

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

SB243

ENGROSSED

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§40-2A-10.

"(a) Except as otherwise provided in this section, it shall be unlawful for any person to print, publish, or divulge, without the written permission or approval of the taxpayer, the return of any taxpayer or any part of the return, or any information secured in arriving at the amount of tax or value reported, for any purpose other than the proper administration of any matter administered by the department, a county, or a municipality, or upon order of any court, or as otherwise allowed in this section. Statistical

1 information pertaining to taxes may be disclosed at the
2 discretion of the commissioner or his or her delegate to the
3 legislative or executive branch of the state. Upon request,
4 the commissioner or his or her delegate may make written
5 disclosure as to the status of compliance of entities subject
6 to state taxes administered by the department ~~the requirements~~
7 ~~contained in Chapter 14, prior to its repeal, and Chapter 14A,~~
8 ~~as applicable. A good standing~~ compliance certificate shall be
9 issued to a requesting person with respect to a business
10 entity if the entity has filed all state tax returns ~~required~~
11 ~~under Chapter 14, prior to its repeal, and Chapter 14A, as~~
12 ~~applicable,~~ and paid the taxes shown as payable in accordance
13 with those returns except as provided for in this Section. The
14 department shall charge a fee of \$10 for each certificate of
15 compliance issued. In addition to any and all funds heretofore
16 or hereto after appropriated, for the fiscal year beginning
17 October 1, 2015, there is appropriated to the department the
18 fees collected for the certificates of compliance. This fee
19 shall be used by the department for administrative purposes.
20 Any person found guilty of violating this section shall, for
21 each act of disclosure, have committed a Class A misdemeanor.
22 Additionally, to the extent provided in 26 U.S.C. § 7213A, it
23 shall be unlawful for any state employee willfully to inspect,
24 except as authorized in 26 U.S.C. § 6103, any federal tax
25 return or federal tax return information acquired by the
26 employee or another person under a provision of 26 U.S.C. §
27 6103 referred to in 26 U.S.C. § 7213(a)(2).

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

"(c) This section shall not apply to the disclosure of the amount of local privilege license or franchise fees paid to counties and municipalities by any taxpayer possessing a franchise (whether or not exclusive) granted by the respective county or municipality. However, any information other than the amount of license or franchise fees paid, including returns or parts thereof or documents filed with or secured by any municipality or county or their authorized agent and relating to local privilege licenses and franchises shall remain confidential information subject to subsection (a).

"(d) Except as otherwise provided in subdivision (3) of subsection (k) of Section 40-2B-2, the orders of the Alabama Tax Tribunal judge and all evidence, pleadings, and

1 any other information offered or submitted in any appeal
2 before the Alabama Tax Tribunal are not subject to this
3 section.

4 "(e) The commissioner shall promulgate reasonable
5 regulations permitting and governing the exchange of tax
6 returns, information, records, and other documents secured by
7 the department, with tax officers of other agencies of the
8 state, municipal, and county government agencies in the state,
9 federal government agencies, any association of state
10 government tax agencies, any state government tax agencies of
11 other states, and any foreign government tax agencies.
12 However, (1) any tax returns, information, records, or other
13 documents remain subject to the confidentiality provisions set
14 forth in subsection (a); (2) the department may charge a
15 reasonable fee for providing information or documents for the
16 benefit of self-administered counties and municipalities; (3)
17 self-administered counties and municipalities may charge a
18 reasonable fee for providing information or documents for the
19 benefit of the department; and (4) any exchange shall be for
20 one or more of the following purposes:

21 "a. Collecting taxes due.

22 "b. Ascertaining the amount of taxes due from any
23 person.

24 "c. Determining whether a person is liable for, or
25 whether there is probable cause for believing a person might
26 be liable for, the payment of any tax to a federal, state,
27 county, municipal, or foreign government agency.

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

"(2) Upon a request by the State Treasurer, the commissioner may provide the State Treasurer with the names and addresses of those persons entitled to property acquired by the state under Article 2 of Chapter 12 of Title 35, the Uniform Disposition of Unclaimed Property Act. The information shall be used by the State Treasurer solely for the purpose of administering the Uniform Disposition of Unclaimed Property Act.

"(g) Nothing herein shall prohibit the exchange of information between and among county or municipal governments, provided that any exchange shall be subject to the same

1 restrictions and criminal penalties imposed on the department
2 and its personnel as described in this section.

3 "(h) In no event shall any damages, attorney fees,
4 or court costs be assessed against the state, a county, or a
5 municipal government under this section, nor shall any
6 damages, attorney fees, or court costs be assessed against
7 elected officials, officers, or employees of a state, county,
8 or municipal government."

9 Section 2. This act shall become October 1, 2015,
10 following its passage and approval by the Governor, or its
11 otherwise becoming law.

1

2

3 Senate

4 Read for the first time and referred to the Senate
5 committee on Finance and Taxation General Fund ... 17-MAR-15

6

7 Read for the second time and placed on the calen-
8 dar..... 28-APR-15

9

10 Read for the third time and passed as amended 07-MAY-15

11 Yeas 27
12 Nays 0

13

14

15 Patrick Harris
16 Secretary
17