

1 SB243
2 165240-1
3 By Senator Orr
4 RFD: Finance and Taxation General Fund
5 First Read: 17-MAR-15

1 165240-1:n:03/09/2015:LFO-RR/bdl

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8 SYNOPSIS: Currently, the law provides for a good
9 standing certificate that certifies that an entity
10 is in compliance with Business Privilege taxes
11 owed.

12 This bill would remove that certificate and
13 provide for a compliance certificate certifying
14 that the entity is in compliance with all state
15 taxes owed.

16
17 A BILL

18 TO BE ENTITLED

19 AN ACT

20
21 To amend Section 40-2A-10 Code of Alabama, 1975; to
22 remove the good standing certificate; and to provide for a
23 compliance certificate that certifies that the entity is in
24 compliance with all state taxes.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 40-2A-10, Code of Alabama 1975,
27 is hereby amended to read as follows:

1 "§40-2A-10.

2 "(a) Except as otherwise provided in this section,
3 it shall be unlawful for any person to print, publish, or
4 divulge, without the written permission or approval of the
5 taxpayer, the return of any taxpayer or any part of the
6 return, or any information secured in arriving at the amount
7 of tax or value reported, for any purpose other than the
8 proper administration of any matter administered by the
9 department, a county, or a municipality, or upon order of any
10 court, or as otherwise allowed in this section. Statistical
11 information pertaining to taxes may be disclosed at the
12 discretion of the commissioner or his or her delegate to the
13 legislative or executive branch of the state. Upon request,
14 the commissioner or his or her delegate may make written
15 disclosure as to the status of compliance of entities subject
16 to state taxes administered by the department ~~the requirements~~
17 contained in Chapter 14, prior to its repeal, and Chapter 14A,
18 as applicable. A ~~good standing~~ compliance certificate shall be
19 issued to a requesting person with respect to a business
20 entity if the entity has filed all state tax returns ~~required~~
21 under Chapter 14, prior to its repeal, and Chapter 14A, as
22 applicable, and paid the taxes shown as payable in accordance
23 with those returns except as provided for in this Section. The
24 department shall charge a fee of \$25 for each certificate of
25 compliance issued. In addition to any and all funds heretofore
26 or hereto after appropriated, for the fiscal year beginning
27 October 1, 2015, there is appropriated to the department the

1 fees collected for the certificates of compliance. This fee
2 shall be used by the department for administrative purposes.
3 Any person found guilty of violating this section shall, for
4 each act of disclosure, have committed a Class A misdemeanor.
5 Additionally, to the extent provided in 26 U.S.C. § 7213A, it
6 shall be unlawful for any state employee willfully to inspect,
7 except as authorized in 26 U.S.C. § 6103, any federal tax
8 return or federal tax return information acquired by the
9 employee or another person under a provision of 26 U.S.C. §
10 6103 referred to in 26 U.S.C. § 7213(a) (2).

11 "(b) This section shall not apply to returns filed
12 and information secured under laws of the state (1) governing
13 the registration and titling of motor vehicles, (2) levying or
14 imposing excise taxes or inspection fees upon the sale of,
15 use, and other disposition of gasoline and other petroleum
16 products, (3) governing the licensing of motor vehicle
17 dealers, reconditioners, rebuilders, wholesalers, and
18 automotive dismantlers and parts recyclers, (4) governing the
19 privilege licenses as provided in Chapter 12, other than
20 Article 4, of this title or (5) governing the issuance or
21 affixing of tobacco stamps and governing the online web site
22 listing of permitted and registered tobacco distributors
23 required under Chapter 25.

24 "(c) This section shall not apply to the disclosure
25 of the amount of local privilege license or franchise fees
26 paid to counties and municipalities by any taxpayer possessing
27 a franchise (whether or not exclusive) granted by the

1 respective county or municipality. However, any information
2 other than the amount of license or franchise fees paid,
3 including returns or parts thereof or documents filed with or
4 secured by any municipality or county or their authorized
5 agent and relating to local privilege licenses and franchises
6 shall remain confidential information subject to subsection
7 (a).

8 "(d) Except as otherwise provided in subdivision (3)
9 of subsection (k) of Section 40-2B-2, the orders of the
10 Alabama Tax Tribunal judge and all evidence, pleadings, and
11 any other information offered or submitted in any appeal
12 before the Alabama Tax Tribunal are not subject to this
13 section.

14 "(e) The commissioner shall promulgate reasonable
15 regulations permitting and governing the exchange of tax
16 returns, information, records, and other documents secured by
17 the department, with tax officers of other agencies of the
18 state, municipal, and county government agencies in the state,
19 federal government agencies, any association of state
20 government tax agencies, any state government tax agencies of
21 other states, and any foreign government tax agencies.
22 However, (1) any tax returns, information, records, or other
23 documents remain subject to the confidentiality provisions set
24 forth in subsection (a); (2) the department may charge a
25 reasonable fee for providing information or documents for the
26 benefit of self-administered counties and municipalities; (3)
27 self-administered counties and municipalities may charge a

1 reasonable fee for providing information or documents for the
2 benefit of the department; and (4) any exchange shall be for
3 one or more of the following purposes:

4 "a. Collecting taxes due.

5 "b. Ascertaining the amount of taxes due from any
6 person.

7 "c. Determining whether a person is liable for, or
8 whether there is probable cause for believing a person might
9 be liable for, the payment of any tax to a federal, state,
10 county, municipal, or foreign government agency.

11 "(f) (1) Nothing herein shall prohibit the use of tax
12 returns or tax information by the department or county tax
13 collecting officials in the proper administration of any
14 matter administered by the department or county tax collecting
15 officials. The department, a municipality, or county tax
16 official may also divulge to a purchaser, prospective
17 purchaser, as defined pursuant to the regulations of the
18 department, or successor of a business or stock of goods the
19 outstanding sales, use, or rental tax liability of the seller
20 for which the purchaser, prospective purchaser, as defined
21 pursuant to the regulations of the department, or successor
22 may be liable pursuant to Section 40-23-25, 40-23-82, or
23 40-12-224. This section shall not preclude the inspection of
24 returns by federal or foreign state agents pursuant to Section
25 40-18-53.

26 "(2) Upon a request by the State Treasurer, the
27 commissioner may provide the State Treasurer with the names

1 and addresses of those persons entitled to property acquired
2 by the state under Article 2 of Chapter 12 of Title 35, the
3 Uniform Disposition of Unclaimed Property Act. The information
4 shall be used by the State Treasurer solely for the purpose of
5 administering the Uniform Disposition of Unclaimed Property
6 Act.

7 "(g) Nothing herein shall prohibit the exchange of
8 information between and among county or municipal governments,
9 provided that any exchange shall be subject to the same
10 restrictions and criminal penalties imposed on the department
11 and its personnel as described in this section.

12 "(h) In no event shall any damages, attorney fees,
13 or court costs be assessed against the state, a county, or a
14 municipal government under this section, nor shall any
15 damages, attorney fees, or court costs be assessed against
16 elected officials, officers, or employees of a state, county,
17 or municipal government."

18 Section 2. This act shall become October 1, 2015,
19 following its passage and approval by the Governor, or its
20 otherwise becoming law.