

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

1 SB243

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 "§40-2A-10.

19 "(a) Except as otherwise provided in this section,  
20 it shall be unlawful for any person to print, publish, or  
21 divulge, without the written permission or approval of the  
22 taxpayer, the return of any taxpayer or any part of the  
23 return, or any information secured in arriving at the amount  
24 of tax or value reported, for any purpose other than the  
25 proper administration of any matter administered by the  
26 department, a county, or a municipality, or upon order of any  
27 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).

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

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

25          "(d) Except as otherwise provided in subdivision (3)  
26          of subsection (k) of Section 40-2B-2, the orders of the  
27          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.

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

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

24           "(g) Nothing herein shall prohibit the exchange of  
25      information between and among county or municipal governments,  
26      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.

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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  
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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

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14  
15 Patrick Harris  
16 Secretary  
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