by the Department through warning  
26 letters, and the amount and age of tax debts otherwise collected by Department  
27 personnel."

28 **SECTION 3.** G.S. 105A-13 reads as rewritten:

29 "**§ 105A-13. Collection assistance fees.**

30 (a) State Setoff. – To recover the costs incurred by the Department in collecting  
31 debts under this Chapter, a collection assistance fee of no more than fifteen dollars  
32 (\$15.00) is imposed on each debt collected through setoff. The Department must collect  
33 this fee as part of the debt and retain it. The Department must set the amount of the  
34 collection assistance fee based on its actual cost of collection under this Chapter for the  
35 immediately preceding year. If the Department is able to collect only part of a debt  
36 through setoff, the collection assistance fee has priority over the remainder of the debt.  
37 The collection assistance fee shall not be added to child support debts or collected as  
38 part of child support debts. Instead, the Department shall retain from collections under  
39 Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting  
40 child support debts under this Chapter.

41 (b) Federal Setoff. – ~~A collection assistance fee of fifteen dollars (\$15.00) applies~~  
42 ~~to a setoff made by the United States Department of the Treasury to recover tax owed to~~  
43 ~~North Carolina. The Department of Revenue must add the fee to the amount of the tax~~

1 liability submitted to the United States Department of the Treasury for setoff. The  
2 Department of Revenue must collect the fee as part of the debt and retain it. If a federal  
3 setoff covers only part of the tax due, the collection assistance fee has priority over the  
4 tax due."

5 **SECTION 4.** G.S. 105-269 reads as rewritten:

6 "**§ 105-269. Extraterritorial authority to enforce payment.**

7 (a) ~~The Secretary of Revenue, Secretary,~~ with the assistance of the Attorney  
8 General, is ~~hereby empowered~~ authorized to bring suits in the courts of other states to  
9 collect taxes legally due this State. The officials of other states ~~which~~ that extend a like  
10 comity to this State are empowered to sue for the collection of ~~such~~ taxes in the courts  
11 of this State. A certificate by the Secretary of State, under the Great Seal of the State,  
12 that ~~such~~ these officers have authority to collect the tax ~~shall be~~ is conclusive evidence  
13 of ~~such~~ this authority. Whenever ~~it shall be deemed expedient by the Secretary of~~  
14 Revenue the Secretary considers it expedient to employ local counsel to assist in  
15 bringing suit in an out-of-state court, the Secretary, with the concurrence of the  
16 Attorney General, may employ ~~such~~ local counsel on the basis of a negotiated retainer  
17 or in accordance with prevailing commercial law league rates.

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

24 **SECTION 5.** G.S. 105-259(b) is amended by adding a new subdivision to  
25 read:

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

30 . . .

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

32 **SECTION 6.** Section 5(a) of S.L. 1999-341, as amended by Section 16 of  
33 S.L. 2000-120, reads as rewritten:

34 "Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001  
35 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and  
36 foreign entities. To implement this section, the Secretary may draw funds for the  
37 1999-2000 fiscal year from net collections that would otherwise be credited to the  
38 General Fund under G.S. 105-269.14, enacted by Section 2 of this act. For the  
39 2000-2001 ~~fiscal year,~~ and 2001-2002 fiscal years, the Secretary may retain the costs of  
40 implementing this section from the amounts collected pursuant to the contracts  
41 authorized by this section. The Secretary of Revenue shall report annually to the  
42 Revenue Laws Study Committee on its collections pursuant to this contract during the  
43 biennium."

1           **SECTION 7.** Section 6 of this act is effective when it becomes law. The  
2 remainder of this act becomes effective July 1, 2001, and applies to tax debts that  
3 remain unpaid on or after that date.